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B-122484 February 15, 1955

Number: B-122484

Date: 1955-02-15

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Mr. Curtiss F. Barker, Authorized Certifying Officer c/o Administrative Assistant Secretary Treasury Department Washington, D.C.

Dear Mr. Barker:

Reference is made to your letter of December 8, 1954 (your file A.F.AS.MFR), tranmitted here by the Administrative Assistant Secretary, Treasury Department, by his letter of December 30, 1954, submitting an administrative approved invoice-voucher stated in favor of the Schaefer Rubber Co., 18 East 4th Street, Cincinnati, Ohio, in the amount of $22.95 for the purchase of two raincoats and two umbrellas. A decision is requested whether the invoice-voucher may be certified for payment.

The circumstances upon which the purchases are sought to be justified are set forth in a statement by Mr. W. D. Sullivan, Chief, Operating Facilities, Office of the Regional Commissioner, Cincinnati Region, Internal Revenue Service. It appears from the statement that activities of the regional and district offices are housed in expressed that for that reason the problem of mail distribution in the area served by the Cincinnati Regional Office is unusual and prehaps singular. It is stated that in order properly to serve those offices the mail run has been divided and scheduled into two messengers starting from two of the offices for seven complete round trips daily, each of which extends ten city blocks in length, and that it is estimated that each mail messenger spends five hours out of each eight-hour workday on the streets making the scheduled trips to and from the five buildings.

It is pointed out that often rain develops after the start a business day which began as a clear day and that on such days the mail messenger do not bring personal rain wear to work with them and, not having such rain wear on hand, damage results to their clothing while traveling on foot in the rain. It is also stated that such exposure could very easily cause a physical hazard, not of their own making, but occasioned by official needs of the service.

It is further stated there have been several instances in which the rainfall was so heavy and contant that four or more regularly scheduled trips had to be cancelled and that such cancellations caused disruption within certain program operations.

If further appear that the raincoats and umbrellas are considered Government property and decalcemania identification in that respect is affixed and that the articles are merely loaned to messengers as weather conditions require during

official duty hours only. It is urged that the Government is the primary beneficiary in the use of the equipment since with the equipment essential services can be maintained, but without it such services are subject to control and cancellation due to adverse weather conditions.

The question as to the use of Government funds for the purchase of personal furnishings or wearing apparel to be used by employees in connection with their official duties has been the subject of numerous decisions of this Office. In 3 Comp. Gen. 433, referred to in your letter, it was held that, generally, the test to be applied with reference to such purchases, in the absence of specific authority therefor, is whether the expenditures are essential from the standpoint of carrying out the object of the appropriation involved, or whether the official equipment or wearing apparel is such as the employee might be expected to furnish as a part of the personal equipment necessary to enable him to perform the regular duties of his position. See also 32 Comp. Gen. 229, wherein the question is discussed at some length and in which principles of 3 Comp. Gen. 433 are adhered to.

As stated in your letter, the appropriation for the Internal Revenue Service contain no provision for the purchase of equipment such as here involved. Hence, the matter is for determination on the basis of whether the purchases are proper in the absence of such a provision. The facts as shown by the record are clearly such as not to justify a conclusion that they are. While raincoats are, of courses, a protection in rainy weather, they are in no sense special equipment but are ordinary and usual articles of clothing and equipment, such as individuals in any walk of life may and frequently do posses for use in the performance of their duties or otherwise. To hold that such equipment is for furnishing by the Government for use in the performance of the duties involved would do violence to the well-established rule in such cases and open the way, in the absence of a specific statutory provision therefor, for the purchase of other articles of clothing and equipment not directly related to the performance of the duties of th employees. Hence, it must be concluded that the equipment is such that it is personal to the employee and such as should be furnished by him for his own convenience, if such equipment is desired by him, and is not, for furnishing by the Government in the absence of a specific statutory provision therefor.

Accordingly, certification of the invoice-voucher, which, together with the related papers, is returned herewith, is not authorized.

Sincerely yours,

FRANK H. WEITZEL Assistant Comptroller General of the United States

Enclosures --3

(1) Ltr. and copy to F.H. Weitzel from Curtiss F. Barker (2) Invoice-voucher (3) Statement to Accompany SF-44 Purchase Order CIN/55/3/15