

[EXTERNAL] OMB Control Number 1018-Friends

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**To:** Info\_Coll, FWHQ <info\_coll@fws.gov>

 1 attachments (30 KB)

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Cheryl Hart

Friends of Tualatin River NWR

NWRA Board

CORFA Board

**OMB Control Number "1018-Friends"/Document # 2020-24802**

I appreciate your providing an opportunity to comment on the Federal Register notice about the US Fish and Wildlife Service (FWS) desire to collect documentation from Friends organizations. Every year, Friends donate millions of volunteer hours and raise funds to promote their refuge/hatchery and work to conserve the natural resources associated with the site. Friends are also the leading advocates for refuges and hatcheries.

I will respond to the four questions asked in the Federal Register notice:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility:

There is no rationale for why this information is needed and it is unclear how any of the information that FWS is planning to collect will be used. This makes it difficult to know whether or not providing the information is important. How will this information be used to demonstrate the value of Friends and their contribution to FWS?

Most of the information being requested is already available to FWS and the public. Friends are required to be 501(C)(3) organizations. This means that they are governed by the nonprofit laws of the state in which they are registered and the IRS. The regulations governing nonprofit organizations require them to report certain information to the State and financial information to the IRS using one of the forms of IRS990. There is no reason that Friends should have to provide this information to FWS since they can easily access it themselves.

Additionally, Friends organizations provide on a regular basis (often monthly) to the project leader of the refuge financial reports (balance sheet and P&L) and board meeting minutes. There is no benefit in collecting all this data centrally. There is no benefit to the Service in asking for more detailed financial data from Friends.

Grants and project-oriented donations to the Friends organization are governed by grantor/donor restrictions and reporting requirements. Since these are legally binding arrangements between the Friends organization as an independent public benefit corporation and the donor/grantor and the Service is not a party in these agreements, there is no need to provide additional information to the Service beyond the provided balance sheet, P&L, board meeting minutes and 990.

The requirements demonstrate a lack of understanding of the Friends rights to use membership fees and non-specific donations to the Friends organization not collected on Service property (>99% of donations) as governed by the board and officers of the Friends organization, an independent public benefit corporation. No further financial details need to be provided to the Service regarding these funds and their use by the Friends organization.

Referring to the OIG report and response specifically, the IG expressed concerns that Friends were using funds to purchase food/entertainment and recognition of volunteers. This is an entirely justified use of nonprofit funds within the guidelines of the IRS. Funds must be expended in keeping with the mission of the organization. Providing refreshments for or tokens of recognition of volunteers is not prohibited.

Many Friends groups are quite small with only a few Board members and no paid staff. Any additional reporting required by this action will place a burden on those volunteers who might have to prepare the reports.

Some of the documentation requested is ambiguous and not necessary for the proper performance of the functions of FWS. This includes:

- Internal financial documentation:
  - Nonprofits need to implement financial controls to protect their assets and reputation. This is the responsibility of the board and cannot be transferred to anyone else including FWS.
  - According to the Friends Policy and FPA, FWS cannot direct Friends to implement these management practices nor assess the Friends internal financial controls.
    - The Friends policy states that “Friends are required to independently manage the legal, financial, personnel and administrative activities and responsibilities of the organization.” (633 FW 1.16 b)
    - The Friends Partnership Agreement states each party will, “Take steps to avoid the appearance that either party … directs the management or decision-making process of the other. The Service and the Friends will maintain an evident and distinct separation between their organizational management activities.” (V.A. (7))
  - A nonprofit’s staff, board, and occasionally partners may be involved with the formulation of these controls. It is ultimately the fiduciary responsibility of the board to develop, approve and ensure adherence.
- Resumes of potential Friends group staff selected to work in visitor centers.
  - Does this refer only to paid staff or does it include volunteer staff? If so, this would present a burden for both Friends and FWS. There are approximately 50 volunteers over the course of a year who staff the visitor center at Tualatin River NWR, for example.
  - Mandating that the Friends must share the resumes of potential staff gives the appearance that FWS is interfering in the decision-making process of the Friends and therefore violates the policy and FPA.
  - Friends have agreed to comply with Homeland Security Presidential Directives and realize that Friends representatives may need to obtain federal security clearances. (FPA III.E.)
- Supplemental Documentation Requirements: Annual Review:
  - FPA already stipulates that the partners will meet annually to assess the effectiveness of the partnership as it relates to the FPA.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used

Requirement	Average number of annual respondents	Average number of responses each	Average number of annual responses	Average completion time per response (hours)	Estimated annual burden hours
<i>Partnership Agreement:</i>					
Private Sector	50	1	50	40 50	2,000 2,500
<i>Renewal of Partnership Agreement:</i>					
Private Sector	150	1	150	8 20	1,200 3,000
<i>Supplemental Agreement:</i>				8	
Private Sector	50	1	50	4 10	200 500
<i>Renewal of Supplemental Agreement:</i>					
Private Sector	150	1	150	2 7	300- 1,050
<i>Basic Program Documentation:</i>					
Private Sector	200	1	200	8	1,600
<i>Internal Financial Control Documentation:</i>					
Private Sector	200	1	200	40 0	800 0
<i>Donation and Expenditure Recordkeeping Requirements:</i>					
Private Sector	200	1	200	20 40	4,000 8,000
<i>Assurance Documentation:</i>					
Private Sector	200	1	200	40 20	8,000

					4,000
<i>Friends Group Staff Resumes:</i>					
Private Sector	25 0	4 0	25 0	8 00	200 0
<i>Annual Performance Reports:</i>					
Private Sector	200	1	200	20 30	4,000 6,000
<i>Supplemental Documentation Requirements: Quarterly Review:</i>					
Private Sector	200 0	4 0	800 0	2 0	1,600 0
<i>Supplemental Documentation Requirements: Annual Review:*</i>					
Private Sector	40 150	1 1	40 150	20 10	200 1,500
<i>Totals</i>	1,635 1,550		2,235 1,550		31,300 28,150

\* Annual review and potential modification of FPA and supplemental agreement.

FWS' estimate indicates that a Friends group would spend 184 hours/year or 15 hours/month to meet these requirements. However, without more detail about the actual amount of information required and the frequency of reporting, it is impossible to predict the time that will be required to provide this information.

### (3) Ways to enhance the quality, utility, and clarity of the information to be collected

- Identify and share how each document FWS requires from Friends will be used prior to its collection.
- Modify the Friends Policy, FPA, and the Supplemental Agreement so they address the needs of Friends as independent nonprofit organizations.
- Collect documentation that relates only to the FPA and Supplemental Agreements.
- Collaborate on procedures to demonstrate that net revenues generated on Service-managed property are used to benefit the site and Friends activities and programs that benefit the site. (212 FW 8.18 B.)
- Develop procedures to ensure that requests from FWS for any expenditures by the Friends of the net revenues generated on Service-managed property meet FWS ethics

guidance and that Friends are provided assurance documentation. It is the responsibility of FWS to ensure their requests meet their ethics rules.

- Encourage Friends to work with organizations such as National Wildlife Refuge Association, Coalition of Refuge Friends and Advocates, Public Lands Alliance and nonprofit state associations to implement best practices for their governance.
- Friends currently produce quarterly or even monthly financial statements for their boards that are shared with the FWS' Friends liaison.
- Limit requirement to collect information to annual and eliminate quarterly.
- Like the NPS, FWS needs to recognize that Friends organizations have different revenue levels; therefore, the complexity of their financial information varies and size limits their ability to pay for costly audits (\$10,000) by an independent CPA.
  - The majority of Friends organizations have gross annual revenues of less than \$50,000/year. Many donors and funders rely on the Form 990 to assess the financial health of small nonprofits.
  - NPS threshold for an audit for their philanthropic partners is tiered:
    - “In any given year where a Partner raises between \$500,000 and \$1 million for the benefit of the NPS, they will undertake an annual financial review and provide a copy to the NPS.”
    - ...”where a Partner raises \$1 million or more for the benefit of the NPS, they will undertake a financial audit and furnish a copy to the NPS.”
    - NPS sites also meet with their partners annually to discuss how the park expended funds donated by the partner.
  - Any modification to the FPA that includes a threshold for an audit needs to be tiered for different revenue levels similar to the NPS Philanthropic Partnership Agreement.
- The FPA stipulates that FWS and Friends will meet annually to assess the effectiveness of the partnership. Ideally, any annual performance report would be discussed at this time.
- If reasonably requested by one Party, the other Party shall execute and deliver such other documents and take such other action as may be necessary to meet the terms of this Agreement.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

- Create a checklist to assure the collection of FPA, Supplemental FPA, and Basic Friends organizational documentation.
- Digitize executed FPAs and the Supplemental Agreement to make them accessible.
- Establish a system to track all monetary and in-kind requests FWS makes of Friends.
- Create a portal for Friends to download metrics similar to what NPS is creating.
- Review the NPS Cooperating Associations Form 10-40 and annual reports of the NPS' philanthropic partners to gleam ideas.

With regard to the Friends Partnership Agreement, the Federal Register notice states that this is a standardized agreement. That is inaccurate since at least one Friends group has been allowed to develop their own agreement with FWS which is vastly different than the template required of other groups.

Also, the Federal Register Notice quotes the directions on the initial Friends Partnership Agreement which allowed “Friends and Service sites/programs [to] thoughtfully add and delete certain language to meet their varying partnership roles and responsibilities wherever Department and Service policies do not dictate otherwise.” That flexibility is no longer granted, and every Friends group must adhere to the exact language in the FPA template. This lack of flexibility and recognition of the many differences between refuges, Friends groups, and the working relationships between those groups is likely to make it impossible for some Friends groups to continue their relationship with FWS.