

U.S. Fish and Wildlife Service Friends Policy FAQ

Below are some questions we expect to hear frequently regarding the updated version of the Friends Policy (issued July 12, 2021). This new version supersedes all previous versions.

Please note, this is intended to be a living document that can be updated as needed and edited to reflect new or additional questions as they arise. Please do not hesitate to contact your Regional Friends Coordinator or the National Coordinator if you have questions, thoughts, concerns, or comments.

Q- When do Friends need to purchase insurance?

A- This needs to be determined by the Project Leader and the Friends group. This is a local decision based on local factors and local risks and we can't give a one size fits all, blanket answer. There is no way to provide an exhaustive list but we do list a in the policy. Service staff should confer with JAO safety officer to assess the risks and determine allowability of event and level of insurance needed if any.

Q- When and why does a Friends group need a Fundraising Agreement? Is there a template?

A- Per the donations policy (212 FW 8), if the intention is to raise over \$25k, then there must be a Fundraising Agreement in place. Our policy steps down from DOI, which steps down from the Code of Federal Regulations. A template is in the works but is not approved yet. The donations policy provides a very clear list of items to include in a Fundraising Agreement. Please note, this instrument is not specific to Friends groups and may be used by other kinds of partners. Therefore, it is not called a "Friends Fundraising Agreement."

Q- Can Friends fundraise on Service property for things like Friends staff salaries, internet service, etc.?

A- No. Donation boxes are allowable, but specific requests for these kinds of expenses are not authorized on Service property.

Q- What's the difference between Advocacy and Lobbying?

A- Advocacy is defined in the dictionary as "support for or recommendation of a particular cause or policy."
Lobbying is a more targeted and specific action, intended to influence legislation.

The IRS offers this information on lobbying:

In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as **lobbying**). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.

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Legislation includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies.

An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.

Organizations may, however, involve themselves in issues of public policy without the activity being considered as lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing their tax-exempt status.

For more information, see the following:

<https://www.irs.gov/charities-non-profits/lobbying>

<https://www.councilofnonprofits.org/advocacy-vs-lobbying>

Q- How do we define “service site” and what does it mean in terms of the Friends groups and their partnerships with the Service?

A- Because this policy applies to all Service programs, we use the generic term "site" to cover national wildlife refuges, fish hatcheries, NCTC, urban programs, etc.

Q- How do we account for Friends employees’ time versus Friends’ volunteers time on Service-related projects?

A- Volunteer time is volunteer hours; employee time is considered a donation.

Q- How do Friends count time spent on website maintenance or newsletter creation if it's focused on education and outreach and not advocacy & lobbying?

A- Time spent on these kinds of duties is best counted as Friends group hours only. While portions might benefit the Service, counting these hours exclusively as Friends hours is the safer option, for everyone's protection and clarity of roles. We often cannot even link to Friends’ websites because of the presence of information on donation collecting or lobbying. Better safe than sorry in this instance.

Q- Why are Friends considered a Prohibited Source?

A- “Prohibited source” is a legal term used in Federal ethics regulations. For Service employees this term is defined as including all persons or entities who seek official action from the Service, do business or seek to do business with the Service, conduct activities regulated by the Service, or have interests that may be substantially affected by the performance or nonperformance of the employee’s duties. Examples of “prohibited sources” include non-profit environmental organizations, contractors, concessionaires, partners, and entities that receive permits, grants, or other assistance from the Service. Friends groups also are “prohibited sources” because they seek official action from, do business with and conduct activities regulated by the Service.

Please see the Ethics handout for more information on this topic.

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Q- What can and cannot be sold in Nature Stores? Who decides this?

A- The guidance in the policy outlines the categories of items that can and cannot be sold, such as artifacts. We will leave other decisions to the individual site. The Project Leader makes the final decision.

Q- How will "effectiveness of internal controls" of a Friends group be determined?

A- Each year, the Service will conduct in-depth reviews with 5-10 Friends groups. During the Reviews, the Service will ask three questions regarding internal controls:

- Collections (Who receives money? Where is it stored? Who is authorized to handle funds?)
- Deposits (Is there a separation of duties between collections and deposits? Who confirms?)
- Expenditures (Who can authorize expenditures? Under what circumstances? Is more than one person's approval required?)

These questions will provide a snapshot of how the Friends are managing internal controls.

Q- How we define whether something is of benefit to the Service?

A- Think of the word benefit as it's defined in the dictionary. Merriam Webster defines the word benefit as "to be useful or profitable to" and thinking of it as anything that ultimately helps the refuge complete its work is a good starting point. Benefits can be tangible - like a new water control structure or a Friends sponsored river clean up or funding an EE intern- or they can be intangible, like community outreach. Also, there are "direct" benefits like clearing a trail, and "indirect" benefits like activities the friends might take or spend money on that allow them to operate, which ultimately benefits the Service.

Q- How do the rules regarding Indemnification affect the Friends groups?

A- A clause has been added to the new Friends Partnership Agreement that makes explicit that the Friends will not be held liable for anything found to be the fault of the Service.

Q- Who signs the Friends Partnership Agreement when? When is it considered active/completed?

A- The agreement is active or complete when the Regional Director (or the person delegated the authority to sign) has signed it. The RD is the final signatory.

Q- How do we handle modification to the FPA without a template? When does a modification become an amendment or need a whole new agreement? Who signs the amendment/modification?

A- The Assistant Regional Director or Project Leader can sign the amendment- it doesn't have to go to the Regional Director. Any changes to the agreement need to be documented- check with your Regional Friends Coordinator if you have questions. Whether it's called a modification or an amendment is not an issue. Examples of when a modification/amendment is needed:

- Friends operational changes, such as deciding to eliminate (or implement) memberships, starting an online store, or deciding to pursue grant opportunities.

- Service operational changes, such as new biological or visitor services priorities, or emphasizing outreach with different audiences,
- Changes to the Supplemental Agreement (Use of Service Property) on Friends' refuge footprint (adding storage, changing offices, expanding a sales area).
- Changes to fundraising processes (outside of a fundraising agreement), such as adding a 5K or gala as fundraising events.
- Reviewing activities and identifying needs for insurance coverage.

Again, talk to the Regional Friends Coordinator if there is a concern that this is applicable. Per advice from the Solicitor's office, the format of an amendment can be relatively simple. See below for an example of what to include in an amendment/modification:

- Amendment No. One to the Agreement from (insert date) between FWS and (name of Friends Group)
- Set out the provisions that are being added, changed, or deleted.
- and state that all other provisions of this agreement that are not modified by this amendment remain in full force and effect.
- sign and date by both parties

If the changes are extensive (to the point of changing the partnership at a core level) then a new agreement may be needed. Any major changes in either the Friends organization (such as significant new bylaws that change the relationship with the refuge) or Service (natural disaster destroys significant resources or facilities) would require a re-examination of the entire agreement.

Q- How funds processed that are raised by the Friends group?

- A- If the funds in question are raised by the Friends group for a specific Service-related project, then they must be deposited into a Contributed Funds Account (CFA). The Service must report back to the Friends detailing exactly how those funds were spent and showing how they were spent in alignment with the intended purpose communicated to the donors.

Q- What is a sub-logo?

- A- Any Service graphic identity that is NOT the Service emblem, such the Wildlife and Sport Fish Restoration emblem or Fisheries and Aquatic Conservation logo.

Q- How do you determine when a Service employee can do something on his or her personal time versus when it becomes "representing the Service?"

- A- A Service employee should not wear a Service uniform when acting as a private citizen, or carry out prohibited activities during work time. Consult the Service's Ethics Guidelines for working with Friends groups for more information.

Q- What is acceptable to link to regarding Friends (external) social media?

A- Anything linked to a Service page must be 508 compliant and also has to adhere to DOI policy (e.g. the Service cannot link to donation or advocacy related information). Friends groups are not exempt from this rule because of the presence of a Friends Partnership Agreement.

Q- If a Friends group hires an SCA member, can that person's time be counted as Service volunteer time?

A- It's important to remember that an SCA member serving directly at the Fish and Wildlife Service is NOT a volunteer. But, if the SCA member is engaged directly through the Friends with no FWS funds involved and the SCA member is doing volunteer work that benefits FWS and does not involve lobbying or advocacy, then yes, it is allowable. That said, this is probably a fairly unusual occurrence.

Q- If a volunteer is at the front desk of a Nature Store and is performing both Friends duties and Service duties, how do we distinguish between their time? Do they have to physically remove FWS gear if performing a Friends group (non Service) volunteer task?

A- We advise that they record the percentage of time as accurately as possible- volunteers should use their best professional judgment when recording hours. There is no expectation of people changing clothes!

Q- How will accountability for donations and expenditures be tracked or reported on?

A- Exhibit 1 in Chapter 1 of the new Friends Policy will answer this in detail. We will rely on information that is already collected in conjunction with the Friends IRS form 990s, as well as provide an opportunity for Friends to highlight their accomplishments.