



# **Friends of the Library of Hawai'i Chapter-Affiliate Guidelines**

Updated: February 2019

## **Friends of the Library of Hawai'i Affiliate Guidelines - Introduction**

Friends of the Library of Hawai'i (FLH) is a non-profit corporation organized for the support of the Hawai'i State Public Library System (HSPLS). FLH is recognized as a tax-exempt organization by the IRS and is subject to Federal regulation as well as regulation by the State of Hawai'i. In particular, the IRS, the State of Hawai'i Department of Taxation, and Department Commerce and Consumer Affairs impose requirements on FLH and its Affiliates. All local, affiliated Friends groups are subject to the same government regulations as explained in Part I. There are a number of tax and legal advantages to affiliating with FLH and technical support is available from FLH. While there are two ways of affiliating with FLH, all groups must adhere to these guidelines in their entirety.

Affiliate groups not in compliance with all regulations and requirements of the above groups (the IRS, Hawai'i Dept. of Taxation and Hawai'i Dept. of Commerce and Consumer Affairs) place not only the Friends of the Library of Hawai'i but also other Affiliate groups in danger of losing their tax-exempt status with both the State and the Federal Governments. Therefore, accurate record-keeping and timely filing is of paramount importance.

Part II of these guidelines explains how the Friends work with HSPLS administration and the HSPLS branch libraries under a Memorandum of Understanding between the Hawai'i State Public Library System and the Friends of the Library of Hawai'i. This MOU covers ethics, raising funds and use of funds, handling major donations, and non-monetary library support.

In addition to the requirements imposed by the above external bodies, FLH has a few requests of its own governing the use of grants and co-sponsorship, application for non-FLH grants, and the use of the FLH name and logo as found in Part III of the guidelines.

Details of all of the above issues are covered in the following Affiliate Guidelines.

For quick reference, see the FAQs on page 3:

## FAQs

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- ❖ What are the benefits to the Affiliates of applying for tax-exempt status under the FLH group exemption? (Section A)
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# Part I

## **WORKING WITH THE GOVERNMENT--**

Friends of the Library of Hawai'i (FLH) is a 501(c)(3) tax-exempt nonprofit corporation. The Corporation is organized exclusively for charitable, literacy, religious or educational purposes under Section 501(c)(3) of the Internal Revenue Code of 1986, or the corresponding provision or any future federal tax code, including for such purposes to assist in maintaining free public libraries in the State of Hawai'i, to increase utilization of the Hawai'i State Public Library System by securing materials beyond the command of the ordinary library budget; to focus attention on libraries; and to encourage gift donations of books, manuscripts, money or any other appropriate material that would enrich the literary opportunities available to the people of Hawai'i.

Friends of the Library of Hawai'i is recognized by the Internal Revenue Service (IRS) as having a group exemption. **Group exemptions are an administrative convenience for both the IRS and organizations with many affiliated organizations. (IRS Publication 4573 Group Exemptions.)** For the purposes of the group exemption, FLH is considered the central organization. Friends groups for the individual public libraries throughout the State of Hawai'i are considered subordinates. FLH considers Affiliates and subordinates as one in the same.

Any group whose primary declared purpose is to support any public library within the State of Hawai'i is eligible for the status of "Affiliate" with Friends of the Library of Hawai'i. FLH shares its 501(c)(3) tax-exempt status with its Affiliates.

There are two types of Affiliates: those who use the FLH 501(c)(3) exemption; and those who had previously acquired and continue to use their own exemption. The difference is in liability; Affiliates with their own exemption are less of a liability to the network. Those Affiliates with their own 501(c)(3) exemption are responsible for the upkeep of their own exemption whereas FLH is responsible for the network exemption. Regardless of which exemption your group uses, the same rules, regulations, and requirements given in these guidelines apply as stated in Part I, Section A.

**A. What are the BENEFITS to the Affiliates of applying for tax-exempt status under FLH's group exemption?**

1. Once an Affiliate applies to FLH to participate in its group tax-exemption and the FLH Board of Directors approves the application, an Affiliate **receives its tax-exempt status immediately**. Should a friends group decide to apply for its own tax-exempt status, the process for approval by the **IRS may take from 3-9 months** pending the IRS's workload.
2. **The Affiliate does not have to complete Form 1023** – Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. This **twelve page form** requires substantial financial and governance information. According to the publication from the IRS regarding instructions for Form 1023, page 24, "the time to complete and file these forms will vary depending on individual circumstances. The estimated average times are – recordkeeping, 89 hours, 26 minutes; learning about the law or the form, 5 hours, 10 minutes; preparing the form, 9 hours 39 minutes; and copying, assembling, and sending the form to the IRS, 48 minutes."
3. By applying for tax exemption under FLH's group exemption an Affiliate will save the costly user fee that the IRS requires with each Form 1023. **There is no fee to join the FLH Affiliate network. FLH presents each new Affiliate with start-up funds**. Presently, the user fee for organizations with gross receipts that do not exceed \$50,000 in any year within a 3-year period is **\$275**. If an organization's gross receipts exceed \$50,000 for any year within a 3-year period, the user fee is **\$600**. (<https://www.irs.gov/charities-non-profits/form-1023-and-1023-ez-amount-of-user-fee>)

**B. What are the RESPONSIBILITIES of the Affiliates in relationship to the maintenance of FLH's group exemption?**

1. All Affiliates must be incorporated in the State of Hawai'i as domestic nonprofit corporations. This is accomplished by completing and filing articles of incorporation with the State Department of Commerce and Consumer Affairs (DCCA). **PLEASE NOTE THAT THE ONLINE FORM DNP-1, ENTITLED ARTICLES OF INCORPORATION, AVAILABLE ON THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS WEB SITE, DOES NOT CONTAIN THE NECESSARY ELEMENTS FOR AN ORGANIZING DOCUMENT AS REQUIRED BY THE IRS FOR TAX-EXEMPT STATUS.**
2. **Please see the sample Articles of Incorporation template available in the Affiliates Program section of the FLH website ([www.friendsofthelibraryofhawaii.org](http://www.friendsofthelibraryofhawaii.org))**. If your articles of incorporation do not include the same elements, you must amend your articles by either using the Form DNP-5 or DNP-3 from the State Department of Commerce and Consumer Affairs web site.

- a. To qualify for tax-exempt status by the IRS, your Articles of Incorporation must have these required elements:
  - ii. A purpose clause – Said corporation is organized exclusively for charitable, religious, educational, or scientific purposes, including, for such purposes, the making of distributions that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.
  - iii. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article three thereof.
  - iv. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code. If reference to federal law in articles of incorporation imposes a limitation that is invalid in your state, you may wish to substitute the following for the last sentence of the preceding paragraph: “Notwithstanding any other provision of these articles, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation.”
  - v. Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose (FLH requires specific dissolution clause language as shown in Part III, Section H). Any assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the County in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes. **(IRS Publication 557 (January 2018), Tax-Exempt Status for Your Organization, page 70)**

**3. The IRS requires that all tax-exempt nonprofit entities file an annual Form 990 – Informational Tax Return to them.**

- a. Depending upon the amount of your gross receipts an Affiliate may file one of the following:
  - i. Form 990-Information Tax Return
  - ii. Form 990 EZ-Short Form Return of Organization Exempt for Income Tax
  - iii. Form 990-N, Electronic Notice (e-Postcard-for Tax-Exempt Organizations earning <\$50,000 or Not Required to File Form 990 or 990EZ) **Most Affiliates will file the 990-N, e-postcard.**
- b. To determine the correct form for your Affiliate contact FLH office, your accountant, or [www.irs.gov](http://www.irs.gov). **Due the fifteenth (15th) day of the fifth (5th) month after the close of your fiscal year.**
- c. **Failure to submit the required form for three years will result in the automatic removal of your tax-exempt status.**
- d. Please submit a copy of appropriate Form 990 to FLH. For the 990-N, e-postcard, this is as simple as forwarding your e-receipt email or submitting a screenshot of your 990-N confirmation showing Filing Status: Accepted.

**4. As an Affiliate do we have other reporting requirements that have not been stated?**

- a. Your organization must have an Employer Identification Number (EIN). You may apply online for this number at [www.irs.gov](http://www.irs.gov), type in applying EIN application in the search box.
- b. Each Affiliate must keep its nonprofit corporation in good standing with the State Department of Commerce and Consumer Affairs (DCCA). Subsequently, on a yearly basis each Affiliate must complete and submit its annual report (Domestic Nonprofit Corporation Annual Report Form D2) to the DCCA. Failure to file your annual report for a period of two years may result in the administrative dissolution of your nonprofit corporation status by the DCCA. An Affiliate must maintain its nonprofit corporation status to qualify for FLH's group exemption. The DCCA will send an update reminder to the address previously listed. The reminder will be sent in the quarter your update is due to the DCCA.
  - i. Please submit a copy of your yearly annual DCCA report to FLH by including the information in the space provided on the Affiliates Annual Financial Report.
- c. Failure to submit your annual report for a period of two years may result in your removal from FLH's group exemption. Each Affiliate must be aware of the **W-9 policy**. Should a group pay a contractor more than \$600 per year, that contractor must submit a W-9 form to the group. At the end of the tax year, the group must send a form 1099 to the contractor for its tax liability. Due dates for sending form 1099 are available via the IRS

website. In addition to form 1099, your group must file a form 1096 (Federal) and n-196 (State of Hawai'i). **Should your group meet the requirements necessitating form 1099, please contact the FLH office for assistance.**

- d. Each Affiliate must submit an **Affiliate Annual Financial Report. Required by Hawai'i Revised Statutes (H.R.S.) Section 312-3.8** as a result of Act 308 of the 2012 Legislative Session, any group operating at a State Library facility must submit a financial report to the Office of the State Librarian (OSL) by September 30th of each year. **Affiliate groups must submit their Annual Financial Report to the FLH office by September 15th** to be compiled and sent to OSL by the due date. Accurate record keeping and timely filing of financial reports are of particular importance. FLH Annual Financial Reports will include sums of all monies received from any and all sources and sums of all expenditures and disbursements. The report should also include a detailed listing of the major funding sources and expenditures. HRS 312-3.8 requires:

"No later than September 30 of each year, the Friends of the Library of Hawaii and any nonprofit organization that has been issued a license, revocable permit, concession, or right of entry for the use of state public library system facilities and grounds shall submit to the state librarian an annual financial statement. **The annual financial statement shall include:**

- (1) The name and address of any financial institution in which the net proceeds from the operation of any concession, vending machine, or other activity within, or on the grounds of, any state library facility were deposited and held;
- (2) The name of any account, account number, and balance of all such accounts;
- (3) A reasonable description of deposits into the account; and
- (4) A reasonable description of withdrawals and disbursements including how the withdrawals and disbursements were used to support the appropriate state library.

The annual financial statement of the Friends of the Library of Hawaii shall include the financial statements, satisfying the criteria set forth above, of all of its affiliates that were issued a license, revocable permit, concession, or right of entry for the use of state library system facilities and grounds."

- i. Failure to comply with reporting requirements may result in expulsion



from the FLH Affiliate Network. Failure to comply may also result in the loss of authorization to operate on HSPLS property. It is required by the IRS & State as stated in Part I - B - 4 of these Guidelines that FLH be aware of the financial health of affiliated groups.

- ii. The funds raised from enterprise activities on library property must be held in an FDIC insured institution as stated in Part II - D - 1
- iii. Account numbers must be provided only when a new account is opened or a number changes. If an account has previously been reported, it will be kept on file. Please note any changes in the appropriate section of the Annual Financial Report, including notification of accounts that are no longer valid.
- iv. FLH will work to protect and secure all financial information transmitted in Affiliate Annual Financial Reports. FLH must submit a compiled annual report including all required Affiliate information to the Office of the State Librarian. The Hawai'i State Legislature may request to see this report.

### **C. What are the reporting requirements of the parent organization?**

1. As the parent organization for the group tax exemption, FLH must file an annual update listing all subordinates to the IRS.
  - a. This includes the correct name and address of each Affiliate, any new Affiliates that have been added, and Affiliates that have been disaffiliated.
  - b. A detailed description of the purposes and activities of the Affiliates including the sources of receipts and the nature of expenditures.
  - c. The IRS suggests that all tax-exempt organizations keep accurate records of financial transactions and minutes of all board and committee meetings.
2. The Hawai'i Nonprofit Corporation Act also requires the maintenance of accurate records.
3. In order to maintain compliance with IRS rules and regulations and those of the Hawai'i Nonprofit Corporation Act, FLH reserves the right to conduct random audits.
4. In order to satisfy the requirements set for in HRS 312-3.8, FLH must submit a compiled Annual Financial Report to the Office of the State Librarian, including the required information from all Affiliates, by September 30th.

#### D. What else must an Affiliate do to maintain its good standing with the State of Hawai'i?

All Affiliates must apply for and receive a General Excise Tax License (GET). This application is available online at [www.state.hi.us/tax/](http://www.state.hi.us/tax/).

1. Only donations, membership dues, dividends, and interest are **exempt from GET**.
2. Gross revenue from any type of fundraising event is subject to GET. You do not have to add excise tax onto the price of goods or services at the time of the sale. Your prices may include the tax and you may use the formula provided on the GE tax form to calculate your tax obligation.
3. There are different tax rates for each county. The effective tax rates as of January 1, 2019 are:
  - a. Honolulu – 4.712%
  - b. Kaua'i – 4.712%
  - c. Hawai'i – 4.4386%
  - d. Maui – 4.1666%
4. Depending upon the amount of your gross revenue an Affiliate may pay their GET monthly, quarterly, or semiannually. A form G-45 along with your payment is due at your appropriate filing time and a form G-49 is due annually along with any monetary reconciliation in the amount of GET due. Please refer to the Department of Taxation web site for further information.
  - a. **All groups must file form G-45**, most will file semi-annually. Form G-45 is due on or before the 20th day of the calendar month following the end of the filing period. For example, if your filing period ends on December 31st, then your return will be due on January 20th.
  - b. **All groups must also file form G-49** following the end of the annual filing period. Form G-49 is due on or before the 20th day of the 4th month following the close of the tax year. For taxpayers on a calendar year, ending December 31st, this return will be due on April 20th.
5. The State of Hawai'i charges a penalty fee if GET payments are late.
6. State Income Tax: As an Affiliate of the Friends of the Library of Hawai'i **you are exempt from paying State income taxes on mission related income** and will not have to register for this exemption with the State. Remember, **this exemption does not apply to unrelated business activities** or activities that do not fulfill the mission of the organization. For questions regarding specific activity tax status, please contact a CPA or FLH.
7. All groups must file an Annual Report with the Hawai'i State Office of the Attorney General (AG).
  - a. **If an Affiliate earns less than \$25,000 annually**, not including membership dues or grants from another 501(c)(3), within a three-year period you can file for an exemption at <https://ag.ehawaii.gov/charity/apply-exemption.html>.

- b. If an Affiliate earns more than \$25,000 annually, not including membership dues or grants from another 501(c)(3), they must file a Hawai'i Transmittal if filing a **IRS Form 990 or 990EZ** (Affiliates earning more than \$50,000 will file a 990 or 990EZ) with the AG within ten days of filing with the IRS at <https://efile.form990.org/frmNPParticipatingStateSCOHI.asp>
- c. If an Affiliate earns more than \$25,000 annually, not including membership dues or grants from another 501(c)(3), they must file a Special Hawai'i Transmittal if filing a **IRS 990-N** with the AG within fifteenth day of the fifth month following the ending of the filing year at <https://efile.form990.org/frmNPParticipatingStateSCOHI.asp>
- d. Templates and assistance are available from the Affiliates section of the FLH website and through the FLH office. (Contact information found on endpage.

#### **E. What happens if an Affiliate loses its tax-exempt and/or nonprofit corporation status?**

1. Ways to lose tax-exempt and/or nonprofit corporation status:
  - a. An Affiliate can lose its tax-exempt status by failing to file its appropriate Form 990 for three years.
  - b. An Affiliate can lose its nonprofit corporation status by failing to file its annual report with the DCCA for two years. If your corporation status is revoked, in all likelihood your tax-exemption also will be revoked as there is no entity to receive the conveyance of tax-exemption.
  - c. FLH removed the Affiliate from its group exemption due to non-compliance.
2. The IRS and the State of Hawai'i have specific rules for the consequence of the removal or tax-exempt or nonprofit corporation status. These rules protect the tax deductibility of donations and the donor's intent. The dissolution clause contained in an Affiliate's articles of incorporation state the action taken regarding assets in the event of dissolution.
3. Should dissolution take place (please refer to Part III, Section H), the Affiliate and FLH should contact a CPA and/or attorney to insure that all proper procedures are handled correctly. Dissolution occurs when a group dissolves or no longer exists. This is different from dis-affiliation from the Affiliate network. However, should a group lose tax-exempt status due to dis-affiliation, a CPA should be contacted due to a possible change in tax status - meaning different regulations, tax responsibilities, and donated asset management.

**F. How does a prospective Affiliate apply to participate in FLH's group exemption?**

Any group whose primary declared purpose is to support any public library within the State of Hawai'i is eligible for the status of "Affiliate" with the Friends of the Library of Hawai'i. Groups accepted as Affiliates are part of the parent corporation and entitled to all rights and privileges of the parent corporation as regards State and Federal Tax-exempt status.

1. The IRS requires that a prospective Affiliate submit the following to FLH:
  - a. By-laws
  - b. Articles of Incorporation
  - c. A statement so noted in the minutes of the board of directors indicating that the board has approved the application for group tax-exempt status.
  - d. The Affiliate Employer Identification Number (EIN)

All documents must conform to IRS requirement as stated previously.

2. FLH requires the following additional information:
  - a. A copy of the Affiliate GET license
  - b. An affidavit (signed document, in this case the initialed statement on the Affiliate Application Form) indicating that the group's membership or governing body has reviewed these guidelines and agree to abide by them.
  - c. A completed copy of FLH Affiliate Application Form.
  - d. Acknowledgement of the Guidelines and understanding of the contents herein.

The FLH Affiliates Committee will first review and vote on the application. If all documents are in order, the Affiliates Committee will make a recommendation to the Board of Directors. The Board of Directors will review all of the above documents and grant Affiliate status by a majority vote. If Affiliate status is denied, the reason(s) for non-acceptance will be provided. If these reasons are mitigated, the group may re-submit its application.

**G. How does an Affiliate leave the Affiliate Network?**

1. Removal of the Chapter Affiliate status may be accomplished by one of the following:
  - a. By dissolution of the Affiliate group. (Adhering to the Dissolution Clause)
  - b. By a petition from the Affiliate group, approved by its governing body,

requesting the removal of the Affiliate from the corporation/network (dis-affiliation).

- c. By an expulsion resolution from FLH, citing the reason for the expulsion and approved by the FLH Board of Directors (dis-affiliation).
2. Any group whose status as an Affiliate has been lost by expulsion resolution may be reinstated by submitting a new application for Affiliate status, demonstrating that the conditions causing the expulsion have been corrected.

**H. Upon dissolution of an Affiliate, assets shall be distributed to the Friends of the Library of Hawai'i as long as the Friends of the Library of Hawai'i is a qualified public charity. (See Part III, Section F)**

**I. Affiliates with their own 501(c)(3) exemption**

1. Friends groups that have already attained 501(c)(3) exempt status, or groups who wish to secure an individual exemption may still be included in the FLH Affiliate Network.
  - a. FLH will not be responsible for the IRS filing requirement and reporting for these groups. However, maintenance of the tax-exemption, while the burden of the group, must be kept current. Non-exempt groups may not be FLH Affiliates. An Affiliate group that loses its individual IRS exemption must re-apply to become an Affiliate covered under the FLH exemption.
  - b. All FLH Chapter-Affiliate groups are still responsible to FLH for the Annual Financial Report, adhering to the MOU, State requirements, and adhering to IRS standards and practices.
  - c. Groups with their own 501(c)(3) exemption have expended considerable time and money. Therefore it is reasonable to expect these groups to continue to maintain their own exemption given that doing so requires no more or less work.

## Part II

### WORKING WITH THE LIBRARY--

The relationship of the Friends group with the supported library branch is governed by the Memorandum of Understanding (MOU) between the Hawai'i State Public Library System (HSPLS) and Friends of the Library of Hawai'i (FLH). Rather than sign an MOU with each Affiliate, HSPLS has recognized FLH with its existing Affiliate Network as authorized support organizations of the library system and has entered into an MOU with FLH that covers FLH Affiliates.

The library system, as a State agency, must conform to the State Ethics Code and other State regulations. As a State funded agency, the HSPLS budget is responsible for providing basic funding for the system. Basic funding includes facilities and personnel. Friends groups are asked to fund what the State is not *expected* to fund, or what the State, due to budget restrictions is not *able* to fund.

#### A. Hawai'i Revised Statutes (HRS) 312-3.8

1. Section 312 of the HRS governs the Hawai'i State Public Library System. Section 312-3.8 specifically outlines the duties of the State Librarian and Branch Managers (Librarians) in relationships with FLH, FLH Affiliates, or other 501(c)(3) support groups organized primarily for library support. In particular, this section states:
  - a. The Branch Manager of each library branch may request the issuance of licenses, revocable permits, concessions, or rights of entry and the State Librarian shall administer those contracts for the use of public library facilities. This is accomplished through the FLH-HSPLS Memorandum of Understanding (MOU) and through Facilities Use Agreements.
  - b. That all net proceeds received by an Affiliate of FLH from the operation of any concession, vending machine, or other activity within, or on the grounds of, any state library facility shall be **deposited into an account in a federally insured financial institution (FDIC)**, with such account being held in that Affiliates name and controlled exclusively by that Affiliate, which shall have sole authority and discretion in the disbursements of its funds. All funds deposited into the account, including income and capital gains earned therefrom, **shall be used exclusively for the state library or libraries that the Affiliate is organized to support.**
  - c. An Annual Financial Report is due by September 30th (September 15th to FLH). Find more information in Part I - B - 4d.

- d. The State Librarian shall, upon ten days notice, revoke any license, permit, concession, or right of entry issued if FLH, any FLH Affiliate, or any approved 501(c)(3) group fails to comply with any provision of this section, including the submission of an annual financial statement. The contract may be re-issued at the State Librarian's discretion, in consultation with the Board of Education.

## B. Memorandum of Understanding

1. FLH provides each Affiliate with a copy of the Memorandum of Understanding (MOU) between the Friends of the Library of Hawai'i (including FLH Affiliates) and the Hawai'i State Public Library System (HSPLS).
2. This MOU is a legally binding agreement that took effect July 2016 and defines the relationship between FLH and HSPLS and names FLH (including its Affiliates) as organizations authorized to operate enterprise activities on HSPLS property (Article IV of the MOU).
3. Affiliates must adhere to the articles set forth in this MOU with regard to their activities at the branch(es) they are organized to support. The MOU is designed to make the relationship between the branch library and friends group official and legal. The MOU is first and foremost an agreement to protect HSPLS and its employees. Enterprise activities include all fundraising, or sales that take place at the library, i.e. book sales, author program sales, Friends book stores, etc. **All enterprise activities on HSPLS property will be exclusively for the benefit of the public libraries of the HSPL System.**
  - a. **Regarding book sales in particular**, "all proceeds from books discarded from public library collections are to be used to the benefit of the Public Libraries." (Article IV, Pt. 2 of the MOU)

## C. Facilities Use Agreements

1. The MOU defines the general relationship between FLH, its Affiliates, and the libraries they support. While the MOU authorizes FLH and its Affiliates to use state public library facilities, **a Facilities Use Agreement must be completed for all activities at the supported library (ies).**
  - a. Bookstores and bookshelves require an Affiliate to file a Facilities Use Agreement for the operation of the "concession" at the library for the maximum allowed term (term at the discretion of the State Librarian). Upon expiration, the group must re-file the Facilities Use Agreement.
  - b. Booksales shall be considered an "event" and therefore a new Facilities Use Agreement must be filed per event. However, multiple events may be listed on one form at the beginning of the year.

- c. Facilities Use Agreements must be entered into through the branch manager(s) of the supported libraries and ultimately approved by the Office of the State Librarian.
- d. A new Facilities Use Agreements is required each July.

#### **D. State Ethics Code, Chapter 84, Hawai'i Revised Statutes (HRS)**

1. The code delineates the role of librarians in the relationship between the State agency and non-profit. For Affiliates, the pertinent stipulation is that **librarians are not able to handle any monies, or serve in a voting capacity on Friends Boards**. The code does allow for a Branch Manager or another librarian appointed by the Branch Manager to serve on the branch-affiliated Friends Board of Directors in an ex-officio capacity (without a vote).

#### **E. The Branch Manager**

1. **The Branch Manager must be included in the Friends Board as an ex-officio member - without a vote.** It is important to have library representatives present to not only communicate the needs and interests of the library or approve Friends initiatives, but also to share the success of any Friends funded programs, etc. with the group.
2. In cooperation or partnership with the librarians, a budget, goals, and projects for the year should be agreed upon. This planning gives the Friends group fundraising goals and allows the Friends group to craft a budget and plan for the year. It is the Branch Managers' duty to give program suggestions and options for the Friends to fund. The Friends can then choose any or all of the librarians' projects. The Friends, may also suggest their own projects or programs. **All library activities, programs, and procurements are at the discretion of the Branch Manager** working within given guidelines and parameters from HSPLS.
3. When a new Branch Manager is hired, FLH should be contacted to set up a meeting with library administration, the new manager, the Friends Affiliate, and FLH to go over roles and responsibilities.

#### **F. Managing Friends Money**

1. HRS 312-3.8 states that all net proceeds from enterprise activity shall be deposited into an **account in a federally insured financial institution (FDIC)**, to be used exclusively for the state library or libraries that the Affiliate is organized to support. Details in Part II - A.
2. Programs - FLH and Friends groups provide funding for programs at the public libraries including Summer, Spring, and Fall Reading Programs, National



- Libraries Week, etc. **It is the duty of the Friends to be present at programs such as authors presentations or other programs where financial transactions take place.** The Friends group should get a percentage of sales (minimally 10%) and a Friends member must be present to conduct sales. Friends are expected to provide the change money for a program.
3. **Monetary support from FLH and its Affiliates is not meant to supplant or take the place of State funding.** The State is responsible for salaries and facilities. Always check to see if a request from your branch should be covered by State funding. If there is any question, please check with the FLH office or HSPLS. It may be best practice to contact FLH concerning major expenditures and the Branch Manager must exercise due diligence in requesting funding for the project from HSPLS first. These types of projects would include any improvements or additions to facilities and book collections. Friends groups may not supplement salaries.
  4. **Money raised or donated can ONLY be used for the support of the Affiliated branch library in accordance with your groups' mission.**
  5. Annual Expenditures - In general, Affiliates should always have a purpose for the funds they are raising. This means that budgets, programs, and projects must be discussed with the Branch Manager on a regular basis. In doing so, Affiliates will not carry large balances with no budgeted purpose for the funds. This will also protect 501 (c)(3) status where the organization shall be actively fundraising and disbursing funds raised.
    - a. Discretionary funds: These are funds given to your library branch to use as needed. Each group should provide the branch library guidelines for use of discretionary funds. Normally, these funds would be used to purchase lei, refreshments, prizes, or other similar items. (Please be aware that FLH normally grants \$500/yr. of discretionary funds to all library branches and \$250/yr. for each bookmobile).
    - b. Program funds: The librarians will use these funds to pay for fees, honoraria, speakers, promotional expenses, flyers, and/or other expenses associated with special programs taking place at your library.
    - c. Equipment funds: Funds used to purchase small equipment such as projectors, DVD players, computers, or other equipment to be used in your library (generally under \$500).
    - d. Staff support funds: Sending staff members to seminars, paying for continuing education, and helping with travel expenses to attend special programs is the focus of staff support funds. Please be aware that FLH has a "Continuing Education" grant program for librarians. Staff should first approach FLH for these types of funds.
    - e. In demand/special book fund: These are funds used to purchase books that your library is otherwise not able to purchase or for books that your group would like to see in the library and that your Branch Manager has approved

to be added to the collection.

- f. Scholarship Fund: FLH has a Scholarship Fund Endowment and its Scholarship Committee disburses \$25,000 in awards annually to students pursuing a Masters in Library Science at the University of Hawai'i. These awards are meant to encourage future librarians for HSPLS. If your group is interested in making an award for your area, please contact us about working with our committee.
6. **Funds for major projects** - Major projects can include anything from a new circulation desk, to a lanai, to a new building wing. It is the duty of the Branch Manager to check with the Public Libraries Branch Head and other HSPLS administrators to ensure that the project cannot be funded by the State of Hawai'i. Friends must ensure that the project has been granted the proper approvals by HSPLS administration before beginning the campaign. When saving for a major project, it does not violate the public trust to maintain a large bank balance so long as the funds are budgeted and eventually spent for that project in support of your library.
7. **Reserve funds** - Funds maintained in your bank account to allow you to meet unanticipated needs; emergency funds. Funds budgeted for this purpose should not exceed \$2,000.
8. **Accepting Monetary Donations** - Friends groups are expected to accept monetary donations on behalf of their branch library. For small donations, usually less than \$500 and not given for any specific program or project, Friends groups may offer a receipt stating that the donation is tax-deductible and deposit the money in their general account.

## G. Major Donations

1. Accepting Major Donations is a part of the mission of a library Friends group and includes accepting deferred gifts, bequests, endowments, and estate gifts. FLH can assist in the acceptance and management of such funds for Affiliates (Article III of the MOU). FLH does not charge fees for this service. Managed by the FLH Board of Trustees (BOT), the funds are invested with a long-term focus (longer than 3-years). Quarterly reports of funds managed by the BOT are made available to the fundholders. These funds are tax-deductible as allowed by section 501 (c) (3) of the IRC.
2. FLH encourages its Affiliates to take advantage of the use of FLH CPAs, legal counsel, and Board of Trustees when these types of donations arise. In general, these types of donations are complex and come with various restrictions and legal implications. We are here to help Affiliates maximize donations received for their library. FLH has a bequest form available on-line. Please call the FLH office for assistance and more information.

## H. Non-Monetary Library Support

1. Volunteer help may be welcome and needed in your public library. This may include helping to prepare/present special programs and assisting the library staff as requested. This type of support is at the discretion of the Branch Manager.
2. FLH recognizes the talent in our library system by selecting the Public Librarian of the Year and a recipient from library staff around the State for the Excellence in Service Award. Nominations forms are available at the library each Spring.
3. **The public may donate book & media to their branch library.**
  - a. **Librarians have priority** in sorting through donations to find any that could be added to the library collection. Librarians may allow their Friends to do this for them. Friends and librarians should establish a working arrangement to process donations.
  - b. Donations should only be used to the benefit of the library branch, i.e. inclusion in the branch collection or book sales. Any excess or unwanted donations may be sent to FLH (for those Friends groups on O'ahu). Please review the FLH Donations Policy on our website when sorting through donations to send us ([www.friendsofthelibraryofhawaii.org](http://www.friendsofthelibraryofhawaii.org)).
  - c. While excess or books-to-be-discarded may occasionally be shared with non-profit, literacy-oriented groups, **NO** money shall ever be given in support of any other organization besides the affiliated branch library. Please check with FLH to ensure that any other purposes are allowed legally and ethically.
4. **A Friends group is the voice of the community in the library and the voice of the library in the community.** Friends groups exist not only to support and promote the library but to assist the library in meeting community needs. Friends groups can suggest and fund additions to library collections, specific programs, meeting space, or other improvements when they see a need for these resources in their community and they meet with the approval of their Branch Manager.
5. Political Activities
  - a. **Most political activities must be avoided.** Active support for or endorsement of any particular political candidate is expressly prohibited. **You may** lobby for or against those issues that affect your library, but generally, any political activity that requires the payment or contribution of money is not allowed. Passive lobbying, i.e. presenting testimony at legislative hearings, writing letters to your legislators, and hosting elected local legislators at lunches, teas, and other similar activities that are for the general benefit of public libraries is allowed.
  - b. Being a member of a Friends group does not prohibit you from engaging in political activities or campaigns personally, **as long as** it cannot be construed that you are acting on behalf of the Friends group. Complete and

concise records should be maintained clearly documenting any legislative activities in which your group engages.

- c. Please consult the IRS guidelines for 501 (c)(3) organizations for more information on acceptable activities. (**IRS Publication 557 (January 2018), Tax-Exempt Status for Your Organization, page 46**)

## Part III

### WORKING WITH FLH—

FLH Affiliates are required to follow IRS guidelines set forth in IRS Publication 557 (January 2018) regarding 501 (c)(3) public charities, charitable organizations. FLH Affiliates are required to operate as public charities rather than as private foundations (Section 509 (a)(1) Organizations as defined by the IRC). Very generally, a public charity must be publicly supported (IRS Publication 557, pages 31-33), including actively raising money through fundraising and membership from the general public. Friends of the Library organizations are membership organizations. Membership can be a good source of funds and it is a show of public support.

In addition to actively and openly operating as a public charity, the activities of Friends of the Library groups must be related to the mission of education, literacy, and public library support. Unrelated business income is not tax-exempt and will require groups to pay tax on that portion of non-exempt income. Unrelated business income will also require filing of additional tax forms. In general, all fundraising activities should be related back to education through programming, or book sales, or both.

#### **A. Affiliates Annual Financial Report**

1. All Affiliates must submit an Affiliates Annual Financial Report to FLH (**available at the FLH website:** [www.FLHhawaii.org](http://www.FLHhawaii.org)). The report is required by HRS 312-3.8 and details are found in Part I - B - 4d.

#### **B. Government Filings**

1. As mentioned in Part I of these guidelines, the government requires the timely filing of all State and Federal government forms including: forms G-45, G-49; and the DCCA annual update with the State; the 990N Special Hawai'i Transmittal or 990EZ Hawai'i Transmittal with the Hawai'i State AG, and the appropriate form 990 to the IRS. FLH requires that you comply with the government deadlines.

#### **C. Activity Records**

1. Accurate records must be kept of all your activities. Minutes of any meetings, copies of all literature, advertisements, announcements, membership brochures, etc. should be kept by your group Secretary. These are necessary documents should your organization be audited or should legal issues arise.

2. FLH should be notified annually of any change in officers, directors, or other personnel who direct your operation. The State DCCA and IRS (e-postcard) must also be updated annually with your changes in officers, as stated in Part I.

#### **D. Financial Records and Audits**

1. Affiliates must maintain accounting records and receipts for all expenditures showing how your funds were spent. These records along with deposit receipts and your bank statements for all accounts held by your group are subject to random audit at any time by the IRS. Failure to maintain proper records of income and expenditures may result in fines or even expulsion from the corporation in extreme cases. As an Affiliate member of the corporation, and under the law as a non-profit, records must be kept to ensure transparency. FLH also reserves the right to conduct a random audit.
2. HRS 312-3.8 states that Affiliates shall, “keep true and accurate records as to their activities in a form that will accurately provide support for the information required by this section. **Upon demand, the records shall be made available to the State Librarian for inspection. Records shall be retained for a period not less than five years.**”

#### **E. Grants and Co-sponsorship**

1. FLH may provide “matching-funds” grants and may co-sponsor programs and projects with Affiliate groups. All requests for matching-funds grants must be made and disbursed by the requesting Affiliate group. All requests will be considered on their individual merit by the Affiliates Committee. In most cases, Affiliates are expected to pay at least one-half of the cost of the project/program. The Affiliate Matching Grant guidelines and application are both available on the FLH website ([www.friendsofthelibraryofhawaii.org](http://www.friendsofthelibraryofhawaii.org)).
2. FLH may provide grants to your branch librarian for library branch anniversaries commemorating openings, decades, and quarter century milestones.

#### **F. Applying for Non-FLH Grants**

1. FLH applies to major funders and foundations for statewide funding. Applying to fund statewide initiatives generally involves a grant for larger amounts. FLH asks that Affiliates apply to local (community, or island based) funders/foundations only. When presented with a local grant for a lesser amount, major foundations/funders, and government agencies may pass on the larger statewide initiative. Collaboration on grants with FLH may be possible. All grants must be approved by your Branch Manager. Grant applications for amounts greater than

\$5,000 must be approved by the State Librarian. **Please coordinate grant requests with the FLH office.**

### G. Name and Logo

Any program, project, or activity that is co-sponsored by FLH must be recognized as “sponsored by Friends of the Library of Hawai‘i and (insert your Friends group name)” or similar wording. Use of the FLH logo is also encouraged. Please be aware that **most State-wide HSPLS programs are sponsored by FLH.**

### H. Dissolution

1. In the event that any Affiliate should terminate affiliation by dissolution, it will be required to distribute its assets to the Friends of the Library of Hawai‘i to be held for their branch library and/or a future Friends group.
2. Dissolution in this context applies to the disbanding or break-up of a Friends group. This clause does not apply to the disaffiliation of a Friends group from the FLH Affiliate network. However, library Friends groups (Affiliate or non-Affiliate) not legally adhering to their groups’ by-laws and mission in supporting the public libraries could face legal action.
3. All FLH Affiliates must include the following clause in both their By-laws and Articles of Incorporation.

“Upon dissolution of this organization, assets shall be distributed to the Friends of the Library of Hawai‘i to be held for the \_\_\_\_\_ Public Library as long as Friends of the Library of Hawai‘i remains an exempt organization according to the IRC.”

*Please see the By-laws Template and Articles of Incorporation Template provided by FLH.*

## Online Resources

### Federal Links:

<http://www.irs.gov/publications/p557/>

<https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>

### State Links:

<http://tax.hawaii.gov/geninfo/get/>

<http://hawaii.gov/dcca>

<http://hbe.ehawaii.gov/annuals/#/>

### HSPLS Links:

[www.librarieshawaii.org](http://www.librarieshawaii.org)

### FLH Links:

[www.friendsofthelibraryofhawaii.org](http://www.friendsofthelibraryofhawaii.org)

### Affiliates Committee:

- Kathy Fay, Chair
- Byrde Cestare
- Doug Kreider
- Brian Leialoha, Affiliates Coordinator  
[brian@friendsofthelibraryofhawaii.org](mailto:brian@friendsofthelibraryofhawaii.org)

Executive Director: Nainoa Mau

Office: (808) 536.4174

Fax: (808) 536.5232

99-1132 Iwaena St.

Aiea, Hawai'i 96701

[www.friendsofthelibraryofhawaii.org](http://www.friendsofthelibraryofhawaii.org)

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[Hawaii](#)

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[www.instagram.com/hawaiilibraryfriends](https://www.instagram.com/hawaiilibraryfriends)