**SUMMARY OF COMMENTS SUBMITTED TO ARIZONA STATE MUSEUM (ASM) AND RESPONSES OFFERED AT STATE-AGENCY-FOCUSED SB 1418 CULTURAL RESOURCE MANAGEMENT FORUM**

**SPONSORED BY ARIZONA DEPARTMENT OF TRANSPORTATION, PHOENIX, AZ, 20 JULY 2017**

* Stakeholders appreciate ASM’s efforts in being responsive to concerns by holding additional face-to-face meetings and postponing implementation of the new proposed fee and rate structure until 1 July 2018.
* Stakeholders see value in pursuing two parallel courses of action related to the new proposed fee and rate structure:
* working with ASM to better tailor proposed business practices to the needs of stakeholders; and
* working with ASM on a broad-based approach to addressing unintended consequences of increased costs associated with services provided by ASM.
* Stakeholders have questions/concerns about deposits and billing:
* Will CRM firms be billed three times, or just twice?

Based on input from stakeholders, ASM will not require a 15% deposit (as originally proposed) and, instead, has proposed a two-bill cycle for each project, assuming that collections are submitted in accordance with state standards: (1) an initial bill for 100% of costs for ASM tasks to be completed prior to the submission of collections for curation (project registration, preparation of a burial agreement), to be due when a quote is accepted and the job commences; and (2) a bill for all curation costs, including collections intake and curation in perpetuity, to be issued when collections are submitted to ASM.

If necessary, revisions to the initial quote will be made at the time collections are submitted for curation. Revisions will be necessary if there is a material variance (an increase or decrease equal to or greater than 10%) between the scope of the job, as defined in the Request for Services Form submitted by the client, and what is actually submitted for curation. Once any necessary revisions are completed, the second bill will be issued.

If collections submitted are found to be non-compliant with state standards, a third bill will be issued after intake is completed. This bill will be based upon the time ASM staff recorded while bringing the collection up to standard and the relevant hourly rates for their time. ASM is committed to holding additional workshops, throughout the state, designed to help CRM firms minimize costs by submitting collections according to standards.

This is the billing cycle as proposed in the ASM SB 1418 CRM Forum of 13 June, and for which ASM requested feedback as to how well it would articulate with CRM firms’ business practices and cash flows.

* CRM firms, in particular, are concerned about billing because project proponents (including agencies) sometimes take a long time to reimburse firms for expenses paid to ASM. CRM firms are also concerned about a quick turn-around from ASM, i.e., being able to start projects right away rather than wait for ASM to complete a long task list.

The proposed two-bill cycle described above (which does not involve a 15% deposit), will allow CRM firms to start work as soon as the first bill (the portion of the quote for 100% of costs associated with ASM tasks completed prior to the submission of collections for curation) is paid. This first bill would recover costs associated with project registration and preparation of a burial agreement (if needed). This is essentially the same as the system that has been in place for many years.

ASM suggests a follow-up session or sessions, specifically focused on billing and asked for stakeholder volunteers to participate in tests of the new quote and billing system, now under development, once it is up and running.

* Stakeholders had many constructive comments regarding how to address unintended consequences:
* There was discussion of a possible two-tiered approach to archaeological data recovery (i.e., some sample of a site from which resulting collections are curated entirely and a sample that is subject to culling or some other procedure that limits the size of collections). The consensus was that culled collections are problematic in that they are severely limited in terms of research potential, and preserving research potential is at the heart of what we do in the cultural resource management community. If a two-tiered approach moves forward, overarching guidelines must be developed, based on input from many different kinds of experts.
* Some discussions of this topic touch on the question of what might be the “ideal” minimal proportion or percentage of a site to be excavated, assuming curation of all materials recovered.

ASM’s approach to the review of research designs (mitigation plans) does not focus on percentages of sites to be excavated. Instead, the focus is on the appropriateness of the proposed research questions and the goodness of fit between these questions, the nature of the resource(s) involved, the size and location of the APE (area of potential effects) relative to the resource(s) involved, the proposed data recovery techniques, and the classes of data to be recovered. These same principles show up in the state reporting standards issued jointly in 2009 by the State Historic Preservation Office (SHPO), ASM, and the Arizona State Land Department (ASLD):

<http://www.statemuseum.arizona.edu/media/statemuseum/_file/az_report_standards_2009.pdf>

That document can be a good model of how to move forward together as a group of state agencies and as a larger cultural resource management community.

* An alternative, related, or parallel strategy would involve better stratifying recovery samples, i.e., better prioritizing of sites to be excavated based on, for example, rarity and research potential (in the context of existing gaps in knowledge). Stakeholders discussed making better use of SHPO Historic Contexts (the group identified this as a “good starting point”) and the possibility of developing overarching mitigation plans like those used by the Bureau of Land Management in New Mexico (The Fruitland Project Mitigation Plan and the Permian Basin Mitigation Program). For more information on the Permian Basin Mitigation Program, see:

<http://www.nmacweb.org/My_Homepage_Files/Download/NewsMAC_2010-1.pdf>

<http://www.sricrm.com/news/BLM_Permian_Basin.html>

<http://www.nmhistoricpreservation.org/assets/files/press-releases/permian_basin_moa.pdf>

<http://www.saa.org/portals/0/saa/publications/amantiq/articleschlanger.pdf>

<https://www.cambridge.org/core/services/aop-cambridge-core/content/view/196A11A758BEEA4C5EFE6BF1269DBFAB/S2326376800000735a.pdf/div-class-title-the-permian-basin-programmatic-agreement-after-seven-years-of-implementation-div.pdf>

<https://www.cambridge.org/core/journals/advances-in-archaeological-practice/article/div-classtitlevalues-based-management-of-archaeological-resources-at-a-landscape-scalediv/FC7AAE375D4CFEFD0DD479437C12185B>

* Stakeholders also discussed the benefits of alternative mitigation strategies such as working with existing collections.
* There was some discussion regarding whether the community should reconsider how eligibility is determined/applied, and whether managers should be more conservative in this area. Consensus settled on the notion that the use of eligibility is related to a conservation approach to the archaeological record and that we, as a community, should focus on how to resolve adverse effects (e.g., through alternative mitigation) rather than the issue of eligibility.
* Stakeholders suggested including more academic archaeologists in future discussions and also highlighted the importance of tribes being engaged meaningfully in this process.
* Why do individual agricultural producers have to pay ASM fees related to curating the records resulting from archaeological surveys conducted in advance of improvements on state lands they lease? Why can’t these records be curated by some other agency, e.g., ASLD?
* A foundational tenet of federal and state cultural resource management law is that the proponents of development on state or federal lands are responsible for the costs associated with managing cultural resources that may be affected by those projects, including curation of project records. No state agency will accept this responsibility free of charge. Such subsidizing or gifting is prohibited by state statute and by the Arizona State Constitution. Splitting up records (e.g., filing survey results with agencies other than ASM) is contrary to extant law and regulations and also defeats designed efficiencies that already exist. Having all such records in one place saves time and money for archaeologists and agencies, reducing costs passed on to project proponents.
* Some stakeholders are apparently under the mistaken impression that the estimates for charges in ASM’s posted rate and fee proposals are set prices. The examples provided in ASM’s posted proposals are based on average time to complete sets of related tasks (e.g., project registration, preparation of a burial agreement, collections intake). The only set charges in the new system are curation of objects in perpetuity (per half-box) and curation of documents in perpetuity (per linear inch). ASM will bill based on the final, revised and accepted quote for all other services.
* Will ASM accept federally owned object collections for curation in perpetuity?
* ASM will accept projects that it has already agreed to accept. Federally owned collections generated by future projects will only be accepted for curation under the terms of 5-year or ten-year renewable repository contracts. ASM will no longer curate in perpetuity non-state-owned materials.
* Stakeholders asked if, as had been discussed at the ASM SB 1418 CRM Forum of 13 June, ASM should be afraid that funds collected to cover curation costs in perpetuity might be “swept” by the legislature.
* The University of Arizona (UA) uses interest-bearing accounts for many different kinds of projects and services. This is a new funding model in the CRM field but not at UA. This is a common business tool, and without it, ASM will not be able to cover costs/provide services. Furthermore, the majority of funds collected for curation costs will be mirrored on the books by a liability (unearned revenue), which will not be completely amortized for approximately 180 years from the time of collections intake. Were these funds to be swept, a substantial unfunded liability would result. This would be fiscally irresponsible, and is highly unlikely, as only unencumbered cash is ever subject to such “sweeps.”
* If CRM firms can make site landownership more readily apparent in treatment plans/research designs, time and money will be saved, as reviews by ASM will be streamlined. ASM will add discussion of this topic to upcoming workshops focused on collections processing standards (and how to minimize costs associated with submissions to ASM).