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Washington, DC 20548

B-302745

July 19, 2004

Ms. Bonnie M. McElmurry  
Budget and Finance Officer  
U.S. Department of Agriculture  
3301 C Street, Suite 300  
Anchorage, AK 99503-3998

Subject: Refreshments for "Kid's Fishing Day"

Dear Ms. McElmurry:

This responds to your letter of March 11, 2004, requesting a decision under 31 U.S.C. § 3529 regarding the use of appropriated funds to purchase refreshments for nongovernment participants at Kid's Fishing Day. We understand that Kid's Fishing Day is an annual event held in various national forests across the United States, which is intended to teach children how to fish, thereby raising their awareness of and appreciation for the natural environment. Letter from Bonnie M. McElmurry to GAO General Counsel, Mar. 11, 2004. Specifically, you asked whether Kid's Fishing Day qualifies as a "cultural awareness program" and, if so, whether you can certify the use of Forest Service appropriations to provide hot dogs and lemonade to participants.

On May 21, 2004, you e-mailed Neill Martin-Rolsky, a senior attorney on my staff, stating that you were withdrawing your request for a decision based upon advice of Agriculture Department counsel. In a May 28, 2004, telephone conversation with my staff, Ken Cohen, the Department's Assistant General Counsel, explained that, in the Department's view, it would be problematic to declare Kid's Fishing Day a cultural awareness program.<sup>1</sup> Mr. Cohen said that he advised Chugach National Forest to cancel the event because his office, at that time, was not prepared to justify the event under other legal authority that may be available to the Forest Service.

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<sup>1</sup> In addition to Mr. Cohen, participants in the conference call were Tom Armstrong, Assistant General Counsel for Appropriations Law, GAO, and Benny Young, Deputy Assistant General Counsel, Agriculture.

We too question whether Kid's Fishing Day is a cultural awareness program and note that the Forest Service has offered no explanation to justify Kid's Fishing Day as a cultural awareness program. To constitute an authorized cultural awareness program, an event must be part of a formal program intended to advance a government agency's Equal Employment Opportunity (EEO) objectives by making the audience aware of the cultural or ethnic history being celebrated, and the agency may only offer samples of the food, not an entire meal. 60 Comp. Gen. 303 (1981). It must present employees with aspects of a recognizable culture with which the employees should become familiar. 64 Comp. Gen. 802 (1985). For example, workplace programs coinciding with Black History Month and Hispanic Heritage Week, which include interpretive dancing and poetry readings of the represented cultures, qualify as cultural awareness programs. 60 Comp. Gen. 303 (1981). In contrast, while educating the workforce about the difficulties faced by individuals with disabilities is a laudable goal, it is not a cultural awareness program because there is no cohesive, recognizable culture of individuals with disabilities. 60 Comp. Gen. 303 (1981).

We are unable to see how Kid's Fishing Day would advance EEO objectives. The description of Kid's Fishing Day does not identify any recognizable culture that is being celebrated, nor does it target federal employees in a workplace environment. Therefore, like Mr. Cohen, we question whether Kid's Fishing Day qualifies as a cultural awareness program.

Even if Kid's Fishing Day were a cultural awareness program, the Forest Service may not use appropriated funds to provide lunch. Agencies may use appropriated funds to offer a sampling of food of the featured culture as part of a valid cultural awareness program, not an entire meal. B-301184, Jan. 15, 2004. The food proposed to be offered at Kid's Fishing Day constitutes an entire meal for the participating children.

Finally, we also agree with Mr. Cohen that if Chugach National Forest wants to host an event of this sort, Forest Service officials together with the Agriculture Department's General Counsel's Office should identify other statutory authority permitting Chugach to use Forest Service appropriations for this purpose. Whether the Forest Service has a role in educating the public in this regard, and whether the Forest Service's appropriation is available for such purpose, requires consideration of other statutory authority that may be available to the Forest Service.

While we are taking no further action on your request, we are available to assist you and your legal counsel should you decide to explore other statutory authorities that may permit such an event. If you have further questions, please phone Tom Armstrong at 202-512-8257.

Sincerely yours,



Susan A. Poling  
Managing Associate General Counsel

cc: Ken Cohen  
U.S. Department of Agriculture, Office of the General Counsel