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United States Government Accountability Office  
Washington, DC 20548

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B-320868

September 29, 2010

David A. Lebryk  
Commissioner, Financial Management Service  
U.S. Department of the Treasury  
1500 Pennsylvania, Avenue, NW  
Washington, DC 20220

Subject: *Use of GAO's Appropriations to Pay D.C. Water's Impervious Surface Area Charge and the District of Columbia Stormwater Fee*

Dear Mr. Lebryk:

We have completed our evaluation of two charges to GAO that are contained in the District of Columbia (District) Water and Sewer Authority's (D.C. Water) fiscal year 2011 billing for federal customers for water and sewer services (D.C. Water FY 2011 Bill).<sup>1</sup> The impervious surface area charge assessed by D.C. Water is a valid sewer rate payable from GAO's appropriations. However, the District of Columbia's stormwater fee, which is collected by D.C. Water for the District Department of the Environment, is a tax for which Congress has not yet legislated a waiver of sovereign immunity. Consequently, GAO's appropriated funds are not available to pay the District stormwater fee.

Accordingly, we ask the Department of Treasury not to make a payment from GAO's appropriations for the stormwater fee itemized on the D.C. Water fiscal year 2011 bill.<sup>2</sup> We have informed the District of our objection to the stormwater fee by letter to its Attorney General today, B-320795.

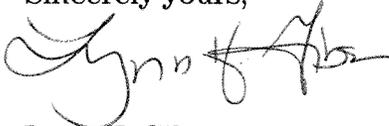
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<sup>1</sup> The District Water and Sewer Authority transmitted the D.C. Water FY 2011 Bill to the Director of the federal government's Office of Management and Budget (OMB) by letter dated Apr. 15, 2009.

<sup>2</sup> The charge to GAO for the stormwater fee for fiscal year 2011 is \$7,494.12.

If you have any additional questions on this matter, please contact Susan A. Poling,  
Managing Associate General Counsel, at (202) 512-2667.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lynn H. Gibson". The signature is fluid and cursive, with the first name "Lynn" being the most prominent.

Lynn H. Gibson  
Acting General Counsel

cc: Peter J. Nickles, Esq.  
Attorney General of the District of Columbia

Bicky Corman, Esq.  
General Counsel  
District of Columbia Department of the Environment

Avis Marie Russell, Esq.  
General Counsel  
District of Columbia Water and Sewer Authority