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U.S. Forest Service Newspaper Advertisements

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Matter of: U.S. Forest Service Newspaper Advertisements File: B-251887 Date: July 22, 1993

APPROPRIATIONS/FINANCIAL MANAGEMENT Appropriation availability Purpose availability Necessary expenses rule Advertising Forest Service may use appropriated funds to pay for newspaper advertisements informing the public of activities reasonably related to the Forest Service's statutory authority for administering the national forests for outdoor recreation.

DECISION The U.S. Department of Agriculture's Forest Service has asked for our opinion on whether it may use appropriated funds to pay for newspaper advertisements related to 1992 National Fishing Week activities cosponsored by the Kootenai National Forest. For the reasons stated below, we conclude that the Forest Service may use appropriated funds to pay for these advertisements.

BACKGROUND

In April 1992, the headquarters office of the Forest Service issued a message to Forest Service field units sponsoring 1992 National Fishing Week programs. The message encouraged field units to promote activities in partnership with state agencies and national resource management groups. The message also stated

"[w]e appreciate your efforts to provide fun angling and conservation education activities events to the public. This work does much to increase the public recognition and understanding of the Forest Service role in fisheries, watershed, and aquatic ecosystem management."

Within Region One of the Forest Service, the Regional Forester emphasized his support for sponsoring activities "with assistance from national groups and increased local involvement."

In response to these messages, several districts within the Kootenai National Forest sponsored National Fishing Week events. These events were cosponsored by the Montana Department of Fish, Wildlife and Parks, and local private parties. Before the events, the districts ran newspaper advertisements publicizing the events. After the events, the districts also ran advertisements thanking the cosponsors and other contributors to the events. When the Administrative Officer for the Kootenai National Forest received the invoices for the advertisements, he questioned whether Forest Service appropriations were available to pay these expenses. The Forest Service then sought our opinion on whether it may pay for the advertisements. If we authorize payment for these advertisements, the Forest Service will charge its National Forest System appropriation.

DISCUSSION

Activities like advertisements acknowledging the contributions of other parties to the Kootenai Forest's National Fishing Week programs are specifically authorized by the Forest Service's appropriation act. The act provides that

"any appropriations available to the Forest Service may be used to . . . incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs."

Pub. L. No. 102-154, 105 Stat. 1017 (1991).

Activities like advertisements promoting National Fishing Week activities are not specifically authorized. However, the National Forest Systems appropriation is available for the necessary expenses of the Forest Service to provide "for management, protection, improvement and utilization of the National Forest System . . . ." Id. at 1014. We generally use three factors to determine whether an expenditure may be charged to a particular appropriation as a "necessary expense." First, the expenditure must be reasonably related to the purposes that Congress intended the appropriation to fulfill. Second, the expenditure must not be prohibited by law. Third, the expenditure must not fall within the scope of another appropriation or funding source. E.g., 63 Comp.Gen. 422, 427- 428 (1984).

Regarding the first factor, the Kootenai National Forest Administrative Officer raises the issue of whether the Forest Service could cosponsor the National Fishing Week activities discussed in the advertisements. If the Forest Service did not have the authority to sponsor the activities, then the advertisements would not be reasonably related to purposes of the National Forest Service appropriation.

However, Congress has provided that "national forests are established and shall be administered for outdoor recreation . . . purposes." 16 U.S.C. Sec. 528 (1988). Moreover, the Forest Service Manual prescribes the policies that apply to Forest Service cooperation with state agencies, conservation organizations, concerned landowners and individuals. These policies authorize national forests to "[p]rovide information to and opportunity for the public to use and enjoy the fish and wildlife resources on National Forest lands." They also authorize national forests to "[p]ublicize wildlife and fishing recreation opportunities . . . ." In our view, the Kootenai Forest's National Fishing Week activities were well within the statutory authority and administrative policies of the Forest Service.

The Forest Service also raises the issue of whether advertisements "creating demand" for its fishing recreation opportunities are reasonably related to the purposes of its National Forest System appropriation. The Forest Service notes that in 14 Comp.Gen. 638 (1935) we stated that the Federal Housing Administration could not coordinate a campaign to induce property owners to make repairs and alterations that would in turn create demand for federal loan guarantees. We stated that the intent of the loan guarantee program was to meet a privately arising demand, and that there was no authority to "create a demand for benefits under the law." 14 Comp. Gen. at 641. The Forest Service has asked whether the advertisements of National Fishing Week activities are similarly improper efforts to create demand for the Kootenai National Forest's recreational opportunities.

We do not believe our decision in 14 Comp.Gen. 638 is applicable here. In that decision, after disapproving of the proposed conferences to promote repairs and alterations, we went on to say that we had no objection to dissemination of information concerning the benefits available under the guarantee program. 14 Comp.Gen. at 641. In our view, the advertisements involved here serve the same information dissemination objective and are reasonably related to the purposes of the Forest Service's National Forest Service appropriation.

Regarding our second factor, that the expenditure may not be prohibited by law, the Forest Service Region 1 Director of Administration has raised the issue of whether 16 U.S.C. Sec. 556 prohibits the Forest Service from paying for these advertisements. Section 556 provides that

"[n]o part of any funds appropriated for the Forest Service shall be used . . . for the purpose of paying for, in whole or in part, the preparation or publication of any newspaper or magazine article . . . ."

This prohibition first appeared in the Department of Agriculture Appropriation Act for fiscal year 1909. Ch. 192, 35 Stat. 251, 259 (1908). When the provision was first introduced, the sponsor of the amendment stated, "I do not believe that by any possible construction [of the provision] could prevent the payment for necessary advertising expenses." 42 Cong. Rec. 4137 (1908). There is nothing in the language of section 556 or its legislative history to suggest that it generally prohibits advertising. Accordingly, we conclude that this prohibition does not apply here.

Regarding the final factor, we are not aware of any other appropriation or funding source that the Forest Service should charge for these expenses. Therefore, the Forest Service may use its National Forest System appropriation to pay for the costs of the advertisements purchased by Kootenai National Forest offices.