

[EXTERNAL] OMB Control Number "1018-Friends"

International Wildlife Refuge Alliance <iwr\_alliance@yahoo.com>

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

 1 attachments (2 MB)

OMB Control Number 1018-Friends IWRA 1.7.2021.pdf;

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Please see attached for the submission of formal comment on the **OMB Control Number "1018-Friends" / Document #2020-24802**.

Any questions or concerns, please do not hesitate to contact me.  
Thank you.

**Joann Van Aken**, Executive Director  
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**January 6, 2021**

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

Dear U.S. Fish and Wildlife Service,

Thank you for providing the International Wildlife Refuge Alliance (IWRA) this opportunity to comment on the Federal Register notice concerning the US Fish and Wildlife Service (FWS) desire to collect documentation from Friends Organizations. We are an independent, nonprofit organization dedicated to supporting the mission of the Detroit River International Wildlife Refuge (DRIWR). We provide many vital services to the DRIWR such as community outreach, educational programs, habitat restoration, special events support, volunteer staff, advocacy, and fund raising. We have one full time employee and two part-time employees who, with a large contingent of volunteers, provide the noted services.

Since 2006, the Mission of IWRA has been the following:

- Support the first international wildlife refuge in North America
- Work with partnerships to protect, conserve, and manage the DRIWR's wildlife and habitats
- Create exceptional conservation, recreational, and educational experiences
- Develop the next generation of conservation stewards

As part of our commenting, we looked at the various actions FWS could be requiring of Friends Organizations. Each requirement was examined based on the four criteria stated in the Federal Register Notice. However, first, we wish to point out that the comment period allowed by the FWS is much too short. The limited time allowed for IWRA to comment is a burden in its self. Giving primarily volunteer-based organizations two months to educate themselves on this complex information request at the end of the calendar/pandemic year seems unreasonable. We ask the FWS to reconsider its January 8, 2021, comment closing date to allow these volunteer-based friends organizations more time to educate themselves on the issues and thus in turn providing the FWS with a higher quality of responses to their information request.

The following are IWRA's comments on the OMB Control Number "1018-Friends"/Document # 2020-24802. We have grouped our responses based on your four criteria. Our comments follow each criterion:

(1) FWS wants to know, “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;”

IWRA maintains that much of the basic information FWS is requesting is useful when securing the initial Friends Partnership Agreement and subsequent Supplemental Agreements. However, requesting these foundation documents becomes redundant once the Friends Agreement is in place and the Friends Group is complying with the relevant Federal and State filing requirements. If these documents are adhered to and administrated correctly then the issue of “practical utility” is realized without further regulation.

It should be pointed out that the FWS enters into agreements with Friends Organizations that are 501(c)(3) entities. The process followed to become tax-exempt organizations commences with these organizations incorporating in their respective States by filing their articles of incorporation and bylaws. Thereafter, they file Form 1023 with the Internal Revenue Service (IRS) to facilitate an acceptance and obtain a determination letter as a tax-exempt entity.

These 501(c)(3) entities continue in existence if they comply with specific requirements such as record keeping, governance of procedures and practices, and reporting to the Internal Revenue Service.

*Reference Internal Revenue Publication p4221-pc “Compliance Guide for 501(c)(3) Public Charities”*

The financial reporting for Nonprofit Organizations and the requirement of external financial statement are as follows.

- **Compilation Report for \$50K - \$100K in Contributions**
- **Review Report for \$100K - \$300K in Contributions.**
- **Audit Report for \$300K plus in Contributions.**

The financial reports are prepared by Certified Public Accountants. An integral part of a review and audit engagement is to obtain and evaluate internal controls adopted by the organization. The audit engagement further performs the following

- Obtain a robust understanding of the client's system of internal controls
- Identify controls relevant to the audit
- Evaluate the design effectiveness of each relevant control and determine whether the controls have been implemented as designed
- Identify and assess the client's risks of material misstatement (including control risk) at the assertion level
- Design and perform audit procedures that are responsive to the assessed risks; and
- Document the linkage between the assessed risk and the audit procedures

The financial reporting of 501(c)(3) requires the filing of annual IRS Form 990 series to maintain the 501(c)(3) exempt status. The basis of said report is the financial statements and books and records of the organization. The Internal Revenue Service has many resources available to Charitable Organization on their website. The IRS additionally maintains a website to search the status of an organization and compliance with annual filings.

[www.irs.gov/charities-and-nonprofits](http://www.irs.gov/charities-and-nonprofits).

The request for resumes of potential Friends group staff, presents a possible legal issue in the release of personal information disclosed without authorization. The proposal for the FWS to collect resume information, begs the question as to what role the FWS end goal is in the interview process and the hiring process. It would be better served for the FWS to define what the requirements are for staffing of visitor centers.

There is an old saying that “one size does not fit all,” which applies to the many Friends’ Organizations across the country. The volunteer memberships also vary in skill sets as well as what assistance they wish to extend to the various refuges/hatcheries in their region. Each Friends Organization and their work relationship should be managed at the local Refuge level.

The International Wildlife Refuge Alliance supports the following documentation listing and frequency of reporting as prepared by the National Wildlife Refuge Association:

**Documentation to collect once and update as needed:**

- Friends Partnership Agreement (FPA) with attachments:
  - Articles of Incorporation
  - IRS Determination letter
  - Insurance policies relating to the Agreement
- Supplemental FPA with:
  - Description of Service Property
- Basic Friends organizational documentation
  - Form 1023 or 1023EZ
  - Documents submitted with Form 1023
  - Documents the IRS required the organization to submit in support of their application
  - Bylaws

**Documentation to collect annually:**

- Modifications to the FPA
- Modifications to the Supplemental Agreement
- Information return (990 series tax return)
- Annual report of aid provided to FWS and a short narrative as it relates to the FPA. The annual report will be one means of demonstrating at the regional and national level the value of the Friends partnering with FWS.
  - National Park Service’s (NPS) philanthropic partners share a summary of:
    - Business operations
      - Sales
      - Expenditures
      - Narrative
    - Activities and Programs narratives
      - Significant events related to the operations of the Friends
      - Programs
    - Aid to the FWS site
      - Direct financial aid with narrative
      - Programmed services with narrative
    - Membership
      - Number
      - Events

**Documentation not necessary for the proper performance of the functions of FWS:**

- 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.
  - 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.
  - 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: Quarterly Review.
- 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) FWS wants to know, “The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;”

The International Wildlife Refuge Alliance supports the chart below as edited by the National Wildlife Refuge Association subject to IWRA’s hourly estimates for financials which can be found following the chart. IWRA, however, cannot dispute nor confirm the accuracy of the time estimates as provided by the FWS for time spent by other Friends Organizations that is included in this chart. Clearly, there is a large variance in the size of the Friends Organizations and their associated fiduciary duties. Further, the information sought will place a time burden on the Friends Organization to prepare in a manner that is in addition to that required by the IRS and 501(c)(3) requirements.

Requirement	Average number of annual respondents	Average number of responses each	Average number of annual responses	Average completion time per response	Estimated annual burden hours
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					(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</i>						

<i>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>	<del>1,635</del> 1,550		<del>2,235</del> 1,550		<del>31,300</del> 28,150

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

FWS' estimate indicates that a Friends Organization would spend 184 hours/year or 15 hours/month to meet these requirements.

IWRA is structured as a fiduciary to the DRIWR and is currently managing 13 open grants in addition to other projects including the general operations of IWRA.

IWRA estimates that current hours dedicated to the recordkeeping of financials to be 2,196 hours/ year. IWRA has a paid Executive Director who spends approximately 40 hours a week managing financials and a Certified Public Accountant who spends 4 hours a month on reconciliation and 3 hours a month on other IWRA business needs. There are 16 Board positions with each Board member spending approximately 1 hour/month reviewing financials. Thus  $(160 + 7 + 16) \times 12 = 2,196$  hours/year.

(3) FWS wants to know, "Ways to enhance the quality, utility, and clarity of the information to be collected;"

**We are aware that FWS is responsible for the "Comprehensive Conservation Plan and Environmental Assessment" of the Detroit River International Wildlife Refuge. We as a Friends organization are guided in our activities by this document and by the annual planning of the Refuge Manager and Staff. IWRA has a close working relationship with the FWS of the Detroit River International Wildlife Refuge. They are invited and do participate in all monthly Board and executive committee meetings of IWRA. To assure transparency of IWRA's activities, at these meetings, FWS personnel are provided with the same documentation as IWRA Board members including financial information. This allows FWS to question IWRA activities in a timely manner. This also means that the FWS has access to IWRA information at a local level where it is most useful to the FWS and, where questions about the quality and clarity can be easily and quickly resolved.**

**IWRA supports the pursuit of the following actions as proposed by the National Wildlife Refuge Alliance:**

- **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 NWRA, CORFA, 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 affect the terms of this Agreement.**

(4) FWS wants to know, “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.”

**The best way to minimize the burden of the collection of information on those who are to respond is not to require information that is available at another governmental website. Determine which documents may be a one-time submittal and which documents are most necessary in understanding a Friends Organization’s activity. What documents are best for managing at a local level and determining local metrics. Talk to the Refuge Managers as to what tools they believe are needed to manage Friends Organizations.**

**The International Wildlife Refuge Alliance supports the following recommendations as proposed by the National Wildlife Refuge Association:**

- **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 glean ideas**

The International Wildlife Refuge Alliance again would like to thank the U.S. Fish and Wildlife Service for the opportunity to comment on the Agency's information collection activities.

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