

**FISH AND WILDLIFE SERVICE
PUBLIC USE MANAGEMENT**

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.

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

A. Friends must be a nonprofit organization under Section 501(c)3 Title 26 of the Internal Revenue Service code to accept donations, apply for grants, and generate revenue through the sale of goods and services for the 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).

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 are a natural extension of 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 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.

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

A. Any item bearing the Service logo and program sublogos may not be sold to the public (see 041 FW 2, Emblems).

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 highly discourages the sale of items such as bottled water, soft drinks, packaged snack food, sun screen, and insect repellent. Project Leaders must consider the following before allowing their sale:

(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 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).

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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 he/she determines they are 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).

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).

4.11 May Friends use the Service logos?

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

- (1) Items for sale to the public,
- (2) As any part of their organization's logo, or

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(3) On their Web sites 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 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, members of the Student Conservation Association, 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 that have an approved Friends Partnership Agreement 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.

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, build public support, and facilitate broader community partnerships with local, regional, or national contributors. Donations include "gifts" and refer to something of value received from a non-Federal source without consideration or an exchange of value. Friends solicitation for cash donations activities on Service-managed property may include:

(1) Direct solicitation of donated funds refers to 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 refers to 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 are a natural extension of education, outreach, and fundraising activities on behalf of the Service 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, through a special use permit with a Friends organization, the Friends working with a third-party vendor (e.g., food, art, or native plant vendors at a wildlife festival, or a wildlife photography workshop with a professional photographer) to fundraise on Service-managed property for the purpose of providing a public service and contributing to the education and conservation programs of the Service site or program with which they are affiliated. 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.

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(2) For certain specialized activities (e.g., water-based activities, use of live wildlife at an event, selling food), the Project Leader should 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 refuge with which they are affiliated.
- C.** The solicitation must disclose and clearly identify the Service site, project and/or program for which the funds are being solicited (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 on Service-managed property before they take place. The Project Leader and Friends organization must modify the agreement any time they plan to add fundraising activities (new fundraising event, capital campaigns, endowments, etc.). Some fundraising activities may require a separate Friends Fundraising Agreement when certain dollar thresholds are anticipated (see 374 DM 6, Donations Guidelines).
- E.** All net funds collected by Friends on Service-managed property specifically through direct solicitation activities (not indirect such as cash in donation boxes or a nominal cash donation offered to a Friends member in the visitor center) must be given to the Project Leader to deposit into the appropriate Service contributed funds account for which the funds were raised (e.g., Gifts account, Community Partnership Enhancement Donation Receipt account) and used exclusively for the benefit of the refuge or complex of geographically-related refuges for which the funds were generated (e.g., the amount of funds received over and above the cost or value of a silent auction item is considered a donation and would be defined as "net funds" collected through direct solicitation activities).
- F.** All nominal 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 are not required to be deposited into a contributed funds account. However, all indirect donations collected by Friends on Service property must still only be solicited on behalf of the mission, goals, and objectives of the Service and the refuge with which they are affiliated.
- G.** Departmental and Service standards and requirements for receiving and managing donated funds must be met (see section 4.15).
- H.** The solicitation must not involve games of chance (e.g., raffles for a fee, door prizes for a fee, BINGO); and
- I.** The solicitation activity and the use of the donated funds must not be associated with any lobbying activities.

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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:

- A.** Any fundraising that is not in direct support of the Service site in which the Friends Partnership Agreement is held. 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 (see 260 FW 4, Contributed Funds).
- C.** Charging entrance or recreation fees under a long-term special use permit (see section 4.16 and the Fish and Wildlife Service Guidance on the Recreation Fee Program, 2008).
- D.** Any games of chance including, but not limited to, lotteries, raffles for a fee, BINGO, and door prizes for a fee. These games are not allowed on Service-managed property because they are gambling activities (see section 1.10B).

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 national wildlife refuge or complex of geographically-related refuges are used only for the benefit of that refuge or complex of refuges.
- B.** The associated Friends fundraising activities used to generate the funds are described in an approved Friends Partnership Agreement before the funds are generated or donated.
- C.** 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)** 260 FW 4, Contributed Funds;
- (3)** 261 FW 1, Cash Accountability; and
- (4)** 342 FW 5, Non-Purchase Acquisition.

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 launch, tram/bus tours, audio tour device, quota hunt), 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 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).

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A. The Federal Lands Recreation Enhancement Act (REA), 16 U.S.C. 6803(c): The REA 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 refuge 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 as described in the Fish and Wildlife Service Guidance on the Recreation Fee Program, 2008.

(3) REA 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 refuge’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 Recreation Fee Program, authorize commercial guiding under a commercial special use permit, or develop a prospectus for a concession contract for the activity (see 633 FW 1).

(a) The Recreation Fee Program is authorized by the REA to allow for fees paid by visitors at approved Federal recreation sites to be retained by the collecting site and used 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. 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.

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