

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

TABLE OF CONTENTS

Topics	Sections
<u>OVERVIEW</u>	<p>4.1 What is the purpose of this chapter?</p> <p>4.2 What are the objectives of this chapter?</p> <p>4.3 What defines the relationship between the Service and a Friends' revenue-generating operation?</p>
<u>ITEMS FOR SALE and NATURE STORE OPERATIONS</u>	<p>4.4 Does the Service allow Friends to sell items on Service-managed property?</p> <p>4.5 What types of items may Friends organizations sell on Service-managed property?</p> <p>4.6 What types of items are Friends not allowed to sell?</p> <p>4.7 What types of items should the Service discourage Friends from selling on Service-managed property?</p> <p>4.8 How do the Friends organization and the Project Leader determine what items to sell?</p> <p>4.9 What role does the Service have in the operation of a Friends nature store on Service-managed property?</p> <p>4.10 What are the insurance requirements for Friends nature stores?</p>
<u>LOGOS</u>	<p>4.11 May Friends use Service logos?</p>
<u>FUNDRAISING</u>	<p>4.12 What types of Friends fundraising are allowed on Service-managed property?</p> <p>4.13 What are the conditions associated with allowing Friends to fundraise through the solicitation of donations on Service-managed property?</p> <p>4.14 What types of Friends fundraising activities are not allowed on Service-managed property?</p>
<u>MANAGING FUNDS AND FEES</u>	<p>4.15 May the Service use funds received from Friends organizations?</p> <p>4.16 May a Project Leader ask a Friends organization to establish, collect, or assist in the collection of entrance or recreation fees?</p>

OVERVIEW

4.1 What is the purpose of this chapter? This chapter will help U.S. Fish and Wildlife Service (Service) employees work with Friends organizations that manage nature stores or other revenue-generating operations on Service-managed property.

4.2 What are the objectives of this chapter? This chapter:

A. Describes the roles and responsibilities of the Service and Friends organizations when a Friends organization manages revenue-generating activities on Service-managed property and establishes policy for the handling of those funds, and

B. Provides guidance on the types of items that Friends organizations may sell in a nature store on Service-managed property.

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

4.3 What defines the relationship between the Service and a Friends' revenue-generating operation?

- A.** Friends have tax-exempt status under Section 501(c)(3) of the Internal Revenue Code to accept donations, apply for grants, and generate revenue through the sale of goods and services for the direct or indirect benefit of the Service.
- B.** Both a Friends Partnership Agreement and a Friends Supplemental Agreement for Use of Service Property must describe all Friends revenue-generating operations on Service-managed property (see 633 FW 3).
- C.** A Fundraising Agreement is required if a Friends organization leads a specific fundraising effort on our behalf with the intent of raising more than \$25,000 on or off-Service-managed property. See [212 FW 8](#), Donations, Fundraising, and Solicitation.

ITEMS FOR SALE AND NATURE STORE OPERATIONS

4.4 Does the Service allow Friends to sell items on Service-managed property?

A. Yes. The Refuge and Hatchery Systems have specific authorities that encourage Friends organizations to set up and operate nature stores on Service-managed property to sell educational materials and products under terms that require that the net revenues be used exclusively for the benefit of that refuge or hatchery (see [section 4.15](#)).

B. A Friends organization's efforts to sell educational products and memberships support education, outreach, and fundraising activities on behalf of the Service and provide the visiting public with value and conveniences.

(1) Nature store revenues are not donations and do not fall under the same Department of the Interior and Service policies required of funds received through the direct solicitation of donations on Service-managed property (see [section 4.13](#)).

(2) Operating a nature store and the sale of items must be described in a Friends Partnership Agreement.

4.5 What types of items may Friends organizations sell on Service-managed property?

A. Typically, all items for sale should be of educational value, illustrate the purpose of the Service site/program, and reinforce the mission and goals of the Service.

B. Appropriate sales items may include books, field guides, pamphlets, pictures, posters, DVDs, maps, interpretive publications, and other natural or cultural resource-related materials. The Friends organization may also sell outreach merchandise such as postcards, t-shirts, patches, pins, caps, art, and handicrafts that reinforce the Service site/program, as well as the Friends mission.

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

4.6 What types of items are Friends not allowed to sell?

A. Any item bearing the Service logo and program sub-logos and design symbols may not be sold to the public (see [041 FW 2](#), Emblems and Federal Register Notice [64 FR 33904](#), [National Wildlife Refuge System Design Symbol](#)).

B. Any items produced by Service employees or produced with appropriated funds may not be sold (see [5 CFR Part 2635.704](#) and [2635.705](#)).

C. Long-term, third party sales and consignment of goods (e.g., art, photography) are not permitted on Service-managed property. Friends can only sell these types of items on a short-term or limited basis through a special use permit as part of a special event or fundraising activity on behalf of the Service (see [section 4.12](#)).

D. The Service does not allow the sale of any item prohibited under Federal or State laws.

4.7 What types of items should the Service discourage Friends from selling on Service-managed property?

A. The Service allows the sale of items such as bottled water, soft drinks, packaged snack food, sunscreen, and insect repellent under the following conditions:

(1) The Refuge and Hatchery Systems have specific legal authorities to allow the operation of Friends nonprofit nature stores or small sales displays on Service-managed property for the purposes of selling educational materials to the visiting public. Items such as drinks, snacks, insect repellent, and sunscreen are not considered educational materials and should only be approved for sale in Friends nature stores if they are essential for public health and safety.

(2) The Randolph-Sheppard Act ([P.L. 74-732](#)), as amended, provides individuals who are blind with the priority to operate vending facilities, including cafeterias, snack bars, and automatic vending machines, on Federal property. A Project Leader may allow a Friends organization to manage a vending machine for the benefit of the visiting public only if the State licensing agency, through the U.S. Department of Education's State vocational rehabilitation program, does not want the business (see [20 U.S.C. 6A, Section 107](#), Operation of Vending Facilities).

B. The Refuge and Hatchery Systems have specific legal authorities to work exclusively with Friends organizations in operating nonprofit nature stores on Service-managed property in order to provide additional educational value for the visiting public, and in turn, raise funds on behalf of the Service. However, the Project Leader and Friends organization must ensure that the nonprofit nature store is routinely evaluating unfair competition with nearby commercial businesses that do not have the benefit of running their businesses on Service-managed property. "Nearby" is relative, and the Project Leader will need to determine what it means by evaluating the distance a visitor would have to travel to obtain these items once at our site. If the public can conveniently obtain the item at a nearby commercial business, then it should not be sold in the Friends nature store. The evaluation is the joint responsibility of the Friends

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

Public Use Management

Part 633 Friends Organizations

Chapter 4 Friends Nature Stores and Other Revenue-Generating Activities

633 FW 4

organization and Project Leader, with the final determination being the responsibility of the Project Leader.

C. The Project Leader must also consider the balance between the type of item sold and the projection of a leadership role in sustainable practices (e.g., retrofitting water fountains and selling refillable water containers, fair-trade products).

4.8 How do the Friends organization and the Project Leader determine what items to sell?

A. The Friends organization and Project Leader should collaborate to establish a general set of guidelines or criteria for the content and quality of sales items at the site, which may be outlined in the Friends Partnership Agreement. The Project Leader has the ultimate authority to determine whether or not the items and services appropriately represent the Service.

B. Either party may propose additional sales items or request removal of items at any time, but the Friends and the Project Leader (or the Project Leader's designee) must work together to ensure that the items are consistent with the Friends Partnership Agreement and the mission, goals, and objectives of the Service.

C. While the Friends develop their own merchandising plan, the Project Leader may reject or request removal of items if they are determined to be inappropriate, inaccurate, or of poor educational value.

4.9 What role does the Service have in the operation of a Friends nature store on Service-managed property?

A. Operating a nature store on Service-managed property is the Friends organization's responsibility under the Service's guidance. The Friends have a financial interest to ensure they have appropriate educational materials and products and a welcoming sales point, while the Project Leader has a responsibility to ensure the sales items are appropriate and accessible for the site and the public. The scope and management of a nature store on Service-managed property should be described in both the Friends Partnership Agreement and the Friends Supplemental Partnership Agreement for Use of Service Property and include:

(1) The location and layout of the nature store,

(2) Services and items provided, and

(3) The hours of operation.

B. The operation of nature stores are the responsibility of Friends organizations as a part of the organization's administration. Friends nature stores or small sales displays should only be open to the public during times when the organization can schedule and provide their own paid staff or Friends volunteers to carry out their operations (see 633 FW 1). This does not preclude online sales and online nature stores operated by the Friends.

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

Public Use Management

Part 633 Friends Organizations

Chapter 4 Friends Nature Stores and Other Revenue-Generating Activities 633 FW 4

4.10 What are the insurance requirements for Friends nature stores? Operation of a nature store, or other revenue-generating activity on Service-managed property, warrants procurement of an appropriate amount of insurance to protect against the loss of inventory and other Friends personal property in case of such events as fire, natural disasters, or theft. The Government does not insure Friends property or nature store inventory on Service-managed property (see 633 FW 2).

LOGOS

4.11 May Friends use the Service logos?

A. Friends organizations may not use the Service logo or program sub-logos for the following purposes:

(1) Items for sale to the public,

(2) As any part of their organization's logo, or

(3) On their website's headers, organization's newsletters and brochures, or on any collateral pieces involving lobbying, solicitation of donations, or games of chance (see [115 FW 8](#), Information Published on the World Wide Web).

B. On a case-by-case basis, the Director of the Service may review and allow a Friends organization to use Service logos in the following instances:

(1) For Friends to enter into a third-party agreement with a commercial vendor or manufacturer to reproduce the Service logos on garments, pieces of equipment, commemorative items, or other objects for sale only to employees, volunteers, youth partnership hires, retirees, and others who play a valued role in implementing Service programs; and

(2) For Friends to use the Service logos on garments, pieces of equipment, commemorative items, or other objects; within publications; or in conjunction with an event or other activity on behalf of the Service when the items are given without cost to the public to contribute to the educational and conservation programs of the Service (see [041 FW 2](#), Emblems).

C. Friends organizations may work with a third-party vendor to reproduce the blue goose graphic on sales items to sell to the public if approved by their site/program Project Leader.

FUNDRAISING

4.12 What types of Friends fundraising are allowed on Service-managed property? Project Leaders may allow the following types of fundraising:

A. The solicitation and donation of funds: Solicitation activities for monetary donations are legitimate ways for Friends to raise additional funds on behalf of the Service site (or sites) or program, build public support, and facilitate broader community partnerships with local, regional,

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

Public Use Management

Part 633 Friends Organizations

Chapter 4 Friends Nature Stores and Other Revenue-Generating Activities

633 FW 4

or national contributors. Donations may include monetary donations, tangible items, and volunteer services and refer to something of value received from a non-Federal source without consideration or an exchange of value. Friends solicitations must be approved and described in a Friends Partnership Agreement or a Fundraising Agreement, or both. Friends solicitation activities for cash donations on Service-managed property may include:

(1) Direct solicitation of donated funds—any direct request to a non-Federal entity, group, or individual for donations to be made directly to the Friends in support of a specific project or program to benefit the Service (see [section 4.13](#)).

(2) Indirect solicitation of funds—providing an opportunity for someone to make an unspecified donation, such as depositing cash in a donation box or a Friends member accepting a nominal cash donation in the Visitor Center in support of the work Friends do on behalf of the Service.

B. The sale of goods and services: A Friends organization's efforts to sell educational products through a nature store and memberships support education, outreach, and fundraising activities and provide the visiting public with value and conveniences (see 633 FW 2).

C. Third-party vendors: On a short-term or limited basis, Project Leaders may approve Friends working with a third-party vendor (e.g., food, art, native plant vendors at a wildlife festival, a wildlife photography workshop with a professional photographer) to fundraise on Service-managed property for the purposes of providing a public service and contributing to the education and conservation programs of the Service site or program with which they are affiliated. This approval must be in the form of a special use permit that the Project Leader issues to the Friends. A portion of the sales must go to the Friends.

(1) If this happens on a recurring basis, the Project Leader must consider developing a prospectus for a concession contract for the activity.

(2) For certain specialized activities (e.g., water-based activities, use of live wildlife at an event, selling food), the Project Leader must include an indemnification provision in the special use permit that requires the vendor to provide evidence of liability insurance naming the United States as an additional insured entity.

4.13 What are the conditions associated with allowing Friends to fundraise through the solicitation of donations on Service-managed property? Friends organizations may solicit for donations through direct solicitation activities such as a public benefit dinner or a silent auction or through indirect solicitations, such as donation boxes, in accordance with the following conditions:

A. The Project Leader must approve the event or solicitation.

B. Friends are only permitted to solicit for donations on Service-managed property if the solicitation is on behalf of the mission, goals, and objectives of the Service and the site (or sites) or programs with which they are affiliated. Service employees must not solicit for donations with their Friends organization or otherwise participate in fundraising efforts in their official capacity

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

Public Use Management

Part 633 Friends Organizations

Chapter 4 Friends Nature Stores and Other Revenue-Generating Activities

633 FW 4

and should consult with servicing Ethics Officials if there are questions.

C. It must be clear to the public that the Friends organization is conducting the solicitation. The Service site, project and/or program for which the funds are being solicited must be clearly identified and disclosed (e.g., “Donations collected in this box support environmental education activities at the refuge,” “Proceeds from the silent auction will fund the construction of the Pond Loop Trail”).

D. The Friends Partnership Agreement must clearly identify the fundraising activities the Friends organization will conduct before they take place. The Project Leader and Friends organization must review the agreement annually and update it if fundraising activities have changed since the previous version (new fundraising event, capital campaigns, endowments, etc.). Some fundraising activities may require a separate Fundraising Agreement when certain dollar thresholds are anticipated (see [212 FW 8](#), Donations, Fundraising, and Solicitation).

E. All net funds collected by Friends on Service-managed property specifically through direct solicitation activities must be processed as a deposit by the Project Leader into the appropriate Service Contributed Funds account, or other Service-managed donation receipt account for which the funds were raised, and used exclusively for the benefit of the site (or sites) or program for which the funds were generated. For a silent auction, net funds are the amount of funds received over and above the cost or value of the auction item. This requirement does not apply to donations collected through indirect solicitations (e.g., donation box), nature store revenue, membership sales, or fundraising activities conducted off Service property. For more information about Contributed Funds accounts and other donation receipt accounts, see [212 FW 8](#), Donations, Fundraising, and Solicitation (see also the Volunteer and Community Partnership Enhancement Act ([P.L. 105-242](#)) and the National Hatchery System Volunteer Act of 2006 ([P.L. 109-360](#))).

F. All funds collected by Friends on Service-managed property specifically through indirect donations (e.g., cash in a Friends donation box) may be retained by the Friends, and do not have to be deposited into a Contributed Funds account. However, all indirect donations collected by Friends on Service property must be used on behalf of the mission, goals, and objectives of the Service and the site (or sites) or program with which they are affiliated.

G. Service employees must meet Departmental and Service standards and requirements for receiving and managing donated funds (see [section 4.15](#)).

H. Solicitation of funds on Service property must not involve games of chance for a fee (e.g., raffles, door prizes, Bingo).

I. The solicitation activity and the use of the donated funds must not be associated with any lobbying activities.

4.14 What types of Friends fundraising activities are not allowed on Service-managed property? The following fundraising activities are not allowed on Service-managed property:

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

Public Use Management

Part 633 Friends Organizations

Chapter 4 Friends Nature Stores and Other Revenue-Generating Activities

633 FW 4

- A.** Any fundraising that does not support the Service site or is not described in the Friends Partnership Agreement. If the Friends are generating funds for purposes outside of mutually agreed-upon goals and objectives or for another site, all activities in relation to the fundraising must take place off Service-managed property and without the express or implied involvement or endorsement of the Service.

- B.** Soliciting for donations of funds to make up for any shortfalls in Government agency budgets.

- C.** Charging entrance or recreation fees under a long-term special use permit (see [section 4.16](#) and the Federal Lands Recreation Enhancement Act of 2004, as amended).

- D.** Any games of chance for a fee including, but not limited to, lotteries, raffles, Bingo, and door prizes. These games are not allowed on Service-managed property because they are gambling activities (see section 633 FW 1, section 1.10B).

MANAGING FUNDS AND FEES

4.15 May the Service use funds received from Friends organizations? Yes, the Service has the legal authority to accept and expend funds received from Friends organizations, regardless of whether the funds were collected on or off Service-managed property. Funds from Friends organizations may include net revenues from the sale of educational materials and products and through donations received through various solicitations. The following conditions apply:

- A.** The funds given to a particular site or sites are used only for the benefit of that site (or sites) or program. The Service must report back to the Friends annually on how money deposited in Contributed Funds accounts were spent.

- B.** The associated Friends fundraising activities used to generate the funds are described in an approved Friends Partnership Agreement or Fundraising Agreement (if applicable), or both, before the funds are generated or donated.

- C.** If donors have restrictions on the gift to the Friends, the funds must be used as intended by the original donor.

- D.** Departmental and Service standards and requirements are met for receiving and managing donated funds, services, real property, and other non-monetary donations, as described in the following policies:
 - (1) [374 DM 6](#), Donations Guidelines;
 - (2) [212 FW 8](#), Donations, Fundraising, and Solicitation;
 - (3) [261 FW 1](#), Cash Accountability; and
 - (4) [342 FW 5](#), Non-Purchase Acquisition.

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

Public Use Management

Part 633 Friends Organizations

Chapter 4 Friends Nature Stores and Other Revenue-Generating Activities

633 FW 4

4.16 May a Project Leader ask a Friends organization to establish, collect, or assist in the collection of entrance or recreation fees? Friends organizations cannot collect or assist in the collection of entrance or recreation fees (e.g., kayak tours, Interagency Passes, boat launches, tram/bus tours, audio tour devices, quota hunts), nor are they permitted to ask for a “suggested donation” when assisting the Service with recreation programs. The term “suggested donation” implies a condition that the person or entity make a donation, which means the money isn’t truly voluntarily given, so it is a fee and not a donation. Only Service volunteers designated as official Collection Officers may collect or assist in collecting approved entrance or recreation fees at Service sites approved for the Recreation Fee Program (see [FWS Form 3-2157](#), Collection Officer Designation Certification).

A. The Federal Lands Recreation Enhancement Act (FLREA), [16 U.S.C. 6803\(c\)](#): The FLREA authorizes the Service, through the Recreation Fee Program, to collect entrance fees, expanded amenity recreation fees, and short-term special recreation permit fees.

- (1)** Only Service sites approved for the Recreation Fee Program may charge entrance and recreation fees (other than fees for special use permits).
- (2)** For a site to participate in the Recreation Fee Program, the Project Leader must publish a Federal Register Notice of Intent and get approval from the Director. Contact your Regional Fee Coordinator for more guidance.
- (3)** FLREA does not allow us to charge fees for any person under the age of 16 or for any outings conducted for noncommercial educational purposes by schools or bona fide academic institutions (e.g., formal curriculum-based environmental education programs).

B. Recreational fees under special recreation permits: On a case-by-case basis and under the following circumstances, a Project Leader may allow Friends or another organization to collect fees for a short-term recreational activity under a special recreation permit.

- (1)** To use a special recreation permit, the recreational activity must be for specialized recreation uses such as group activities, recreation events, and motorized vehicle use—not for an ongoing event or activity that is part of the site’s day-to-day activities. Examples of typical special recreation permits issued to Friends for which they may collect fees include a special guided tour or a bird watching workshop that is part of an annual event (e.g., during a site’s anniversary celebration).
- (2)** For certain specialized activities (e.g., water-based activities, use of live wildlife at an event, selling food), the permit must include an indemnification provision that requires the Friends organization to provide evidence of liability insurance naming the United States as an additional insured entity.
- (3)** For long-term or recurring recreational activities, the Project Leader must get approval to participate in the FLREA to authorize commercial guiding under a commercial special use permit, or develop a prospectus for a concession contract for the activity (see 633 FW 1).

FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT

Public Use Management

Part 633 Friends Organizations

Chapter 4 Friends Nature Stores and Other Revenue-Generating Activities

633 FW 4

(a) The FLREA authorizes the Recreation Fee Program to allow the collecting site to retain fees visitors pay at approved Federal recreation sites and to use the fees to improve the quality of the visitor experiences at those sites. The fees are charged and collected by official Collection Officers at the Federal sites.

(b) Friends organizations do not qualify for a commercial special use permit because the mission work they do is on behalf of the Service site (or sites) or program. A commercial operation is when a separate entity undertakes activities for monetary gain or profit for itself. Commercial guides operating under a special use permit are required to manage their businesses (e.g., advertising, reservations, collection of money) off Service-managed property.

/sgd/ Noah Matson
ACTING DEPUTY DIRECTOR

Date: July 12, 2021