

**APPENDIX I:**

**PUBLIC COMMENTS**



March 10, 2017

To: Director Patrick Lyons and Associate Director James Watson

From: Tom Euler (Division Director), Barbara Montgomery (Principal Investigator/Project Manager), and Jerry Lyon (Principal Investigator/Project Manager)

RE: Proposed Cultural Resource Management Services Rate and Fee Schedule, Changes Effective July 1, 2017

We appreciate your thorough review of the methodology and justifications for the proposed rate changes. Likewise, it is reassuring to see that the FSO at the University of Arizona conducted an independent review and has validated the methodology used in the development of the proposed rates and fees. There is no discussion, however, of how the new rate-based fee structure will be implemented. We assume that the Museum staff has developed a plan for implementing the change from task- to hour-based fees, but these logistical details are not laid out in the memo. Below are some of our questions related to how the new fee/rate structure will work.

## **SURVEY PROJECTS**

Because most of our survey projects have a quick turn-around time, requiring us to quickly prepare and submit budget proposals, we have numerous questions on how the new rates and fees process will be implemented for survey projects.

1. How will the Museum estimate the number of hours per task and project, and will the Museum monitor these estimates (especially in light of the statement on page 15 that the “Project Estimates are non-binding”)?
2. How will the cost of project registration for each specific survey be estimated? Will there be a new NOI form for the consultant to fill out with additional information (ie, acreage of survey, predicted site density, etc.) required to come up with estimates?
3. We, as consultants, typically include the cost of project registration in cost estimates and budgets presented to prospective clients. Often we provide a cost and scope to our clients within a day or two of their request. How long will it take for the ASM to provide Project Estimates, and should we expect to receive this estimate prior to project initiation?
4. How long after the receipt of the Project Estimate will we have to pay the 15% deposit on the project? (This is assuming that we will be sent a Project Estimate upon NOI submission)
5. Will we be refunded the 15% deposit if a project gets canceled?

6. How soon after a task is completed will the consultant be billed? Within the same or the subsequent month? Our clients do not keep projects open indefinitely, so we frequently can't bill them a few months after the project has been completed.
7. Does this new fee structure replace the project registration fees entirely, or are these fees still worked into the Project Estimate (example, we pay project registration fees AND the hourly cost estimate)?
8. How will this work with projects on private and federal land as far as requesting site numbers is concerned when NOIs are not required?

### **SITE MONITORING/TESTING/DATA RECOVERY PROJECTS**

We also have a few questions concerning excavation projects.

1. How will the cost of project registration be calculated for these three categories of excavation projects (for projects curated at ASM)?
2. Is the project registration fee for site monitoring/testing/data recovery due at project initiation or just the 15%?
3. How will the cost of “collections” intake be calculated?
4. Will each project-specific burial agreement cost \$2,375? Or is that only an example? Is that cost based on hourly rates, and, if so, how will that cost be estimated at the beginning of the project?

Again, we appreciate the great effort the Museum has taken to provide a thorough explanation of the proposed fee changes and look forward to your response detailing the implementation of these new procedures.

## **Lyons, Patrick D - (plyons)**

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**From:** Matthew Behrend <MBehrend@azland.gov>  
**Sent:** Tuesday, May 02, 2017 11:39 AM  
**To:** ASM-ratesandfees  
**Cc:** Matthew Behrend; Fred Breedlove  
**Subject:** ASM Fee Increase comments

Director Lyons,

The time-billed changes proposed by the ASM may make it difficult for the Arizona State Land Department (ASLD) to continue to fulfill its statutory obligations to the State Historic Preservation Act (SHPA) (A.R.S. § 41-861 *et al*) and to continue to submit data to the ASM in a timely fashion. Without the ability to know ASM costs on the front-end of an undertaking, ASLD will be unable to determine if a proposed action on State Trust land that would ultimately result in fee payment to ASM is in the economic interest of the Trust.

Of equal concern to the ASLD is the impact this may have on ASLD revenues. There is no doubt that the proposed fee structure will result in overall fee increases within the cultural resources consulting industry. The uncertainty of billing for time in arrears could make companies and individuals balk at the prospect of hiring a consultant that cannot provide them a realistic budget at the outset of a project. Because cultural resources work is mandated by state and federal law, companies or individuals may decide to forgo entire projects completely due to cost uncertainty. Therefore, the new proposed fee schedule may ultimately decrease ASLD revenues and stifle economic development within the State of Arizona as a whole.

Thank you,  
Matt

**Matthew Behrend, M.A.**  
**Cultural Resources Section Manager**  
**Arizona State Land Department**  
**1616 West Adams Street**  
**Phoenix, AZ 85007**  
**602.542.2679**

## **Lyons, Patrick D - (plyons)**

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**From:** Jeff Altschul <jhaltschul@sricrm.com>  
**Sent:** Wednesday, May 03, 2017 10:22 AM  
**To:** ASM-ratesandfees  
**Subject:** ASM fee increase

May 3, 2017

Director Patrick Lyons  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

RE: Proposed Rate Increases for Curation and Collection Management Services at the Arizona State Museum

Dr. Lyons,

Although I leave it to others to comment directly on the proposal fee increase, I would like to suggest an alternative process for assessing and contracting for collection management and curation services at the Arizona State Museum (ASM). Traditionally, it has fallen on an ASM permit holder to demonstrate that they have adequately meet the curation needs of a project. For cultural resource management (CRM) projects, the contractor commonly supplies an estimate of these costs as part of their proposed fee. This system works as long as the fees for curation are knowable or at least can be estimated within reason. The proposed fee structure will vitiate this type of arrangement because fees will be continue to be assessed based on factors that cannot entirely be foreseen or estimated after the contract is closed. This situation will place an undue burden on the ASM permit holder, and may in some cases jeopardize the long-term financial viability of CRM contractors. To address this potential problem, I suggest changing the responsibility for curation from the ASM permit holder to the land owner or land managing agency, particularly in those cases where the land owner or land managing agency is the state of Arizona or a governmental subdivision of the state of Arizona.

Most of Arizona is owned or managed by public agencies. Many of these federal agencies and tribal governments. While some may continue to use ASM to curate their collections, there is a reasonable chance that given the proposed fee increases and structure, many will establish their own repositories or move collections to other repositories. For agencies and tribes leaving ASM, CRM contractors will face no new problems with regard to budgeting for curation. The most problematic aspect for CRM involves contracts with other state agencies, municipalities, and other state subdivisions (e.g., irrigation districts and utilities). Many of these, by law or custom, will continue to curate at ASM. However, since these are affiliated with the State of Arizona, as is ASM, would it not be possible for curation and collection management fees to be worked out at the state level? In that case, CRM contractors would be left with only having to work out a new fee arrangement with private clients. While not ideal, such a situation may be manageable.

I hope this letter finds you well. I wish you the best in coming to a fair and equitable solution to this difficult, but important, problem.

Sincerely,

Jeffrey H. Altschul, Ph.D., RPA  
Principal, Statistical Research, Inc. (<http://www.sricrm.com>)  
Chairman, Nexus Heritage (<http://nexus-heritage.com>)  
President, SRI Foundation (<http://www.srifoundation.org>)

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***Statistical Research, Inc., is a certified woman-owned small business that has provided Cultural Resource Management and Historic Preservation services since 1983.***

This communication is confidential and is intended only for the use of the individual or entity named above. If you have received this communication in error, please immediately destroy it and notify the sender by reply e-mail or by telephone (909) 335-1896 (call collect).

## **Lyons, Patrick D - (plyons)**

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**From:** SMITH, TIMOTHY <timothy.smith@cbp.dhs.gov>  
**Sent:** Friday, May 05, 2017 6:34 AM  
**To:** ASM-ratesandfees  
**Subject:** Arizona Proposed New Rates and Fees-Comments from US Customs and Border Protection

Director Lyons:

U.S. Customs and Border Protection (CBP) wishes to provide comments on your Revised Draft Proposal to Increase Fees for Services.

The Arizona State Museum is the sole repository for artifacts CBP collects from either CBP or non-Federal public lands in Arizona in the course of meeting its obligations under 54 U.S.C. 306102 and 54 U.S.C. 306108 of the National Historic Preservation Act. The proposed increase in fees raises potential concerns about our stewardship of federal tax dollars. The proposal and your response to public comments provide for non-binding cost estimates to be provided at the beginning of a project, however final costs will not be known until the work is completed. This makes it difficult for us as a federal agency to properly budget and plan for our curation responsibilities. It also makes it difficult for us to obtain reasonable bids from contractors to conduct field work and other activities when your costs are an unknown variable. Our projects can take multiple years to complete which also adds to our concerns over this proposed change. If insufficient funds are budgeted, then artifact curation can be delayed until additional funding can be appropriated. This is not in the best interests of the artifacts or any of the parties involved. We would request that cost estimates be binding in order to provide stability in the budgeting and curation processes.

CBP understands the financial losses that the Arizona State Museum has operated under and your need to recoup costs. We appreciate the assistance you have provided to our agency and the opportunity to comment on this proposed change.

Sincerely,

Timothy Smith  
Lead Environmental Protection Specialist  
Environmental Planning and Compliance Branch  
U.S. Customs and Border Protection  
[Timothy.Smith@cbp.dhs.gov](mailto:Timothy.Smith@cbp.dhs.gov)



## City of Phoenix

PUEBLO GRANDE MUSEUM AND ARCHAEOLOGICAL PARK  
ARCHAEOLOGY SECTION

April 3, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
P.O. Box 210026  
Tucson, Arizona 85721-0026

Re: Revised Draft Proposal to Increase Fees for Services

Dear Dr. Lyons –

The staff at Pueblo Grande Museum (PGM) have reviewed the Arizona State Museum's (ASM) Revised Draft Proposal to Increase Fees for Services. We have also reviewed the public comments.

As a fellow archaeological repository, PGM acknowledges the current under-funded situation for mandated programs that has necessitated the implementation of a cost-recovery model resulting in a time-based fee structure. However, we believe that several issues outlined in your procedural application of the model will cause undue unpredictability for Cultural Resource Management (CRM) firms and project sponsors.

We understand that a time-based rate allows for a more equitable, scalable process. However, as some public comments noted, by making estimates un-binding, you will introduce an unacceptable level of unpredictability into the current system. Outlining assumptions made in order to produce an estimate will allow for ASM to recoup additional fees if the project as submitted escalates beyond the original scope. We believe this is standard business practice in the for-profit sector.

Another area of unpredictability is the absence of timelines or deadlines for all levels of task completion. The establishment of parameters in this area will help produce greater predictability for invoicing and project completion for all involved.

We are currently reviewing our own repository rates and will follow your implementation with interest. We appreciate the opportunity to comment.

Sincerely,

*Nicole Armstrong-Best*  
Nicole Armstrong-Best  
Pueblo Grande Museum Administrator



A National Historic Landmark

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May 5, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

**Re: University of Arizona Response to Public Comments re. Notice of Intent by the Arizona State Museum to Increase Fees for Services**

Dear Dr. Lyons:

While it is clear that the Arizona State Museum is not sufficiently funded by the State of Arizona, Pima County finds the University response to public comments largely dismissive of genuine concerns voiced by affected state agencies, tribal governments, local government, utilities, cultural resource management consultants, and non-profit and professional organizations.

Nearly all of the public comments from those entities, who are subject to the Arizona Antiquities Act, (ARS Title 41, Chapter 4.1, Article 4 and § 41-865) and proposed ASM fee increases noted the following:

1. Fixed fees for service must be retained. Budgeting for hourly fees over extended project timeframes creates great uncertainty, which is untenable for project proponents and consultants alike.
2. The greater than 400% increase in curation costs is excessive.
3. There will be unintended consequences despite the response that "*All individuals and entities operating within Arizona, including project proponents, landowners, CRM firms and the University of Arizona are required to comply with the law, including the state constitution, independent of ASM's proposed new rate and fee structure.*" Given this statement, what enforcement role will ASM commit to take to ensure that project proponents, landowners, and others will comply with the Arizona Antiquities Act?

My earlier comments noted that Laws 2016, Chapter 166, amends ARS § 15-1631, but does not compel the Board of Regents to actually consider public comments or amend this fee proposal. We do believe, however, that further consideration needs to be given to the items above.

To close, I am additionally concerned that the nature and scale of these fee increases will result in a spate of complaints and demands to the State legislature by project proponents for regulatory relief, exemption, or even repeal of the Arizona Antiquities Act – the ultimate unintended consequence, which would destroy the very foundation for cultural resource protections in Arizona.

Very Sincerely,

A handwritten signature in black ink that reads "Linda Mayro".

Linda Mayro, Director  
Sustainability, Conservation, Historic Preservation

Cc: James Watson, ASM Associate Director  
Roger Anyon, Program Manager  
Courtney Rose, Program Manager  
Ian Milliken, Program Coordinator



## Arizona Farm Bureau Federation

325 S. Higley Rd, Suite 210  
Gilbert, AZ 85296

May 5, 2017

Director Patrick Lyons  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

Dear Director Lyons,

On behalf of our members across Arizona, we write in opposition to the increase in fees for services relating to cultural resource management.

Our farmers and ranchers live and work on the land, producing the food and fiber we need for survival. It is essential that they have the ability to use and develop their land in productive and efficient ways. The fee increase effectively prevents them from doing so by adding yet another barrier in the permitting process. For example, these fees will be cost-prohibitive for our ranchers who need to improve infrastructure and implement brush management practice to preserve the health of Arizona's rangelands.

In light of the proposed fee increase, we request that agricultural interests be exempted from the filing fees. One way to ensure this exemption would be to allow service providers such as the Natural Resource Conservation Service (NRCS) to pay a flat rate each year, similar to the certification fee they already pay, in order to allow them to file as necessary. This would prevent the fees from being passed on to the individual producers, and would allow the NRCS to continue their role as a certified filer.

While we recognize that there is value in preserving Arizona's cultural artifacts, that value should not overshadow the economic, environmental, and cultural contributions made by our hard-working farmers and ranchers. We appreciate your consideration of our concerns.

Sincerely,

A handwritten signature in black ink that reads "Kevin Rogers".

Kevin Rogers, President  
Arizona Farm Bureau Federation



THE STATE OF ARIZONA  
**GAME AND FISH DEPARTMENT**

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LARRY D. VOYLES

**DEPUTY DIRECTOR**

TY E. GRAY



May 5, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

**RE: Comments on Revised “Notice of Intent to Increase Rates and Fees for Cultural Resource Management Services Performed by the Arizona State Museum”**

Dear Dr. Lyons:

The Arizona Game and Fish Department (AGFD) appreciates the opportunity to review the Arizona State Museum's (ASM's) revised proposal to increase rates and fees, and offers the following comments for your consideration. As noted previously, our agency would be directly affected by any proposed changes as both our internal Contracts Branch as well as the various archaeological consultants we utilize would be responsible for paying any rates and fees. AGFD remains concerned that the revised proposal, as with the previous version, does not appear to clearly or adequately explain or justify the proposed changes as required by statute.

In a previous letter to ASM dated March 11, 2017, the AGFD provided specific, substantive comments regarding concerns surrounding ASM's proposed rate and fee increases. With the exception of a small procedural issue under “General Comments” in that letter, it appears that ASM has ignored the comments of this agency. It is telling that while some 115 pages of comments were submitted to ASM regarding this matter, ASM has provided only ten pages of responses.

The AGFD has carefully reviewed the minor changes made in this new draft proposal, and reiterates the same concerns and issues raised in its original March 11, 2017 letter, incorporated by reference herein, and will not repeat them here.

In summary, our main concern remains that the increases do not seem to be justified nor are they very transparent in the revised document. Furthermore it is unclear that the document actually provides what is required by statute.

Again, the Arizona Game and Fish Department appreciates this opportunity to comment and to work with you and your office on this important issue.

Respectfully,

A handwritten signature in blue ink, appearing to read "J.M. Shumaker".

Jon M. Shumaker, Cultural Resource Compliance Manager  
Arizona Game and Fish Department



## DESERT ARCHAEOLOGY, INC.

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Sarah Herr, Ph.D.

President

William H. Doelle, Ph.D.

Vice President

Director Patrick Lyons  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

May 5, 2017

Dear Dr. Lyons,

Desert Archaeology appreciates the opportunity to, again, comment on the Draft Proposal to Increase Rates and Fees in light of the University of Arizona Response to the first round of public comment. We are disheartened to find the University of Arizona almost completely nonresponsive to the public comments from a variety of stakeholders representing some key positions in the Arizona professional cultural resource management (CRM) community and we stand by our original comments of March 10, 2017. In its response, the University of Arizona dismissed comments from CRM firms saying that it prioritizes the legislature and stakeholders in other industries. As your clients in this repository arrangement, as long-term and financially invested stakeholders, and as the middle players between Arizona State Museum (ASM) and project proponents, we request that you give more time and attention to considering the impact of the proposed rates and fees increase on CRM businesses. As a repository service ASM has no competition for companies working in certain jurisdictions (such as state land) and certain parts of the state (southeast and western Arizona), and so your proposed changes have a substantial impact on our business.

Here, we reiterate three key points. First, the fees to be instated on July 1 are too high and are being implemented too fast. No industry can stand the quadrupling of costs in a mandated line item. Second, the cost-recovery plan and estimation procedures create too much uncertainty and risk for our businesses and clients. Third, the ASM needs to examine its best practices in curation to modernize and find cost-saving measures, in particular to allow culling of artifacts from excavated collections.

First, we stand by our point in our March letter that costs should be phased in. While there may be an immediate need for cost-recovery for the accession of each box, the perpetuity fee by its nature does not cover immediate costs, and could be phased in.

In regard to our second point, all of the letters from CRM companies commented on the risks and uncertainty the ASM cost recovery plan creates for business. This was summarized well by SWCA's letter of 3/10/2017.

- The best solution would be for the ASM to retain a per-box fee schedule, informed by knowledge of internal costs. Each company would use the schedule to estimate curation fees and bear the risk of a miscalculation in budgeting, as we do now.

- If ASM will not create an evenly applied fee schedule, then it should create a binding estimate with conditions. As SWCA comments, "If assumptions are violated, then ASM would have recourse to pursue additional funds, but if ASM did not estimate or use their time appropriately, the ASM would bear that burden, not firms ... or project proponents." Fixed fees are a standard practice in the consulting business and create an acceptable level of risk for CRM firms and clients.
- Many times clients ask for cost estimates on a fast timeline. The ASM should commit to provide binding estimates within 48 hours, without asking for an expedited fee.
- Finally, the ASM should make public its specific calculations of cost-recovery fees.

Third, in response to comments about culling collections the University of Arizona commented that "Arizona state law and the constitution prohibit the culling of collections." The Arizona State Museum has agency in this regard and is not passive subject to mandated tasks. In light of the curation crisis, and its financial implications for all parties, the Arizona State Museum and University of Arizona should create a culling/accessioning policy that allows the reduction of collections after certain standards of documentation are met. Many new documentation and management technologies have come into common use since the last substantial discussion of this topic in Arizona.

Throughout the University of Arizona Response to Public Comments the ASM disassociates itself from the business practices of the CRM community. As both a regulatory agency and a provider of services to CRM companies, the ASM is part of the business environment. Working in a state that vigorously promotes economic development and seeks regulatory streamlining, we are concerned about the ramifications of a plan that increases the bureaucracy and financial burden on many project proponents. We recognize that our services may be seen by our clients, particularly our private and development-oriented clients, as a barrier to their economic interests. Desert Archaeology, and our CRM colleagues generally, are sensitive to that and try to make the processes as straightforward for them as possible, so that their experiences with historic preservation and archaeology are as positive as we can make them. The ASM has an obligation to its closest partners in preserving our collective heritage to seek solutions that are more sustainable than what has been proposed.

Sincerely,



Sarah Herr, Ph.D.  
President



## CITY OF TUCSON HISTORIC PRESERVATION OFFICE

May 5, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

### **Re: Notice of Intent by the Arizona State Museum to Increase Fees for Services**

Dear Dr. Lyons:

The City of Tucson, with more than 575 recorded archaeological sites within its limits, and 226 sites on City-owned properties, is one of the major entities in Arizona involved in inventory, evaluation, and treatment of archaeological resources for its own projects. Under certain circumstances, the City also has legal authority to require utilities and private developers to treat archaeological resources appropriately during their projects.

I am deeply concerned that the proposed increases of greater than 400% for curation fees will exponentially increase the costs of managing impacts to archaeological resources in the City. This is likely to result in reduced scopes of work and data recovery sample sizes for archaeological investigations, thereby decreasing the amount of information recovered before archaeological resources are lost to development. Another likely result is complaints by City departments and private developers to the City Council and State legislature for regulatory relief or repeal, and ultimately a decrease in regulatory and policy support for protecting archaeological resources in the City and the rest of Arizona.

I am also very concerned about the proposal to shift away from fixed fees for ASM services, since hourly fees charged over extended periods would create unmanageable uncertainty in project budgets. Finally, ASM's proposed fee structure is not consistent with the fee structures of other regional, federally –accredited curation facilities.

I urge you to fully consider the unintended consequences of these proposed changes in fees and how they are charged, and to instead solicit public input to develop an approach to covering ASM's curation costs that does not undermine the quality of archaeological investigations and threaten the regulatory and policy frameworks that protect Arizona's archaeological patrimony.

Sincerely,

*Jonathan B. Mabry*  
Jonathan B. Mabry, Ph.D.

City of Tucson Historic Preservation Officer

201 N. Stone Ave., 3<sup>rd</sup> Floor • P.O. Box 27210 • Tucson, AZ 85726-7210

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May 5, 2017

Director Patrick Lyons and Associate Director James Watson  
Arizona State Museum  
The University of Arizona  
1013 E. University Blvd.  
P.O. Box 210026  
Tucson, Arizona 85721-0026

RE: Comments/Concerns with *Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services Performed by the Arizona State Museum, Revised April 17, 2017*

Dear Dr. Lyons and Dr. Watson,

As we have indicated in previous correspondence with your office, we appreciate your efforts to secure adequate funding for managing existing and future collections held at the Arizona State Museum (Museum). Unfortunately, your current proposal to increase curation rates and fees contains little discussion of how the new rate-based fee structure will be implemented. We assume that the Museum staff has developed, or is developing, a detailed plan for implementing the change from task- to hour-based fees, but these logistical details are not laid out in the original or revised memo. Below are some of our concerns related to how the new fee/rate structure would be implemented. We also want to highlight the potential negative repercussions for our clients and the potential for unintended consequences.

1. The draft *Notice of Intent and Proposal to Increase Fees* document does not specify how the Museum will estimate the number of hours per task and project, and how the Museum will monitor these estimates (especially in light of the statement on page 15 that the “Project Estimates are non-binding”). Instead, responses to the first round of comments note only that “ASM will work with CRM firms to ensure that project estimates are as accurate as possible relative to actual project costs...” For most projects, CRM firms have no way to obtain additional funds from clients beyond the contracted cost if the Museum exceeds the original estimated number of hours and costs. The unpredictability of estimated hours that are determined on a case-by-case basis at the beginning of projects, the insistence that cost estimates are non-binding, and the prospect of monthly invoicing long after projects are completed only complicates a process that is already difficult to justify to our clients.
2. In response to comments about the additional uncertainty of the proposed new fee and rate structure, the Museum notes that CRM firms “are encouraged to contact ASM early in the project planning process.” CRM firms exist in a competitive business environment and schedules and time constraints dictated by business have little in common with the Museum’s self-imposed schedules. For example, as consultants we typically must include the cost of project registration in cost estimates and budgets presented to prospective clients, and often we provide a cost and scope to our clients within a day or two of their request. The Museum’s plan to use a questionnaire that will specifically detail the project scope will require us to allocate additional time to fill-out the questionnaire and additional time to wait for a response from the ASM. This added time, especially the uncertainty of response-time from the ASM will substantially limit our ability to provide timely responses to clients.

3. Although not directly related to the proposed new fee structure, we concur with previous comments that the Museum could increase efficiency by limiting reviews of and commenting on document submissions, even if proponents are not charged for such reviews. We understand that “the Director may require a more detailed research design, plan of work, or project budget” as part of the project-specific permitting process. However, when research designs and work plans are reviewed by archaeologists representing the relevant state agency (ASLD, County, City), additional review and comment by the Museum should be unnecessary. Likewise, survey, monitoring, and data recovery reports are reviewed and approved by archaeologists within the respective agencies (ASLD, County, City) prior to project registration and curation, and additional content review and comment by the Museum would also seem redundant.
4. Finally, we wish to add our voices to previously noted concerns about the unintended consequences of introducing such significant changes to the project registration and curation fee process and resultant increases in rates. As highlighted in previous comments, these include: 1) reductions in excavation extent and sample sizes, 2) culling of collections, 3) attempts by private and utility clients to avoid compliance with the Arizona Antiquities Act, and 4) attempts by the State legislature to weaken or do-away with cultural resource protection laws that add what may be perceived as burdensome or unjustifiable costs to the private sector and even to local governments. We all understand that everyone working within Arizona must comply with the law, as you stated in your response to previous concerns. Nevertheless, if private clients and local governments perceive that rates and procedures are unfair or burdensome, they may have incentives to cut corners or take their concerns to representatives in the State government. In addition, your dismissal of information on curation costs and procedures in neighboring states (“just as property, motor vehicle, and sales taxes vary between cities, counties, and states...”) suggests that the Museum is uninterested in finding solutions that may stave off additional assaults to cultural resource protections in the current business-first atmosphere of state politics. The uncertainty of the proposed changes and continued increases in fees is increasingly difficult to explain to our clients.

Again, we appreciate the great effort the Museum has taken to provide a thorough explanation of the proposed fee changes. However, we are concerned that your responses to the first round of comments show an unwillingness to appreciate and incorporate the concerns of CRM firms and local governments. Instead, your responses tend to emphasize mandates and select portions of state regulations, which unfortunately can be changed to the detriment of the resources and the CRM industry. From the Museum’s responses to the first round of comments it also appears that many of details of how the proposed changes will be implemented have yet to be worked out, and we look forward to your providing more details on the implementation of these new procedures.

We are available to discuss these concerns at any time.

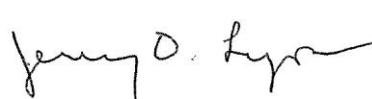
Sincerely,



Tom Euler  
Division Director



Barbara Montgomery, Ph.D.  
Senior Principal Investigator/  
Project Manager



Jerry Lyon, M.A., RPA  
Principal Investigator/  
Project Manager

Frank Krentz  
Po box 3592  
Douglas, AZ 85608

May 7, 2017  
Director Patrick Lyons  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

**Re: Notice of Intent by the Arizona State Museum to Increase Fees for Services**

Dear Director Lyons,

As Vice President of Arizona Association of Conservation Districts it has come to the attention that the NRCS has lost the ability to do its job thru the state because the State's Museum offices want the agency to file and pay permitting for every project that goes in front of the office. Instead of paying a flat fee per year. It is important for the districts that agencies like NRCS does not get weighted down with penalties like his for projects. The cost sharing benefits for the state trust land, when doing matching funding work, is more beneficial than trying to squeeze every penny from the federal agencies. When working together with the agencies and producers projects on the grounds have been make great changes to the landscape of keeping erosion under control and increasing plant communities that increase wildlife and livestock production, and water quality.

I would like to propose a option for federal agencies. Let the agencies that are applying every year for projects pay a flat rate not to exceed \$5000 and allow them to continue to do work that produces benefits for Arizona. By allowing this constant fee structure and making it available for the federal agencies to put national dollars on Arizona ground the benefits out way the costs in the long term.

Sincerely,

Frank Krentz AACD 1<sup>st</sup> Vice President

## **Lyons, Patrick D - (plyons)**

---

**From:** Eric Klucas <EKlucas@sricrm.com>  
**Sent:** Sunday, May 07, 2017 9:41 AM  
**To:** ASM-ratesandfees  
**Cc:** Terry Majewski; Jacob Altschul  
**Subject:** RE: Proposed Rate Increases for Curation and Collections Management Services at the Arizona State Museum

**Importance:** High

Dear Dr. Lyons:

The Arizona State Museum (ASM) has clearly demonstrated that the current fee structure does not cover their expenses. We appreciate the need for implementing changes to the current procedures to address this issue. However, we raise the following points in regard to the proposed changes, which build on the comments already provided to you by Statistical Research, Inc. Principal Jeffrey Altschul on May 4.

- Because the proposed plan bases its fees on actual hours worked rather than on an up-front, agreed-upon flat fee, there will be no way to accurately budget the cost of curation. This will be especially acute for those projects with substantial collections requiring processing and curation. ASM contended in the response to the first round of comments that they have to perform additional services beyond those that contractors are required to perform to prepare collections for curation (e.g., accessioning, etc.). We suggest that efficiencies be developed to incorporate the information provided by contractor permit holders into this task more effectively. Recent experience working with already-curated collections at ASM demonstrated that collections are not simply treated as if they are accessioned into a repository, but items are on occasion separated from the prepared collection and stored elsewhere, making it very difficult to work with the collections once they have been submitted to ASM. ASM would save time and money if the museum would treat repository collections as such and not as partial museum collections. If, as ASM contends, they are required by state statute to do considerably more than accept collections already prepared per ASM standards, then ASM should work with the archaeological community to change this legislation to bring it more in line with what repositories do (as opposed to what museums do) when accessioning collections.
- Because of the time required to process collections, it is highly likely that consultants would continue to receive invoices from ASM for services rendered long after the collections have been submitted. This will create a de facto situation where the period of performance for projects will be open ended, because it will not be possible to predict with confidence when the curation process will be completed. This will be met with tremendous resistance from clients. The federal government generally awards fixed-price contracts, so even if ASM helped contractors estimate these fees when bidding on a project, there would be no option for the contractor to go back and request additional funds from the client for curation if for whatever reason the fixed fee did not cover them.
- Related to the second point, there are many contracts, such as those for most federal agencies, where final payment is contingent on the completion of curation and the receipt of documentation to that effect from the repository. In the current system, this documentation is received after the collections have been submitted and the curation fees have been paid. In the proposed system, there is no way to guarantee when the process will be completed, which would require open-ended periods of performance. Having open-ended periods of performance is a condition that no client will agree to and will put an undue burden on contractors. A contractor's inability to complete a contract due to

circumstances beyond their control could jeopardize a company's ability to win future work and even the financial viability of companies.

- We strongly suggest that ASM participate with the rest of the archaeological community in the ongoing discussion of culling of collections, not just assert that it is illegal in all cases. This issue is currently being discussed by many states and federal agencies.

**In summary, fees for curation services should remain fixed priced.** ASM should separate out, legislatively if necessary, its responsibilities as a repository versus those of a museum. The need for efficiencies and improvements in ASM collections management practices must be acknowledged and pursued. In his comments to you of May 4, Jeff Altschul noted that "there is a reasonable chance that given the proposed fee increases and structure, many [federal agencies and tribal governments] will establish their own repositories or move collections to other repositories." He asks: "would it not be possible for curation and collection management fees to be worked out at the state level?"

We appreciate the opportunity to comment on this very important issue, and we hope that an equitable solution can be reached that is optimal for the resource and does not unduly impact one segment of the archaeological community in Arizona over others.

Respectfully,

Eric Eugene Klucas, Ph.D., RPA, SRI Tucson Office Director

Teresita Majewski, Ph.D., RPA, FSA, SRI Vice President

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Eric Eugene Klucas, Ph.D., R.P.A.  
Principal Investigator and Director, Tucson Office  
Statistical Research, Inc.  
520-721-4309 (office)  
520-405-8914 (mobile)  
<http://www.sricrm.com>

***Statistical Research, Inc., is a certified woman-owned small business that has provided Cultural Resource Management and Historic Preservation services since 1983.***

This communication is confidential and is intended only for the use of the individual or entity named above. If you have received this communication in error, please immediately destroy it and notify the sender by reply e-mail or by telephone (909) 335-1896 (call collect).



May 7, 2017

## **Response to Arizona State Museum (ASM) Proposed Fees—Round 2 Comments**

Dear Patrick,

Archaeology Southwest is a nonprofit organization with nearly 1,500 members. While we don't conduct contract-funded research, we make frequent use of the research of CRM practitioners. In addition we are frequent partners with the Arizona State Museum on research, collections-based undertakings, exhibits, and long-term protection of archaeological sites within Arizona.

Our staff has invested a substantial amount of time since the issue of ASM fees was raised due to a proposed 2016 Arizona law, SB1418. In addition, we provided a long list of comments during the first public comment period for the Arizona State Museum's intent to raise fees announcement. I am disappointed to see where this process has taken us. In this second round of comments, I will be brief and focused.

My primary goal is to call for the reduction of fee increases for excavated collections—in particular the immediate threat of a nearly 450% increase in per-box curation fees on July 1, 2017.

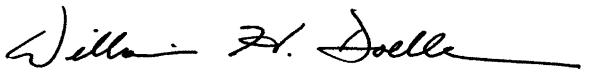
1. Historically, the ASM and the U of A have played a direct role in the development of the modern CRM "system." For example, the U of A has a Master's degree track that specifically trains students for CRM career paths. Those students increasingly use existing collections, often from CRM projects, for papers or a thesis. And research conducted within a CRM framework has been responsible for some of the most important contributions to new knowledge regarding the archaeology/anthropology of Arizona in recent decades. Thus, I don't see the sharp dividing line that UA/ASM describe regarding "mandated services" versus the overall mission of the ASM. Suggested response: the July 1 fee increase should focus on the "measurable labor cost" elements described in the ASM's proposed plan. The "in-perpetuity element" (\$3,000 per box) should be cut substantially, say to \$1,000 per box. In future years, these two cost elements could increase at different rates. The labor costs could use an inflation rate benchmark and the in-perpetuity cost could be at twice inflation—to provide a simple example. Slowing the impact of the July 1 per-box fee would also buy some time to address my next comment.

2. I reiterate here the comment I made in the first round of comments: ASM should work with the professional community to address the issue of culling of collections prior to submission to ASM. I don't envision wholesale discards, but post-excavation analyses provide information on the quality of a collection that can be legitimately used as a basis to discard a portion of a collection. Highly mixed contexts, for example, could be culled in a systematic fashion, whereas unmixed contexts would be retained completely. If the nearly 450% per-box fee increases are implemented as proposed, then the only viable response to increases of that magnitude will be

to reduce initial sampling fractions during excavations. By being unwilling to address post-excavation culling, ASM is promoting “pre-culling” – that is, leaving a much larger and largely unknown portion of the archaeological record in the ground prior to turning land over for development and ultimate destruction. Archaeologists already sample through their field recovery processes, and the sudden quadrupling or more of curation fees will make those samples get smaller still.

3. A predictable, fixed-fee process needs to be developed. Whether grant-funded or contract-funded, any organization implementing an archaeological project has time and budget constraints that need to be known with reasonable precision from the outset.

Sincerely,

A handwritten signature in black ink, appearing to read "William H. Doelle".

William H. Doelle, Ph.D.  
President and CEO

## **Lyons, Patrick D - (plyons)**

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**From:** Stewart Deats <SDeats@esmaz.com>  
**Sent:** Sunday, May 07, 2017 6:13 PM  
**To:** ASM-ratesandfees  
**Subject:** Comments regarding proposed ASM rates and fees

May 7, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

RE: Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services performed by the Arizona State Museum (Revised April 17, 2017).

Dear Dr. Lyons,

Review of the revised Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services performed by the Arizona State Museum, as well as ASM's responses to public comments regarding the original Proposal leaves me deeply concerned. It appears that some issues either have not been thoroughly thought out or have been inadequately addressed and explained. Of particular concern is precisely how the project cost estimate process will work; the absence of even a rudimentary draft of the "Estimate Request Questionnaire"; and no discussion of who will have to pay for the creation of the cost estimates.

In Appendix II, ASM's response to Comment 3 is "ASM staff will work closely with CRM firms on the process of estimating project costs. ASM will develop an Estimate Request Questionnaire, which will function as a guide describing project scope and will elicit from CRM firms the information needed to provide timely project estimates that are as accurate as possible. Estimates will be based on all relevant factual information provided in this questionnaire."

In Appendix II, part of ASM's response to Comment 2 is "CRM firms and project proponents are encouraged to contact ASM early in the project planning process. ASM will work with CRM firms and project proponents to adjust business practices in order to produce estimated costs for projects."

In Appendix II, part of ASM's response to Comment 5 is "The proposed new rate and fee structure was designed to ensure that ASM recovers all costs associated with providing mandated services as required by statute."

Under the current system where ASM regularly issues and updates a Rate and Fee Schedule, it is a relatively straight forward process to estimate the costs for the various mandated services ASM provides. Furthermore, generation of cost estimates is the responsibility of the CRM firm and generally does not require utilizing ASM personnel's time. However, under the proposed new system ASM will be required to have its already

overloaded staff spending valuable time generating cost estimates. Cost estimates of ASM services are usually calculated and incorporated into overall project costs during the process of submitting a proposal to a project proponent well before a project contract is awarded. Many project proponents solicit multiple competing proposals for the same project from different firms. Consequently, if ASM's proposed cost estimate process is implemented (as it is cursorily outlined in the materials currently available) it is very likely that many of the cost estimates generated by ASM staff would be redundant, and many would never be implemented (because they were generated for losing proposals). This certainly does not appear to be an efficient use of ASM's limited time and resources. Nor should CRM firms have to pay to obtain a "timely" (what that really means is unclear) non-binding cost estimate from ASM simply because the system to estimate cost recovery is too convoluted to present in a format that can be used independently of ASM personnel.

I strongly urge ASM to more thoroughly develop and explain its cost estimate process before making any changes to its current rate and fee structure. Any cost estimate process for cultural resource services needs to be fully elucidated and much more efficient than what has been presented so far in the Proposal to Increase Rates and Fees and its supporting materials.

Sincerely,

Stewart Deats  
Principal Investigator, Sr. Archaeologist, Lab Director EnviroSystems Management, Inc.  
23 East Fine Avenue  
Flagstaff, Arizona 86001  
P: 928.226.0236 M: 928.606.1911  
F: 928.226.0237 sdeats@esmaz.com



May 5, 2017

Dr. Patrick D. Lyons  
Director, Arizona State Museum  
P.O. Box 210026  
University of Arizona  
Tucson, AZ 85721-0026

Subject: Revised Draft Proposal to Increase Fees for Services

Dear Dr. Lyons:

I appreciate the opportunity to comment on the Revised Draft Proposal to Increase Fees for Services. I understand and appreciate the considerable fiscal challenges and legal constraints the Arizona State Museum (ASM) faces with respect to providing mandated services. I share many of the concerns raised by other stakeholders, and hope that ASM and the stakeholders can continue to work together to find solutions to those challenges that are more mutually beneficial than the current revised proposal. Below I provide some specific comments to ASM's Response to Public Comments.

I don't doubt that the proposed rate structure was developed to be responsive to stakeholders who have expressed the need to establish a rate and fee structure that is scalable to each project scope and requirements (ASM General Comments #2). However, the comments provided to the original proposal show that there is a different group of stakeholders representing a broad spectrum of public and private entities who find the proposed new fee and rate structure incompatible, in many respects, with their needs and their legal and institutional constraints. In your General Comment #4, you state that the proposed new fee and rate structure is responsive to stakeholder input; however, the ASM comments and revised proposal leave many of the concerns voiced by the particular stakeholders who commented on the original proposal without proposed solutions.

To dismiss the concerns raised regarding unintended consequences (ASM General Comments #5) because the behaviors anticipated are not compliant with law or policy seems to miss the point of concerns expressed. To say that proponents are required to comply with the laws and the conditions of tier permits does nothing to address the valid concerns that the proposed rate and fee structure will place so heavy a burden on some entities that they may be unable to be fully compliant. The Arizona Department of Transportation (ADOT) has a long and consistent history of compliance with state and federal historic preservation regulations, and I am confident that will not change. Nevertheless, I think your somewhat cavalier dismissal of concerns raised that a burdensome and inflexible fee structure will result in reduced compliance by some users is shortsighted and unrealistic. These serious concerns deserve thoughtful consideration and broad-based, non-partisan attempts at finding solutions.

I applaud ASM for responding to comments by introducing the half box as a minimum billing unit. Although I would have preferred to see an even smaller minimum unit, this is an important step in the right direction. I would like to see ASM make a parallel change and reduce the minimum billing unit for document storage from one foot to one inch of linear shelf space.

While I appreciate that ASM is required to curate original, paper documents, I would urge an inter-agency review of policies that result in duplicate archiving of documents between ASM and the State Archives. While this is clearly beyond the scope of the current effort to revise ASM's rate and fee structure, I think it is an important element of a statewide look at improving digital curation, and hope that it will be considered in continuing reviews of curation standards and issues.

While I recognize and appreciate the financial and legal constraints under which ASM operates, I urge you to consider postponing the implementation of a new fee structure and to hold a workshop or meeting with stakeholders to discuss a wider range of options for moving forward. Perhaps this could be done in proximity to the Arizona Historic Preservation Conference in June, when many of the stakeholders will be convening in the Tucson area. I understand that ASM did work with some stakeholders in developing the proposed rate and fee structure, but feel that the public comments in response to the original proposal are a clear indication that there are many stakeholders who feel their needs have not been adequately addressed. I would look forward to an opportunity to work with you and other stakeholders on finding solutions that work for ASM, the consultant community, and a broad spectrum of project proponents.

Sincerely,

Ruth L. Greenspan  
Cultural Resource Program Manager

May 7, 2017

Via Electronic Mail

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
P.O. Box 210026  
Tucson, AZ 85721

**RE: COMMENTS ON THE ARIZONA STATE MUSUEM “REVISED” PROPOSAL  
TO INCREASE RATES AND FEES FOR CULTURAL RESOURCE  
MANAGEMENT SERVICES PERFORMED BY THE ARIZONA STATE  
MUSEUM.**

Dear Mr. Lyons:

We appreciate the opportunity to comment on the revised fee structure being proposed by the Arizona State Museum (ASM). However, we are disappointed in the adequacy of the University of Arizona Response to Public Comments and feel that the revised proposal hasn't been adequately vetted given the depth and range of comments provided through the previous comment period. Our review shows very few changes to fees having been made from the initial proposal, and it does not appear that the ASM objectively considered comments that were provided by industry, municipalities, and state agencies.

In essence, responding to public comments is a regulatory process mandated by the Arizona State Legislature and therefore the ASM should refer to the requirements of the statute for guidance:

*“include a summary and response to any comments received during the public comment period and a summary of the alternatives that were considered and a rationale for why those alternatives were not selected.” (A.R.S. 15-1631 E. 4)*

At this time it appears the ASM does not meet this standard and therefore should not adopt the proposed fees in their revised form. The ASM appears to have not responded to many of the comments provided and did not attempt to answer questions posed by commenters. This is particularly troubling when multiple questions and comments were provided by the Arizona Game and Fish Department.

ASM provided a total of 33 responses for all the comments they received. The Arizona Game and Fish Department alone submitted a total of 20 specific comments and some general comments. Although it is appropriate to lump similar comments and respond in kind, many specific unique comments were not addressed. It is plainly evident comparing the comments with the ASM responses that ASM did not respond to all the comments they received. Prior to ASM moving to finalize their proposal, a more comprehensive response to comments should be required.

Of additional concern is the level of detail provided by the ASM in the responses. One example is found in their response to multiple comments regarding how efficiently the ASM conducts mandated programs. Many commenters questioned the efficiency and the implementation of cost savings in the current ASM process:

*“Is the problem related to funding, or could it be addressed through better organization, management, or more efficient process?”* **AGFD**

*“The current review does not sufficiently address methods for reducing cost and minimizing fee increases by taking a “lean management approach.”* **AGFD**

*“There is no discussion regarding whether or not sustainable cost saving could be achieved through efficiencies gained through creation and implementation of a process improvement program.”* **AGFD**

*“Nowhere is there any sort of process analysis to try and identify efficiencies which could save clients substantial costs.”* **AGFD**

*“We do not believe ASM has fully explored means to reduce costs or streamline processes.”* **GCSECA, AzG&T, and APS**

*“If these numbers are indeed accurate, there are surely improvements that could be made to remove duplicative efforts in curation, and cut down on staff resources necessary to process each box.”* **GCSECA, AzG&T, and APS**

*“A longer period of inception will allow the ASM to evaluate and refine its procedures in ways that allow them to implement cost reducing best practices and set true rates for services rendered”* **Desert Archaeology, Inc.**

*“developing cost-saving measures in the ASM curation protocols through better use of databases and other digital tools”* **Desert Archaeology, Inc.**

We would also like to point out that this has been an issue raised in both formal and informal stakeholder processes and meetings and has yet to receive adequate attention and discussions with stakeholders.

Given that the issue of cost savings and efficiency is clearly a major concern for many of the commenters, ASM should clearly explain detailed measures that are being taken to reduce cost and improve efficiency. ASM's reference to internal University of Arizona audits without information on how the public can access these internal documents is insufficient.

Additionally, at least one commenter provided an example of hours expended by ASM staff to perform functions at the museum based on the "Example for Illustration". The example showed an exorbitant amount of staff time to complete routine functions. Although not presented in the form of a specific question, it is obviously a comment and the ASM should include a response that either validates the example or disputes it.

We would like to offer additional comments on the rates and fees charged by comparable institutions. While we appreciate factors can vary, which would correspond to differences in costs, it is all the same a reasonable benchmark for comparison. The issues raised by these comparisons are not one of mere differences in costs but also the magnitude by which these costs vary from the revised proposal. The proposed fees are between three and ten times higher than other Western States. This magnitude of variation between ourselves and other similar institutions cannot merely be explained through variations in policy like "property, motor vehicle and sales taxes" as the UofA Response would suggest. These are institutions that manage resources under the same federal standards and similar state standards.

In addition, the response points out that the study suggests these repositories are raising fees including to cover the cost of in-perpetuity costs. We noted in our previous comments that this study was conducted in 2008 and presume there have been differences since that time. However, our comments also included current curation fees for these institutions that would presumably cover any fee increases since the intervening nine years since the study was published and the disparity between the fees charged by these institutions and the proposed fees is equally as stark. We request a detailed explanation of why Arizona's fees are so much higher than virtually every other state in our region.

Lastly, I would like to revisit another issue we provided in our previous comments that were not adequately responded to nor addressed in the revised fee proposal. There has not been a detailed analysis of how much revenue the proposed fees are anticipated to generate for ASM. A simple calculation we provided in our previous comments shows, based upon the 2016 collection of 441 boxes, the \$3,004/box charge alone would result in over \$1.3 million in fees collected from project sponsors.

\$1.3 million represents more than double the expenditures listed in 2016 for mandated programs. We recognize that historically fee collections have not covered the total costs of mandated programs. However, the total fees collected in mandated programs in 2016 shows approximately \$430,337 with expenditures totaling \$522,569. A deficit of \$92,232. While this does represent an under-collection of fees to cover costs for mandated programs, it does not justify a three-fold

increase in fees nor explain how \$1.3 million in revenue generated can be traced to “known and identifiable costs”.

We would presume that while the full \$522,569 listed in the ASM budget was not fully collected in fees, these are the “known and identifiable costs of providing mandated services.” Thus these should be the costs ASM hopes to cover through the fees associated with these programs. Based upon the average of boxes collected on an annual basis since 2006 which is approximately 925 per year, the average of curation fees from all the intermountain states (\$633.03) would generate \$585,552 for the Arizona State Museum which would more than cover the “known and identifiable costs” of providing mandated services in 2016.

In addition, none of these figures include other fees identified in the revised proposal such as fees for documentation or hourly service rates for other services performed. Without additional information, it is impossible to estimate how much will be generated from these fees or how much additional revenue ASM could expect to perform these functions.

We believe these fees have not been adequately justified and cannot support the implementation of the fees in the revised proposal.

In addition, until such time the ASM can demonstrate that they have complied with the requirements of the statue to respond to “any comments” received, the revised proposal should not be finalized.

Respectfully,

Grand Canyon State Electric Cooperative Association  
Arizona Generation and Transmission Cooperatives  
Arizona Public Service



May 5, 2017

Dr. Patrick D. Lyons  
Director, Arizona State Museum  
P.O. Box 210026  
University of Arizona  
Tucson, AZ 85721-0026

Subject: Revised Draft Proposal to Increase Fees for Services

Dear Dr. Lyons:

I appreciate the opportunity to comment on the Revised Draft Proposal to Increase Fees for Services. I understand and appreciate the considerable fiscal challenges and legal constraints the Arizona State Museum (ASM) faces with respect to providing mandated services. I share many of the concerns raised by other stakeholders, and hope that ASM and the stakeholders can continue to work together to find solutions to those challenges that are more mutually beneficial than the current revised proposal. Below I provide some specific comments to ASM's Response to Public Comments.

I don't doubt that the proposed rate structure was developed to be responsive to stakeholders who have expressed the need to establish a rate and fee structure that is scalable to each project scope and requirements (ASM General Comments #2). However, the comments provided to the original proposal show that there is a different group of stakeholders representing a broad spectrum of public and private entities who find the proposed new fee and rate structure incompatible, in many respects, with their needs and their legal and institutional constraints. In your General Comment #4, you state that the proposed new fee and rate structure is responsive to stakeholder input; however, the ASM comments and revised proposal leave many of the concerns voiced by the particular stakeholders who commented on the original proposal without proposed solutions.

To dismiss the concerns raised regarding unintended consequences (ASM General Comments #5) because the behaviors anticipated are not compliant with law or policy seems to miss the point of concerns expressed. To say that proponents are required to comply with the laws and the conditions of tier permits does nothing to address the valid concerns that the proposed rate and fee structure will place so heavy a burden on some entities that they may be unable to be fully compliant. The Arizona Department of Transportation (ADOT) has a long and consistent history of compliance with state and federal historic preservation regulations, and I am confident that will not change. Nevertheless, in order to remain compliant with the current proposal, ADOT will need to make difficult decisions that may be less than ideal from a technological or scientific standpoint, and will very likely result in curating elsewhere when it is a more fiscally responsible option. I think your somewhat cavalier dismissal of concerns raised that a burdensome and inflexible fee structure will result in reduced compliance by some users is shortsighted and unrealistic. These serious concerns deserve thoughtful consideration and broad-based, non-partisan attempts at finding solutions.

I applaud ASM for responding to comments by introducing the half box as a minimum billing unit. Although I would have preferred to see an even smaller minimum unit, this is an important step in the

right direction. I would like to see ASM make a parallel change and reduce the minimum billing unit for document storage from one foot to one inch of linear shelf space.

While I appreciate that ASM is required to curate original, paper documents, I would urge an inter-agency review of policies that result in duplicate archiving of documents between ASM and the State Archives. While this is clearly beyond the scope of the current effort to revise ASM's rate and fee structure, I think it is an important element of a statewide look at improving digital curation, and hope that it will be considered in continuing reviews of curation standards and issues.

While I recognize and appreciate the financial and legal constraints under which ASM operates, I urge you to consider postponing the implementation of a new fee structure and to hold a workshop or meeting with stakeholders to discuss a wider range of options for moving forward. Perhaps this could be done in proximity to the Arizona Historic Preservation Conference in June, when many of the stakeholders will be convening in the Tucson area. I understand that ASM did work with some stakeholders in developing the proposed rate and fee structure, but feel that the public comments in response to the original proposal are a clear indication that there are many stakeholders who feel their needs have not been adequately addressed. I would look forward to an opportunity to work with you and other stakeholders on finding solutions that work for ASM, the consultant community, and a broad spectrum of project proponents.

Sincerely,

Ruth L. Greenspan  
Cultural Resource Program Manager



L O G A N S I M P S O N

May 5, 2017

Director Patrick Lyons  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

Subject: Revised Draft Proposal to Increase Fees for Services

Dear Dr. Lyons:

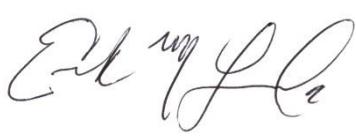
Logan Simpson appreciates the opportunity to comment on the "Revised Draft Proposal to Increase Fees for Services" issued by the Arizona State Museum (ASM). We have practiced cultural resources management in Arizona for over 25 years, and we are grateful for the services that the ASM provides. Logan Simpson recognizes that the ASM must find a way to recover from the dire funding situation; however, we have some concerns about the new proposed fee structure.

- ▶ The change from flat fees to hourly-based rates presents difficulties in estimating the costs associated with our projects, which range from small-scale surveys to large data recoveries. Although it is up to each project proponent to pay these fees, they are unlikely to compensate Logan Simpson for differences between budgeted costs and actual costs, leaving our firm vulnerable to paying the fees instead of the project proponent.
- ▶ The ASM proposes to develop an Estimate Request Questionnaire to help consultants estimate curation costs. We are concerned that coordination of a cost estimate with the ASM will not occur in timely manner, and our cost estimate submissions to clients often have tight deadlines.
- ▶ Logan Simpson recognizes that ASM needs to establish fees scalable to a project's scope and requirements, but we suggest a progressive, or scaled flat fee schedule, perhaps based on total project fee or some other predictable factor, rather than the unpredictable time-based fee.
- ▶ The in-perpetuity fee to curate a single box of artifacts increases over 400% with this new fee structure. It is unclear exactly how the in-perpetuity fee works. In Appendix III: University of Arizona Rate Study, Box Storage costs include fees for one-time costs, including shelving, boxes, etc. in addition to ongoing costs, like rent. How is it that a box that costs \$10.45 incurs an in-perpetuity fee that results in paying \$38 per box? Why is there a yearly fee for inventory labor (with an in-perpetuity fee of \$908.36)—are boxes inventoried on a yearly basis? With space/rent being accounted for separately in the curation of boxes and files, it is unclear why project proponents are paying extra for one-time expenditures including shelving, boxes, and files and for yearly inventory labor fees.

Director Patrick Lyons  
Revised Draft Proposal to Increase Fees for Services  
May 5, 2017 | 2

Again, Logan Simpson acknowledges that the ASM needs to address their funding situation, and we are thankful for the services it provides. However, we feel that the current proposed rate plan is flawed and we urge the ASM to more fully address the concerns of the cultural resources management community.

Sincerely,



Erick Laurila  
Director of Cultural Resources



Dr. Christopher Garraty  
Assistant Director of Cultural Resources (Tempe)



Tina Hart  
Assistant Director of Cultural Resources (Tucson and Flagstaff)



## Mohave County Farm Bureau

May 2, 2017



Director Patrick Lyons  
Arizona State Museum, University of Arizona  
P.O. Box 210026  
Tucson, AZ 85721-0026

Re: Notice of Intent to Increase Fees for Services As specified in ARS \$15-1631

Dear Director Patrick Lyons,

The MLA opposes the increase in fees affecting our producers. These fees are prohibitive to putting in infrastructure and brush management for enhancement of range lands. It is critical to the health of the resources that producers be encouraged and assisted in being able to afford the necessary infrastructure and brush management for healthy range lands.

We request agriculture be exempted from these fees. The Natural Resource Conservation Service (NRCS) be allowed to pay a flat rate per year for filing any documents needing to be filed. The NRCS is now paying \$1,000.00 per year and we recommend that fee not be changed and the NRCS is allowed to continue paying a yearly fee for the filing that is necessary. Making it unnecessary to pass on the cost to the individual producers and creating a difficult situation for the NRCS, since the NRCS must do the filing and the individual producer must pay for the filing. Mohave County District 1 Supervisor Gary Watson supports our request.

Thank you for allowing us to comment on this important matter.

Sincerely;

Craig Hamilton President  
Mohave Livestock Association  
Mohave Farm Bureau

***Big Sandy***  
***Natural Resource Conservation District***  
**P.O. Box 3506**  
**Kingman, AZ 86402**

May 2, 2017



Director Patrick Lyons  
Arizona State Museum, University of Arizona  
P.O. Box 210026  
Tucson, AZ 85721-0026

Re: Notice of Intent to Increase Fees for Services As specified in ARS \$15-1631

Dear Director Patrick Lyons,

The Big Sandy NRCD opposes to any increase in fees that inhibits producers from putting in the infrastructure and brush control to improve our resources. It is important that our producers be able to afford the things necessary to enhance our resources.

We request our resource users be exempted from these fees. The Natural Resource Conservation Service (NRCS) be allowed to pay a flat rate per year for filing any documents needing to be filed. The NRCS is now paying \$1,000.00 per year and we recommend that fee not be changed and the NRCS is allowed to continue paying a yearly fee for the filing that is necessary. So it is not necessary to pass on the cost to the individual producers and creating a difficult situation for the NRCS since the NRCS must do the filing and the individual producer must pay for the filing.

Thank you for allowing us to comment on this important matter.

Sincerely;

Anita M. Waite  
Chairman Big Sandy NRCD



**Willcox-San Simon Natural  
Resource Conservation District**  
656 N. Bisbee Avenue, Willcox, AZ 85643  
Phone: (520) 384-2229  
Fax (520) 384-2735  
[Patina.Thompson@az.nacdnet.net](mailto:Patina.Thompson@az.nacdnet.net)

Board of Supervisors:  
Tina Thompson, Chairman  
Larry Parker, V-Chairman  
Tedd Haas, Sec./Treas.  
Matt Klump, Member  
Timmothy Klump, Member  
Alan Seitz, Advisor  
Amber Morin, Advisor  
Art Meen, Advisor  
Calvin Allred, Advisor  
Kolin Kramme, Advisor  
Richard Riggs, Advisor  
Tommie Todd, Advisor  
Western Haas, Advisor  
Patina Thompson, Administrative Coord.

August 3, 2017

Patrick Lyons  
Arizona State Museum  
1013 East University Boulevard  
PO Box 210026  
Tucson, Arizona 85721-0026

RE: Fees relating to the Arizona Antiquities Act

Mr. Lyons,

The proposed changes to the fee schedule that the Arizona State Museum will charge our cooperators for archaeological survey cataloging and recording will cause a financial hardship. These fees will also decrease the number of conservation projects in our District. We believe that both the conservation projects and the cataloging of the archaeological sites benefit the entire population of Arizona, thus, all of the people of Arizona should pay the cataloging fees, not just the conservationists in our District. Our District cares about this issue and we have attended the Listening Sessions held in the state.

Your response is greatly appreciated.

In Conservation,

Tina Thompson, Chairman  
Larry Parker, Vice-Chairman  
Tedd Haas, Secretary/Treasurer  
Matt Klump, Member  
Timmothy Klump, Member

cc:

Arizona Governor Doug Ducey  
Kathryn Leonard, State Historic Preservation Officer  
Mark Killian, Arizona Department of Agriculture Director  
Bill Ridenour, Arizona Board of Regents Chair



August 15, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, Arizona 85721-0026

Re: Arizona State Museum Proposed Increase of Rates and Fees for Cultural Resources

Dear Dr. Lyons,

The Arizona Archaeological Council's (AAC) Board of Directors (Board) represents almost 250 professional archaeologists in the state, and we are submitting this letter on behalf of the organization. We have reviewed Arizona State Museum's (ASM) Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services performed by the ASM issued on February 10, 2017. We have also considered the ASM and the University of Arizona's response to the comments from stakeholders including our own submission. Our members have also attended the subsequent public sessions undertaken by ASM. Based on this new information, we have updated and revised the recommendations we previously submitted to the ASM.

We would like to again express our position that a well-funded ASM is a vital part of the cultural resource management (CRM) industry in Arizona. While we continue to recognize ASM's need to secure comprehensive funding for its mandated services and we still strongly support the ASM staff, we remain convinced that the current proposed fee changes, even with revisions suggested in the public meetings, will have wide-ranging ramifications, including negative impacts on employment throughout the CRM community. Your response to our previous comments leaves us concerned about the outcome of this process, but we appreciate that you have extended the period for providing feedback.

Rather than repeating our previous comments, we have chosen to focus on the problems that we believe the proposed changes will create, and alternate solutions to the ASM funding issues. Our primary concerns are still the cost-estimation process and the new perpetuity fee that will be imposed. We understand that the current fee structure does not cover the actual costs of the CRM services provided by ASM, and we support creating a structure that does cover the costs for collections intake and services such as project registration and the analysis of burials. However, the following is a list of concerns that we have developed in consultation with our membership:

- 1) We appreciate that since the first proposal and response period the ASM has committed to developing binding estimates of collections intake fees through use of an online questionnaire

that employs standard CRM budgeting factors. While such an estimation process may be reasonable, we are concerned with the level of specific detail that has been provided on this process to date, and we need to better understand the process by which ASM is planning to create cost estimates after the new fee structure is instituted.

2) The new process, as described in public meetings, will require CRM companies to pay for any additional time it takes ASM to process poorly curated collections. This cost, like others initially proposed, will be assessed at some indefinite point in the future.

3) We are concerned with how the perpetuity fee, which is a new cost, is being calculated. While we acknowledge that this method is used elsewhere in the country, the scale of the fee and the schedule for its implementation are not typical. The ASM is using an accounting definition of “perpetuity” to argue that the cost of each box is above \$30,000 in a model that involves nearly two centuries. Further, the estimation incorporates the assumption of an interest bearing account that provides a discount from \$30,000 to \$3,000 per box, which we do not find reasonable.

4) When artifact and record collections surpass CRM contractor’s initial estimates, developers may abandon projects once they are informed of the additional curation fees, and as a result there could be no funding for the curation costs.

5) We believe that the new structure could unnecessarily discourage the leasing or purchasing of State land because of the increased associated costs.

6) We understand that ASM is consulting with the Arizona State Historic Preservation Office regarding the proposed fee changes, but the AAC membership has raised questions regarding potential issues that could arise when complying with the requirements of both organizations. Specifically, we are concerned with how the substantial increase in curation costs may impact future sampling strategies for excavations, in-field collection of artifacts and environmental samples, as well as the post-field analyses of recovered materials. These conflicts would result in a loss of data, and less robust inferences regarding the past.

We submit that the substantial increase in curation fees will create an incentive for CRM contractors to conservatively estimate artifact and record totals in order to lower the cost of bids. The Board and membership still believe this will create an environment where many collections will be improperly prepared for curation or simply not curated at all. In short, the Board believes the proposed structure will increase monetary incentives for some contractors to not collect artifacts or records. We remain highly concerned that this will reduce the quality of archaeological research, create ethical challenges for developers as well as private property owners, and ultimately lead to further attacks on preservation law.

While we understand the need for ASM to increase fees, the change in rates is exceptionally high. Consequently, we propose the following solutions:

1) We recommend that the ASM should consider alternative definitions of exactly what the mandate to curate artifacts and collections in “perpetuity” requires in terms of additional costs. An alternate view holds that the government exists in perpetuity, and ASM as a government agency is therefore expected to exist indefinitely as well. Consequently, as long as ASM meets

costs in any given year, then the collections will be protected in perpetuity. Adopting this view would eliminate the proposed \$3,000 per-box fee, and a more modest increase could still provide the revenue needed to cover costs ASM incurs when providing legally mandated services.

2) Fee increases should be phased in more slowly over the course of time. This would allow both contractors and clients additional time to adjust to this substantial increase in costs, as well as for ASM to make adjustments to the fee structure that reflect unintended impacts on the industry.

3). We suggest that the new system that is developed for calculating collection intake fees should go through an initial trial period.

4) We suggest that ASM return to using the former field-person-day model or the per-box cost. A per-field-day or per-box cost creates a unit that will be fair to project proponents, transparent to users, and easier on ASM staff to manage.

5) To address the problem of submitted collections that do not meet the guidelines outlined in the ASM Repository Manual, the Board again strongly recommends that the ASM begin enforcing those guidelines, and reject collections that do not meet the minimum requirements. Further, the ASM should also commit to reviewing all submissions at intake, and then within a week either accept or reject the collection. This will allow CRM companies to either take on the costs of repackaging material themselves or pay the additional ASM fees.

On behalf of the entire membership, the Board appreciates this second opportunity to comment on the proposed changes. Our organization has important concerns regarding the proposed fee increases, and we trust that you will seriously consider the alternatives proposed herein.

Sincerely,

AAC Board Members



August 15, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
PO Box 210026  
Tucson, AZ 85721-0026

**RE: Arizona State Museum Proposed Fee Increase**

Dear Dr. Lyons:

Thank you for the opportunity to provide public comment on the proposed fee increase for services provided by the Arizona State Museum (ASM) in accordance with ARS § 15-1631 (as amended).

While it is reasonable and necessary to recover costs for services, and I am supportive of that endeavor, I have concerns regarding the total amount of the increase, the method in which it will be increased, and potential unintended consequences. As can be seen from previous public comments, this is an issue that has broad effects across all stakeholders including industry, county and municipal jurisdictions, and individual property owners.

Through the Section 106 Consultation and the subsequent Memorandum of Agreement, Rosemont Copper will be heavily curating artifacts associated with our project. This curation will occur at the ASM and the fee increase will have significant impacts on the cost. We are committed to curate these objects and believe it is an important part of the Project, however the cost increase will still have impacts to our business in addition to many other entities in the state.

The proposed 400 percent increase results in fees that are substantially higher than those charged by other curatorial facilities. I do appreciate the changes made from the original proposal to prorate the fees based on actual space used as opposed to a flat amount per box or document space. This change will have the effect of reducing the burden on smaller projects. However, it will still have a significant impact on large-scale projects and developments (such as road work, utilities, commercial development) which Arizona heavily relies on for economic growth. The proposal does little to address, or even consider, what this means to businesses and developments.

It is beneficial to project sponsors and local entities that the increased fees will not increase until August 2018 and does provide an opportunity to plan for the potential impacts. Yet, the fee increase is still substantial and business decisions have already been made. Instead of the flat 400 percent increase, I would recommend the implementation of a gradual fee increase, rolled out over multiple years. This will reduce the burden placed on project sponsors and provide more predictability for future developments. If individual projects know what the fees will be increasing over the next ten years, it could offer incentives to begin the curation process earlier and make the appropriate plans.

Another option for your consideration would be a project sponsor fee that would allow for evaluation of materials received and then a curation fee as you have proposed (albeit at a lower amount), assuming

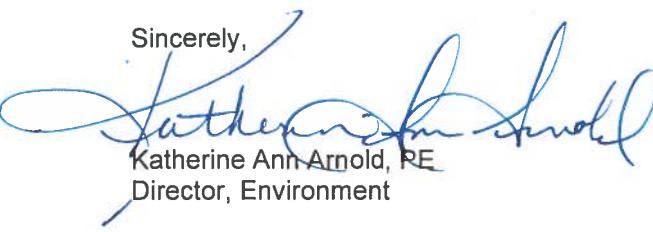
**Arizona State Museum Proposed Fee Increase**  
**August 15, 2017**

that the evaluation would provide ASM with a way of determining how much of the associated project materials would be curated. As an example, in Rosemont's case, all materials would be delivered to ASM for review and determination but because there is already a collection of previously curated materials from the site, duplicative materials or those seen as incomplete may be photographed, cataloged and later disposed of, or shared with another facility, rather than simply accumulating more material.

Finally, we are strong proponents of appropriate curation of artifacts found at projects. However, this fee increase could result in unintended consequences that could work to undermine the mission and work of the ASM. As was seen in the public comments made previously, the industry in general fears that this will lead to a reduction in effort to collect artifacts and information, culling of collections and even ignoring compliance requirements under the Arizona Antiquities Act. Obviously, most companies want to comply, but some might only do the minimum amount required to meet the requirements instead of what is desired by the ASM.

Again, we understand and appreciate the need to be responsible with public tax dollars and recover the costs spent in operations. However, this proposal seems to highly affect all stakeholders across the board, including local jurisdictions, private developers, and individual property owners. I hope that you will consider changes to this fee increase proposal to make it more equitable to all involved.

Sincerely,



Katherine Ann Arnold, PE  
Director, Environment

Doc. No. 0014/17CA/11.1



# Grand Canyon State Electric Cooperative Association, Inc.

August 16, 2017

Your Touchstone Energy® Cooperatives 

## Via Electronic Mail

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
P.O. Box 210026  
Tucson, AZ 85721

**RE: COMMENTS ON THE ARIZONA STATE MUSEUM “REVISED” PROPOSAL  
TO INCREASE RATES AND FEES FOR CULTURAL RESOURCE  
MANAGEMENT SERVICES PERFORMED BY THE ARIZONA STATE  
MUSEUM.**

Dear Dr. Lyons,

We once again appreciate the opportunity to augment our comments on the revised proposal to increase rates and fees for cultural resource management services performed by the Arizona State Museum (ASM).

On June 13, 2017 ASM convened a forum of interested stakeholders and presented information related to the historical increase in fees at various institutions around the country. The information in this slide showed a range of 100% to 600% increase in fees at 40 different repositories over a ten year period<sup>1</sup>. While there was not a citation for this information on the slide, you indicated that this was from a study conducted by Childs, Kinsey and Kagan published on July 2, 2014<sup>2</sup>. This journal article is a further narrative on a study conducted in 2008.

I believe the information in this slide is irrelevant as it pertains to the current 400% increase in per box curation fees currently being proposed by ASM. First, in reading the journal article, it is clear that the decade of study related to these increases was from 1997 through 2008. In addition, the article also refers to increases in “relatively small increments, such as \$100-\$200 per cubic foot.”<sup>2</sup> Clearly timing and scale are important when related to these figures. The article also points out that a relatively small increment of increase like \$100 can have a significant impact. “If a collection owner submits a collection for curation from an artifact-rich site, however, the \$100 increment increase is very sizeable” (page 198)

1. Lyons, Patrick, “SB1418 CRM Forum” (Presentation, CRM Forum, Tucson, AZ, June 13, 2017)  
Slide 17
2. Childs, S. Terry, Karolyn Kinsey, and Seth Kagan 2010 Repository Fees for Archaeological Collections. *Heritage Management* 3(2):189-212.  
<http://www.tandfonline.com/doi/abs/10.1179/hma.2010.3.2.189>

We believe we have addressed the issue of comparisons to other similar repositories in our previous comments. Our prior comments provided current year curation costs at similar institutions ranging from \$271-\$1,000 per box. These costs would include any increases during the time period covered in the journal article and any increases in curation costs since 2008. This information puts ASM's current curation costs at the highest end of the spectrum and the proposed fees would be four times higher than the second highest state.

If we were to compare the increase in curation costs of ASM over the same time period referred studied in the journal article, given the information on historical fees charged by ASM provided to the Board of Regents, we would find that in 1997 ASM charged a combination of per-person-person-field-day charges in addition to a per unit volume for "additional charges of historic materials" of \$10 per box. ASM did not start charging a per-box fee for artifacts and documentation until 2005 when the fee was \$350 per box. By 2008, that charge was \$593 per box and increase of not quite 200%, in line with the other repositories at the time. Since then however ASM has increased their fees to \$1,000 per box in 2016. This is currently one of the highest fees charged among western states in terms of current year fees. Further, ASM proposes to increase that fee once again to over \$4,000. The proposed fees would result in a 1200% increase in curation fees charged by ASM between 2005 and 2018.

Additionally during the June 13 meeting, the electric cooperatives expressed concerns about an abundance of reserves in an interest bearing account. The projected revenues from the proposed fees far exceed the current year costs of providing mandatory services. In some cases the excess revenues could amount to millions in excess of what is necessary to provide current year mandated programs. We have commented on this in great length in previous letters and will stand on those comments.

We remain concerned that ASM is proposing to generate large sums of excess revenue to be placed into an interest-bearing account for mandated programs. Our concerns are threefold. First, as past history has shown, large fund balances could be subject to "fund sweeps". While we have received assurances from ASM that this is an unlikely scenario as they would attempt to "encumber" these funds through bookkeeping practices, the concern remains valid as many other funds have been swept during lean budget years. In fact, some of the funds collected through fees that have been swept over the years had statutorily prescribed purposes for their use but were nonetheless re-allocated for other purposes within state government. ASM asserts that sweeping these funds would create an "unfunded liability" which would be fiscally irresponsible. We agree, however, when the state is faced with unfunded liabilities in a priority area of government like education or healthcare and the ability to backfill fund sweeps through higher fees for something like curation of archaeological artifacts, we remain concerned that our fee dollars could be re-allocated to meet other, more pressing budgetary needs.

Second, there would be an incentive for ASM to expand their budget and utilize these funds for purposes related to mandated programs yet unrelated to the curation of the items for which the fees were collected. Our concern comes from observation of other state agencies that will tend to grow into their budget as additional funds are available. For example, ASM could expand their personnel related

1. Lyons, Patrick, "SB1418 CRM Forum" (Presentation, CRM Forum, Tucson, AZ, June 13, 2017)  
Slide 17
2. Childs, S. Terry, Karolyn Kinsey, and Seth Kagan 2010 Repository Fees for Archaeological Collections. *Heritage Management* 3(2):189-212.  
<http://www.tandfonline.com/doi/abs/10.1179/hma.2010.3.2.189>

to mandated programs which may be necessary for the curation of objects. They may also undertake projects that are beneficial but perhaps unnecessary to the curation of the current obligations. I would assume these would be permitted uses of these funds however it provides little incentive for ASM to control costs and increase efficiency. At this point we must assume the permitted uses of these funds as the establishment, accounting, tracking and public disclosure related to this fund has not been well documented or explained at this point.

Third, we have heard repeatedly in various meetings and can see in the ASM budget that they have been the subject of transfers within the university system. If ASM is correct and the encumbrance of these funds isolates them from legislative fund sweeps, there may be an incentive for reallocation of these funds within the university system and appropriate protections against these types of transfers or allocations have not to our knowledge been explained or investigated.

Kinsey also found that a relatively small portion of repositories used interest-bearing accounts (only about 20 percent). Keep in mind, given the fees charged in other states, the balances in these funds would likely be much lower than those generated by the proposed fee structure. Upon further review they discovered that some states precluded the repositories from using accounts of this nature, either through state statute or local regulation. Others chose not to use them as the interest from these accounts would go to the general fund rather than benefit the collections. The experiences in other states clearly underscore the fragile nature of any protections that could be established for these funds if policy directives shifted in favor of other priorities. (pg. 200) Indeed the legislature could choose at a future time to place additional restrictions on the use of interest bearing accounts or redirect proceeds from these funds to other areas or potentially re-allocate these funds to meet more pressing needs as Kinsey suggests has been the case in other states.

I would like to commend ASM for proposing to delay the implementation of these fees until July 1, 2018 in response to the multitude of comments submitted on this proposal. It shows an acknowledgement of the various concerns raised as a result of the proposed fees. While postponing the implementation of the fees would give the impacted parties more time to understand the proposal and prepare for the new fees, ASM appears to remain committed to the underlying fee structure and presupposes this is the only methodology that can be used to implement new fees.

Concerns about the magnitude of the fee increases and the structure in which they were developed, as we have expressed, are only one area of concern raised by interested parties. Municipalities have concerns about budget impacts for necessary projects. CRM firms have raised concerns about the logistics of working through the project estimate proposals as well as the impact on the collection practices and how that could negatively impact cultural resource protection and availability to the public.

It has been suggested that current state statute limits ASM to this type of methodology. While we do not believe that is the case, perhaps additional discussion with stakeholders into the legal or statutory

1. Lyons, Patrick, "SB1418 CRM Forum" (Presentation, CRM Forum, Tucson, AZ, June 13, 2017)  
Slide 17
2. Childs, S. Terry, Karolyn Kinsey, and Seth Kagan 2010 Repository Fees for Archaeological Collections. *Heritage Management* 3(2):189-212.  
<http://www.tandfonline.com/doi/abs/10.1179/hma.2010.3.2.189>

impediments is warranted. If a fee structure can be developed that avoids the negative impacts of the current proposal but for these statutory impediments, perhaps it would be beneficial for everyone to seek additional legislative involvement. Concerns about the magnitude of the fees, impacts on state/local government and the resulting impact on the protection of cultural resources have been discussed at length by many stakeholders. We are certain, given additional discussion and input from stakeholders, we can find a solution to these issues.

Perhaps a more prudent course of action than approval of the current proposal would be to withdraw the current proposal and take the time to continue to meet with impacted stakeholders. Given the various issues raised, continued investigation into the impacts on cultural resource management and collection, impacts on local/state government and project sponsors is warranted.

Given this additional time, ASM would be able to develop an appropriate fee structure, which meets the needs of the regulated community, protects cultural resources and clears any legislative impediments to achieve this goal. Under the public input process outlined in A.R.S. 16-1631, ASM would still have the opportunity to propose a fee structure that addresses these concerns and still implement them in the July 1, 2018 timeframe.

Respectfully Submitted,

John Wallace, CEO

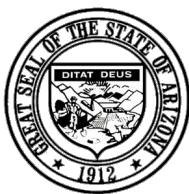
1. Lyons, Patrick, "SB1418 CRM Forum" (Presentation, CRM Forum, Tucson, AZ, June 13, 2017) Slide 17
2. Childs, S. Terry, Karolyn Kinsey, and Seth Kagan 2010 Repository Fees for Archaeological Collections. *Heritage Management* 3(2):189-212.  
<http://www.tandfonline.com/doi/abs/10.1179/hma.2010.3.2.189>

The 16 August 2017 public comment from Grand Canyon State Electric Cooperative Association, Inc. included an attachment:

Childs, S. Terry, Karolyn Kinsey, and Seth Kagan  
2010 Repository Fees for Archaeological Collections. *Heritage Management* 3(2):189-212.

This document is copyright protected and is available online **for a fee** at:

<http://www.tandfonline.com/doi/abs/10.1179/hma.2010.3.2.189>



# G A A C

## GOVERNOR'S ARCHAEOLOGY ADVISORY COMMISSION

August 17, 2017

Bill Ridenour, Chair  
Arizona Board of Regents  
2020 N Central Avenue, Suite 230  
Phoenix, AZ 85004-4593

Dear Board Chair Ridenour,

The Governor's Archaeology Advisory Commission is writing the Arizona Board of Regents concerning the Arizona State Museum's *Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services performed by the Arizona State Museum.*

The Governor's Archaeology Advisory Commission is a statutory body charged with advising the State Historic Preservation Officer (SHPO) on archaeological issues and related activities in Arizona. The Commission is composed of 11 members with expertise in prehistoric or historic archaeology, anthropology, heritage tourism, Native American cultural heritage, public education, and economic development. Over the years, the Commission has addressed and advised on many issues of statewide significance in archaeology.

The Commission is concerned that the Arizona State Museum's *Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services performed by the Arizona State Museum* will impact negatively the practice of archaeology and the curation of archaeological materials in Arizona. For this reason, the Commission has prepared the accompanying document to inform the Arizona Board of Regents of these concerns and possible impacts.

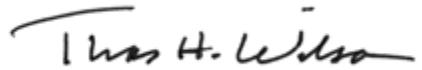
The Arizona State Museum has sought comments from all sectors of the archaeological community in Arizona, and has made good faith efforts to conduct outreach throughout the state to explain, discuss and receive comments on ASM's *Notice of Intent and Proposal....*, and for that the Commission and archaeological community in Arizona is most appreciative. On an issue of this importance and significance, with potentially great impact on the conduct of archaeology and curation of archaeological data in Arizona, the Commission believes it should inform the Arizona Board of Regents directly of these impacts as the Regents deliberate the Arizona State Museum's *Notice of Intent and Proposal....*

The Commission's intent is to assist the Arizona Board of Regents to understand fully the issues involved, to consider the potential impacts to archaeology in Arizona, and to help

c/o State Historic Preservation Office  
1100 West Washington Street • Phoenix, AZ 85007  
(602) 542-4009 • [www.AZStateParks.com/SHPO](http://www.AZStateParks.com/SHPO)

you make the best possible informed decisions concerning these matters. The analyses, opinions and recommendations in the accompanying document are solely the product and responsibility of the Governor's Archaeology Advisory Commission and do not necessarily reflect the views of the State Historic Preservation Officer or her staff.

Best regards,

A handwritten signature in black ink, appearing to read "Thomas H. Wilson".

Thomas H. Wilson  
Chair



# GAAC

## GOVERNOR'S ARCHAEOLOGY ADVISORY COMMISSION

### ***Analysis and Commentary on the Arizona State Museum's Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services performed by the Arizona State Museum***

For over a century, the Arizona State Museum (ASM) has been the primary repository of collections generated from archaeological sites throughout Arizona. ASM's vast collection of ancient materials cover 13,000 years of Arizona prehistory and history. The collections contain more than 3 million individually catalogued objects and ~50,000 cubic feet of bulk research material, which will be curated in perpetuity. ASM is proposing to dramatically increase curation fees that, in our opinion, will adversely affect future scientific research and public education. We believe that these curation fee increases as proposed will have serious adverse consequence for the practice of archaeology and curation of archaeological materials in Arizona, and offer recommendations regarding a process that will provide a collaborative approach to better comply with A.R.S. 15-1631.

Curation of archaeological materials recovered from scientific excavations is essential in preserving archaeological data and knowledge of the past for research and public education. ASM, like many repositories, is in the midst of a curation crisis. While experts debated this issue for over four decades, problem solving has often been short-term and provided few meaningful changes. With the revised rates and fees proposal, ASM is taking a long-term approach in making changes both to the rates and the process of recovering costs in order to create a more sustainable curation model for the future.

We appreciate ASM's outreach efforts over the past year, and at least one member of our commission has attended each public forum that ASM has offered. In addition to numerous other stakeholders, the Governor's Archaeology Advisory Commission (GAAC) submitted a written response to ASM's first general call for comments on March 10, 2017, and GAAC has maintained consistent involvement throughout the public process. In response to initial stakeholder comments, ASM released a revised rate and fee proposal on April 17, 2017 that inadequately addresses the bulk of stakeholder concerns. In good faith, ASM elected to hold several subsequent public fora to further address stakeholder concerns. In addition, ASM postponed the deadline for a third round of comments to August 18, 2017 and delayed the implementation of the revised rates and fee structure to July 1, 2018, if adopted. GAAC acknowledges these measures, however, ASM's revised rate and fee proposal continues unmodified since April 17, 2017. The Commission is concerned that if the current fee proposals are adopted as currently written, the impact on archaeology will be significant. We encourage the Arizona State Museum, and Arizona Board of Regents, to consider seriously stakeholder comments and analysis and go beyond merely delaying implementation of the measures and work towards a more practical solution for all parties.

GAAC aims to provide the Arizona Board of Regents with important information that demonstrates the devastating consequences the revised rates and fees structure will have on the

continued pursuit of the discovery of new knowledge related to the archaeological record, the negative implications to multiple facets of cultural resources management, and the overall decline in public benefits resulting from the acquisition of archaeological information.

GAAC structures its comments based on the two prominent changes that ASM is proposing for increasing rates and fees for cultural resources management services: the proposed shift from task to time based rates, and the proposed curation fees.

## **TASK TO TIME-BASED FEE STRUCTURE**

Stakeholders criticized ASM's proposal to shift from a task-based, fixed fee, structure to a time-based system because it created a significant amount of uncertainty with billing for the majority of project proponents. Federal, state and local agencies in particular have historically been able to procure accurate estimates from the CRM companies they hire for cultural resources services. We acknowledge the need for ASM to shift to a time-based structure in order to cover costs for mandated services rendered by ASM staff. ASM has committed to providing scope-dependent project estimates early on in project planning that will assist project proponents in continuing to accurately forecast cultural resources costs related to project registration tasks, burial agreements and other mandated requirements concerning human burials.

### *Consistency of Time-Based Costs*

ASM has argued that "potential variance in time requirements/fees assessed amongst mandatory projects undertaken by ASM, and feedback from stakeholders requesting more scalability and transparency in the assessed charges, the time-based methodology was selected." The majority of stakeholder groups have acknowledged the need for ASM's shift to a time-based system, however, continuous requests for more budget information related to ASM operations were unanswered. The general issue of concern for stakeholder groups is that the proposal does not adequately define how the new rate structure will be uniformly applied to projects of similar scale. For instance, the example table provided in the April 17, 2017 revised proposal identifies a Project Registration fee of \$1,079 for a monitoring project (curated at ASM); however, under a time-based fee structure, a monitoring project of identical complexity may cost more or less depending on how much time an individual bills to that project. A more formal description of cost control measures is warranted. Additionally, given ASM has committed to providing project proponents scope-dependent project estimates, should *significant* variability in estimated costs occur for projects of identical/similar complexity, what is the process for appeal and what recourse do project proponents have?

### *ASM's Response to A.R.S. 15-1631*

A.R.S. 15-1631 resulted from challenges by a small group of stakeholders from utility companies who objected to the significant increase in project registration costs over the past decade, and sought more transparency and scalability for fees associated with mandated cultural services provided by ASM.

Year	Project Registration
2007	\$225
2008	\$225
2009	\$2,000
2010	\$3,000
2011	\$3,000
2012	\$3,000
2013	\$3,000
2014	\$3,000
2015	\$3,000
2016	\$3,000
2017	\$6,000
2018 (as proposed)	~\$1,283.00

A.R.S. 15-1631, however, does not require that ASM (via ABOR) adopt a revised cost model and fee structure, but rather is limited to outlining specific procedures for doing so. ASM, therefore, was provided complete control over the development of a revised rates and fee structure, and multiple stakeholder groups have consistently asked for more information on the process by which ASM decided to shift from a task-based to time-based model.

Other models that do not appear to have been considered include a new tiered system of fees based on the complexity/size of the project, (i.e. small, medium, large, extra-large, with increased task-based fees for each level). Such a tiered fee alternative would be responsive to the issue of transparency and scalability, and may have been more responsive to the needs of a greater number of stakeholders than the model that was adopted. Despite the information provided in the revised rates and fee proposal, as well as the public fora, ASM's determination and "need" to drastically alter their fee structure remains unclear. What is clear, however, is that multiple stakeholders, including GAAC, were never consulted during the actual process of determining a new rates and fees proposal, but rather were presented with a draft proposal that fundamentally remains unchanged to today despite a unanimous chorus of concerns.

## CURATION FEES

ASM's revised time-based rates structure is primarily responsive to the architects of A.R.S. 15-1631 and provides proponents of small projects a decrease in fees for mandated services. Although GAAC disagrees with the process by which ASM made this determination, we acknowledge that the revised proposal is a direct response to these stakeholders. Included in the proposal, however, is a significant shift in fees for curation that was not included in the grievances of small project proponents, but that will significantly impact a multitude of stakeholder groups and have a perpetual impact on the archaeological record.

Over the course of the past year, the response to ASM's proposed increase in curation fees has dominated discussions in a vast array of stakeholder communities, and all stakeholders have

unanimously objected to both the fee structure and ASM's rationale for the dramatic 400% increase in curation fees plus a new additional cost for the curation of documents. The scale and immediacy of the cost increases related to the curation of archaeological collections, estimated at \$1,502 per half box in 2018, and the related documents, estimated at \$214.75 per linear inch, plus the estimated collection intake fee of ~\$660 in 2018, have enormous ramifications for all project proponents with mandated responsibilities, the Cultural Resource Management (CRM) industry, as well as creating a percussive ripple effect on A) our ability to continue to research the archaeological record in scientifically adequate detail, and thus directly affecting our understanding of the past, B) endangering the CRM industry's ability to balance professional ethics and standards with cost-control measures for project proponents, C) tribal government relationships with project proponents with legally mandated responsibilities, D) the survivability of legal mandates ensuring the recovery of information from archaeological sites prior to their disturbance/destruction at the state and local levels.

#### *Researching the Archaeological Record in Scientifically Adequate Detail*

Early on in the review process, stakeholders have cumulatively identified a set of consequences that will negatively impact the archaeological record should the proposed fee structure for curation be adopted. ASM has addressed these issues in public fora, and titled the host of concerns as "Unintended Consequences" as we present below.

##### Reduction of Field Effort

The first of these consequences is a necessary reduction of field effort with regard to archaeological activities that have the potential to produce collections. Budgets for such activities are highly scrutinized throughout all levels of government, as well as within the private sector. The "do only as much as is legally required" statement is widely passed on by project proponents to CRM companies. The dramatic rise in curation costs will put even more pressure on all stakeholders to scale back the level of physical investigation in order to offset the increase in curation costs.

ASM has responded to this concern and has acknowledged that "ASM's extant regulations and policies represent de facto acceptance of the premise that, if cost is an issue, archaeologists should excavate smaller samples but submit for curation all items collected (except mass-produced objects)." Archaeological sites are currently subject to sample excavation, with few exceptions, and a multitude of different models are employed depending on a wide array of factors (lead agency responsible with cultural resources compliance, project's direct vs. indirect effects on archaeological sites, legal definitions of significance at the federal and state levels, etc.) to determine which archaeological sites are sampled, and what the sampling fraction for individual sites will be. Regardless of the employed sampling model, cost is a universal determining factor for the development of any sampling strategy.

The fundamental purpose of sampling archaeological sites is to acquire enough information about the site to answer predefined research questions that provide pivotal information related to human activity at the site's location through time. As all archaeological sites are non-renewable resources, the information contained within a site or portion of a site that is not investigated is

lost forever at the time of development. ASM's response is a clear acknowledgement that the new proposed curation fee structure will directly cause a decrease in the amount of information recovered from the archaeological record and a concomitant decrease in regional and global research and our understanding of the past.

### Compromising Compliance Requirements at the Local Level

ASM has permit authority for all archaeological activity conducted on more than 9.5 million acres of state, county, and municipal lands in Arizona. While archaeological sites located on state lands are subject to compliance mandates beyond those outlined in the Arizona Antiquities Act (AAA representing A.R.S. § 41- 841 through § 41- 846) and Arizona Burial Laws (ABL representing A.R.S. § 41- 844 through § 41- 865), the AAA and ABL are the only state mandates for archaeology that apply to county and municipal lands in the absence of any federal or state project nexus (i.e. permit or funding). Many of our commissioners have worked in various parts of Arizona, and have witnessed firsthand that a fairly large number of local governments ignore their responsibilities under the AAA. One of our missions is to incentivize local governments to fulfill their mandated responsibilities by educating these agencies on the unique values the archaeological record provides for public benefit. The proposed drastic rise in curation fees will provide a justification (or rationalization) of why a local government entity might choose to start ignoring its legal responsibilities or to continue to ignore them. ASM's mandate is not to police local governments to ensure their compliance with the AAA, however, the new significant increase in curation costs will consequentially add an even greater challenge to our mission.

### Collections Resulting from Private Development

ASM's mandated responsibilities outlined in A.R.S. § 41- 841 through § 41- 846 do not apply to private land, yet 19.7% of the total archaeological collections received between 2006 and 2016 originated on private lands. This significant addition to ASM's collection can be credited in large part due to the permitting requirements imposed by some local governments on private developers. These local governments typically require an assessment of a private development's impact on archaeological resources prior to the issuance of permits needed for construction-related activities. If an archaeological site is present within the footprint of the development, some local governments have the ability to require archaeological testing and subsequent data-recovery, if necessary, be led by Arizona State Museum permitted individuals working within the CRM industry. Under current state law, the archaeological collections recovered from these investigations are the property of the private land owner, however, CRM companies who perform the work have ethical standards that promote the donation of recovered private collections to ASM in the form of a Deed of Gift. Under the new curation fee structure, we forecast that archaeological investigations that occur absent of any state or federal mandate will 1) equally suffer from a reduction in field effort as discussed above, and 2) challenge the ethical standards CRM companies hold over the archaeological record, as discussed below.

### *Balancing CRM Ethics with Cost-Control Measures*

In the United States, archaeological collections are owned by the land owner. Government land managing agencies are required to curate artifacts in federally approved repositories, such as ASM. Many private landowners will curate artifacts collected from development projects on their land as a matter of ethics, but it is not legally required. The standard practice for the CRM industry is to ask those private landowners for a Deed of Gift at the beginning of the project, and include the curation costs in the project budget at that time. With the reduced transparency and higher costs, we expect curation of privately-owned collections to become more challenging and potentially detrimental to the field of archaeology as a whole. While private development projects are sometimes required to comply with local government code governing cultural resources, all collections resulting from the investigation remain property of the land owner. The significant increase in curation fees will therefore put undue burden on CRM company's ethical responsibilities to: A) perform investigations in order to ensure their client has met local compliance requirements without securing a deed of gift resulting in a loss of the complete collection for future scientific study, or B) forfeit the business due to the proponents' unwillingness to pay curation costs. While ASM is not the only federally approved repository in Arizona, any collection originating from private land in southern Arizona would most likely not be accepted by any repository other than ASM.

### *Tribal Government Consultation*

As part of the University of Arizona, ASM is required to comply with Arizona Governor's Executive Order (EO) 2006-14 "Consultation and Cooperation with Arizona Tribes". Based on information obtained from multiple presentations, it appears that ASM has not initiated consultation with individual tribal governments in accordance with EO 2006-14, which requires that "state agencies and offices shall seek input from appropriate elected or appointed tribal officials [of 22 federally recognized tribal governments in Arizona] before undertaking any action or policy that will, or is reasonably believed to, have the potential to affect a tribal community or its members". ASM has acknowledged that "preliminary discussions" have occurred with "tribal representatives through the museum's Southwest Native Nations Advisory Board, with follow up in a meeting with the Four Southern Tribes in July." The results of these meetings have led ASM to propose that Tribes "see value in encouraging more avoidance of sites in the context of the proposed rate and fee structure, [and that] they see value in encouraging and supporting compliance with the Arizona Antiquities Act and state's human burial protection statutes." Based on the direct consequences the revised rates and fee proposal will have on the practice of archaeology and the archaeological record as a whole, government to government consultation with individual tribes should occur prior to adoption, as GAAC believes that these consequences have not been adequately presented to these vital stakeholder groups.

### *Regional Comparison of Archaeological Curation Cost Models*

Over the course of the past several months, multiple stakeholders identified the drastic disparity when comparing ASM's proposed costs for curation services to other federally approved repositories in the nation. In response to stakeholder comments, ASM noted that "ASM is legally required to recover from the project sponsor all costs associated with providing mandated

services. Just as property, motor vehicle, and sales taxes vary between cities, counties, and states, so do institutional costs and revenue streams, as well as state laws and regulations that guide those institutions. ASM is not privy to the financial information of other institutions.” We find that this justification is deficient as ASM A) has not adequately fulfilled its responsibility under A.R.S. 15-1631 D(1)(c)(iii), as it has failed to demonstrate a thorough investigation into the breadth of curation cost models being used by federally approved repositories throughout the country so as to “avoid fee increases or reduce costs and/or regulatory burden to businesses, persons and consumers directly affected by the proposed increase”, and B) has not adequately fulfilled its responsibility under A.R.S. 15-1631 D(1)(d), as it has not provided adequate justification for the in-perpetuity calculations as they relate to recovering curation costs.

#### Research into Alternative Curation Models

ASM has historically fulfilled their mandated curation responsibility using a fixed-fee model with a gradual increase in costs over the past 12 years. In 2005, the ASM changed its rate structure from calculations based on field person-days to the per-box rate of \$350. Between 2007 and 2014, the per box rate increased about 5% per year. Thereafter, it jumped by 30 percent. Project registration fees have increased even more rapidly. These increases have caused substantial reverberations for both project proponents and the CRM industry, and stakeholders collectively have done their best to justify and explain these costs as public monies were required to fund these increases. However, with the proposed increase and additional 'in perpetuity' charge, the per-box rate is estimated to jump more than 400 percent above what are already very large numbers.

Year	Per box	Project Registration
2005	\$350	\$225
2006	\$350	\$225
2007	\$565	\$225
2008	\$593	\$225
2009	\$623	\$2,000
2010	\$654	\$3,000
2011	\$687	\$3,000
2012	\$720	\$3,000
2013	\$750	\$3,000
2014	\$750	\$3,000
2015	\$1,000	\$3,000
2016	\$1,000	\$3,000
2017	\$1,000	\$6,000
2018 (as proposed)	\$4,300*	~\$1,283.00

\* including example intake fees

Based on the information ASM has provided to date, ASM has demonstrated consideration of only two models for *sustainable* in-perpetuity curation, 1) charge a one-time collections

processing fee as well as an annual fee; or 2) use a funding model akin to a perpetuity due linked to an interest-bearing account, as described in ASM's initial and revised draft proposal. ASM has cited four documents as the primary sources for their research into sustainable curation models, including a study that was commissioned by the National Park Service in 2008 (available upon request). The Grand Canyon Electric Cooperative (GCEC) provided the following information to ASM and all stakeholders in their comments dated March 11, 2017:

*The study, surveyed 221 repositories in 2007 and 2008 to catalogue the introduction of curation fees nationwide, how fees were structured, how these fee structures varied nationwide, and the nature of the criteria used to establish a fee structure. More than half of the museums contacted (55%) were university or university associated museums similar to ASM. The study found nationwide fees charged by repositories ranged from \$72.50-\$1,200 per box/Cu.Ft. (NPS 2008 study, page 6, table 1)*

*The study further refines these numbers by providing ranges for fees by National Parks Service regions. Arizona is part of the Intermountain Region, where repositories fees ranged from \$234-\$1,000 per box. Other states included in the Intermountain Region include Texas, Oklahoma, New Mexico, Colorado, Utah, Wyoming and Montana. While the NPS study was conducted in 2008, we [GCEC] conducted a more recent sampling of fee structures for repositories in other states, which shows similar results. For example, publicly available information for repositories in intermountain states shows a stark contrast in per box fees for curation. Table 1 illustrates current per box curation fees charged by repositories in each of the intermountain states. Each of these repositories administers their collections under the same federal standards and guidelines and, like ASM, curates these artifacts in perpetuity. Excluding the ASM proposed fees and the fees for Montana which charges a \$250/box accession fee and annual charge, the average of these per box curation fees is \$633.03 per box.*

**Table 1: Per Box Artifact Curation Fees in Intermountain State**

<b>Repository</b>	<b>State</b>	<b>Per Box Fee</b>
<i>Arizona State Museum</i>	<i>Arizona</i>	<i>\$3,004 (proposed)*</i>
<i>University of Colorado at Colorado Springs – Anthropology Seyhan Dwelis Archaeological Repository</i>	<i>Colorado</i>	<i>\$1,000</i>
<i>University of Montana Anthropological Curation Facility</i>	<i>Montana</i>	<i>\$60/yr</i>
<i>Museum of Indian Arts and Culture Santa Fe</i>	<i>New Mexico</i>	<i>\$485</i>
<i>Sam Noble Oklahoma</i>	<i>Oklahoma</i>	<i>\$271.16</i>

<i>Museum of Natural History Department of Archaeology</i>		
<i>University of Texas Center for Archaeological Studies</i>	<i>Texas</i>	<i>\$476.51</i>
<i>Utah Museum of Natural History</i>	<i>Utah</i>	<i>\$565.29</i>
<i>University of Wyoming Archaeological Repository</i>	<i>Wyoming</i>	<i>\$1,000 (included documentation)</i>

\* not including intake charges

*In comparing the range of per box fees to other intermountain repositories in this analysis to the fees proposed by ASM, the proposed fees are significantly higher than fees charged in other states with the same regulatory compliance responsibilities. In this case, the fees range from three to ten times higher than other states.*

*A similar comparison of documentation curation fees again shows a striking contrast between the proposed ASM fees and those fees charged in other states according to the National Park study as well as a sampling of other states we conducted. According to historical records in 2008 when the study was conducted, the volumetric or per box fee levied by ASM was \$593. If you were to apply a simple calculation to estimate inflation, the charge per box would result in roughly \$958.42/box which is consistent with the current per box charge and significantly less than the \$3,004 per box proposed charge. (Appendix B).*

*Table 2 illustrates current document curation fees charged by repositories in each of the intermountain states based on our [GCEC] sampling. Each of these repositories administers their collections under the same federal standards and guidelines and, like ASM, curates these documents in perpetuity.*

**Table 2: Document Curation Fees in Intermountain State**

<b>Repository</b>	<b>State</b>	<b>Document Curation Fees</b>
<i>Arizona State Museum</i>	<i>Arizona</i>	<i>\$214.75/inch (proposed) \$2,577/ft (proposed)</i>
<i>University of Colorado at Colorado Springs – Anthropology Seyhan Dwelis Archaeological Repository</i>	<i>Colorado</i>	<i>\$500/ft</i>
<i>University of Montana</i>	<i>Montana</i>	<i>\$600/ft (charged by</i>

<i>Anthropological Curation Facility</i>		<i>linear inch)</i>
<i>Museum of Indian Arts and Culture Santa Fe</i>	<i>New Mexico</i>	\$485/ft \$40.42/inch
<i>Sam Noble Oklahoma Museum of Natural History Department of Archaeology</i>	<i>Oklahoma</i>	\$78.43/inch
<i>University of Texas Center for Archaeological Studies</i>	<i>Texas</i>	\$1200/ft \$100/inch
<i>Utah Museum of Natural History</i>	<i>Utah</i>	\$75.38/2" Document Box \$188.43/5"Document Box
<i>University of Wyoming Archaeological Repository</i>	<i>Wyoming</i>	<i>Paperwork included in per box fee</i>

*Additionally, given the historical volume of boxes collected by ASM, the \$3,004/box fee would significantly increase the annual revenue related to mandated programs. In fact, based upon the 2016 collection of 441 boxes, the \$3,004/box charge alone would result in over \$1.3 million in fees collected from project sponsors or more than double the total expenditures on mandated programs and triple the amount of revenue collected from fees in 2016. Using the 2015 box collection activity of 858 boxes results in nearly \$2.6 million in fee revenue from project sponsors from the curation fees alone and a minimum of \$41,000 in additional fees for collections intake. (Appendix C)*

*The main driver of this significant increase in fee revenue comes from the proposed collection of "in perpetuity" fees. The disposition of these fees are not well defined and it is unclear how this revenue is to be utilized. The revenue from these fees is far more than necessary to cover current year costs however there appear to be no assurances that the additional revenue will not be used to support other programs.*

*Given these concerns, and the disparity in pricing between ASM and other similarly situated museums, we [GCEC] strongly urge ASM to withdraw the current proposal until such time as additional budget information is provided and investigations into greater efficiencies can be conducted. In addition, we [GCEC] suggest a comprehensive study of current fees charged by repositories in other intermountain states. We [GCEC] as project sponsors and the regulated community in Arizona would expect fees charged ASM to be consistent with the average of other states in the intermountain region.*

Based on the results of GCEC's analysis, some of our commissioners spoke with representatives from Nevada and Oregon (not included in the above study), as well as New Mexico and Utah to

inquire as to how they continue to maintain such comparatively lower fees, given ASM's claim that "these repositories are clearly not recovering costs." What was immediately clear from each of the conversations was that these institutions apparently never received any requests for information from ASM.

Under A.R.S. 15-1631 (D), ASM has a responsibility to fully investigate any and all methods for avoiding fee increases or the degree to which fees need to increase in order to create a sustainable model for curation that appears to be in place in all of the analyzed and interviewed institutions. The question of "how do you do it" was never asked. While all three of the interviewed institutions noted variations in how their fee structure was calculated, each noted that the per box fee covered not only space but salary for an individual. Based on the "Explanation of the services ASM will provide with the proposed increased rates and fees" section of the revised proposal (April 17, 2017), the proposed per box fee of \$3,004 for in-perpetuity curation of collections and associated records covers:

- Providing space, shelving, and environmental controls
- Providing archival-quality curation supplies (acid-free boxes, folders, etc.)
- Conducting an annual inventory

The extreme disparity of curation costs suggests that either the salary for the staff person performing the annual inventory is far greater as compared to other federally approved repositories, or that the cost of the space in which collections and documents are housed is far greater than these other institutions. The rate model used for determining the in-perpetuity costs for collections and documents lacks adequate justification for multiple stakeholders.

#### *Inadequacy of ASM's Justification for Significant Rise of In-Perpetuity Curation Costs*

ASM claims that "The proposed new rate and fee structure generates funds for services to be provided in association with the initiation of new projects. The proponents of new projects will not be charged additional funds in order to recover costs associated with past projects." A review of the result of a public records request retained by GCEC identifies that ASM has received 9,243 boxes of collections from 2006-2016. Each box received during this time carried with it a fee that was to provide for the cost of curating the box in perpetuity. Under the current proposed fee structure, cost wholly allocable to the newly proposed \$3,004 fee for in-perpetuity curation of collection is limited to existing shelving, space, supplies and cost-recovery for future shelving. This information contradicts the initial statement that proponents of new projects will not be charged additional funds to recover costs associated with past projects, as existing collections will directly benefit from the increased fee charged for new additions. ASM has failed to demonstrate adequately that the costs for in-perpetuity curation of future collections, specifically with regard to costs associated with maintaining a space that meets federal standards, are equally divided among all boxes that share such space, both existing and new. Based on the initial statement, if 99 boxes currently exist within ASM collections, the fee for the 100<sup>th</sup> box under the new fee structure should be limited to no more than 1/100<sup>th</sup> the total cost for that space on the year of intake, and subsequently smaller fractions annually as more boxes of collections are received.

## **RECOMMENDATIONS**

The Arizona State Museum is a state institution that is a subdivision of the University of Arizona. The ASM is subject to the policies, rules, and administration of the University. Accordingly, the Arizona Board of Regents has ultimate responsibility for assisting ASM to fulfill their mandated responsibilities and ensuring the preservation and protection archaeological collections in perpetuity. ABOR Policy 8-208, *Fee for Services*, states that, "The board is responsible for adopting fees for services performed by the museum pursuant to A.R.S. Title 41, Chapter 4.1, Article 4 and § 41-865." Based on this policy, GAAC asks ABOR to consider the ramifications of the proposed new rates and fee structure as it relates to the pursuit and discovery of new knowledge about our regions human history, and offer these recommendations.

### *Recommendation 1: Establish a Curation Advisory Committee*

GAAC believes that a more collaborative approach is needed to identify a sustainable curation model that both fulfills ASM's mandated responsibilities and ability to perform mandated services, and also continues to promote the discovery and expand our understanding of the archaeological record. We therefore recommend that ASM establish a Curation Advisory Committee that is charged with, at minimum:

- a national investigation of curation models employed by other federally approved repositories and long-term curation planning that provides for consideration of maximizing cost-saving measures [compliant with A.R.S. 15-1631 D(1)(c)(3)]
- approaching repository practices in a way that ensures that a greater proportion of project expenditures is on aspects of archaeology that deliver on the promise of promoting heritage in ways that increase the quality of life for Americans
- assist ASM in amending ABOR rules and ASM procedures so as to provide cost-effective solutions that allows for maintaining or increasing the level of archaeological research as a result of any newly adopted curation fee model
  - developing guidelines for digital documentation of artifacts
  - developing guidelines and standards for culling collections prior to curation
  - developing cost-saving measures in the ASM curation protocols through better use of databases and other digital tools
  - consider a move from paper to digital records
  - lead a statewide discussion regarding any potential changes in archaeological standards or practices that may result as unintended consequences of ASM's changes in rates, fees, and policies

We recommend that in addition to ASM staff, the Committee include at least one member of the following stakeholders groups:

ASM  
ABOR  
Federal Agency  
State Agency

Local Government  
Tribal Government  
Academic Community  
CRM Industry  
Private Entity  
Museum

*Recommendation 2: Revised Rules, Policies and Procedures*

The adoption of the proposed fee structure as outlined in the revised proposal (April 17, 2017) will have a catastrophic effect on the amount of information recovered from the archaeological record. We recommend that as part of fee restructuring by ASM that a concurrent review of applicable rules, policies and procedures be undertaken and appropriate changes are made. Specifically, we refer to the following rules, policies and procedures:

ABOR Policy 8-204(Q)

All collections of archaeological or paleontological specimens and all project records that are acquired under the authority of a permit or that result from permitted activities remain the property of the State of Arizona regardless of the repository institution.

ASM Repository Manual Policy 1.7.1  
Collections from State Lands

Archaeological projects may not unilaterally discard or otherwise dispose of survey or excavated collections from State lands or any part of them. The Director of the Museum must approve disposal of any cultural material, no matter how trivial in appearance or apparent significance, from any surveys or excavations on State lands. This approval must be in writing.

In order to offset the proposed increase in curation cost, stakeholders will need to reduce the scope of their archaeological field efforts as ASM Repository Policy 1.7.1 requires that 100% of collections recovered from archaeological context be curated in perpetuity. Following multiple stakeholder concerns, ASM has acknowledged that the need for a community wide discussion regarding the sampling of archaeological sites is warranted. The majority of stakeholders have suggested that in order to balance ASM's need for cost recovery under the proposed curation fee structure with the current level of research being performed within archaeological sites, ASM must allow for a systematic approach to the culling of archaeological collections prior to curation. As archaeologists, we are always sampling when we deal with the archaeological record. Thus, other than basic counts, CRM firms often exclude from detailed analyses artifacts that are from temporally mixed contexts. One question that the proposed Curation Advisory Committee should be tasked with answering is: Are there ethical and legal ways to cull all or portions of such materials from collections after preliminary analyses have shown them to have less information value than unmixed collections? If such questions are not addressed and some

sort of professional consensus is not reached, then it is almost a certainty that there will be “behind the scenes” culling in order to reduce box counts and control costs. Coming up with explicit best practices will save on future curation space needs, reduce the costs of archaeological excavations, and would help ensure that sampling procedures applied to curated collections are accurately documented.

GAAC therefore strongly recommends that the current revised fee proposal not be adopted until such time that a Curation Advisory Committee is formed and has the opportunity to work on revising ASM’s policies. Furthermore, while GAAC does not object directly to ABOR Policy 8-204(Q), ASM continues to use this as a justification for curating 100% of archaeological collections, despite several stakeholders urging ASM to develop procedures for potentially reburying culled collections in a secure area that can be avoided by the development project, and thus continue to remain property of the state.

*Recommendation 3: Gradual Increase in Curation Fees*

The curation crisis has been recognized since the 1970s when Dr. Raymond H. Thompson, former Director of ASM and former GAAC commissioner, writing about museum ethics, commented on the need for fair, impartial, and consistent pricing for accessioning and curating collections. In 2006 the GAAC subcommittee, chaired by Dr. Patrick Lyons, provided a history and an assessment of the situation

([https://d2umhuunwbeclr.cloudfront.net/gallery/asp-archive/committees/downloads/GAAC\\_Curation\\_Crisis\\_Full.pdf](https://d2umhuunwbeclr.cloudfront.net/gallery/asp-archive/committees/downloads/GAAC_Curation_Crisis_Full.pdf)).

Some of the solutions identified in the GAAC report have been tried with varying degrees of effectiveness, others were not. Given the long term nature of the problem, the differential success of past solutions, and the current proposal’s attempt to completely reassess costs and processes that are as new to ASM staff as they are to all affected stakeholders, GAAC suggests a phased, multi-year approach to implementation. A longer period of inception will allow the Curation Advisory Committee to evaluate and refine ASM’s procedures in ways that allow them to perform the needed investigation of other sustainable curation models and implement cost-reducing best practices and set viable rates for services rendered. A phased approach will also allow more time for a response from the marketplace as stakeholders assess the monetary values of scientific, legal, and ethical impetuses to curate archaeological materials.

Additionally, several of the repositories GAAC interviewed identified federal grants that have the potential of assisting in subsidizing costs associated with ASM mandated responsibilities. ASM continually references ARS Titles 15 and 35 and Article 9, Section 7 of the Arizona State Constitution, which require that state funds must be used for allocated purposes, “i.e., not to subsidize for-profit entities that contract with the University.” The overwhelming majority of project proponents, however, are not for-profit entities but rather government agencies that are using public dollars to fulfill mandated responsibilities ensuring the recovery of non-renewable information of human history prior to development. GAAC therefore recommends that the Curation Advisory Committee be afforded the opportunity to exhaust every effort to identify alternative sources of funding to subsidize the costs of archaeological curation.

Lastly, GAAC recognizes that neither the state of Arizona nor the University of Arizona provide adequate support to ASM for mandated services. The importance of ASM's mission and the value of the remarkable collections held by ASM should be recognized through a significantly higher level of financial support for ASM.



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August 17, 2017

Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
P.O. Box 210026  
Tucson, Arizona 85721-0026

**RE: Arizona State Museum Proposed Increase in Rates and Fees for Cultural Resource Services**

Dear Dr. Lyons,

SWCA Environmental Consultants (SWCA) recognizes the vital role that the Arizona State Museum (ASM) plays in the curation and preservation of cultural resource data in Arizona. We understand that the current fee model is insufficient to accept and maintain ASM's collections in perpetuity, as is required under State and Federal law, and that, from time to time, adjustments to the fee schedule are required to ensure that collections are preserved and remain accessible to future researchers.

We are pleased that ASM has taken into account our comments, dated March 10, 2017, and we appreciate ASM working with the greater Cultural Resource Management (CRM) community to address and resolve the concerns of professional archaeologist stakeholders. We are particularly pleased that ASM has expressed its commitment to provide binding estimates for fees, thus sharing and not transferring the financial burden and risk taken by CRM companies such as SWCA in estimating project costs.

One area about which we remain concerned is the potential for being assessed unnecessary fees for the review of submitted reports and other documents. In our March 10, 2017, comments, we discouraged ASM from charging such fees when another agency has a statutory responsibility to do the same. We understand that in cases where ASM is the sole regulatory agency responsible for compliance with ARS § 41-841 *et seq.* and ARS § 41-865, ensuring compliance with ASM reporting standards is necessary. However, we encourage ASM to adopt a policy specifying that it will defer review and not assess fees where qualified staff from other municipal, State, or Federal agencies with regulatory or statutory oversight have already performed such reviews.

We also remain concerned about the significant increase in fees for in-perpetuity curation of collections and the inevitable and foreseeable consequences of this action to the detriment of the archaeological record, the role of science and research in archaeology, and the future of the private-sector CRM profession in Arizona. These astronomical fees will greatly reduce, and in cases eliminate, the current level of field and analytical efforts aimed at the recovery of archaeological data important to our understanding of Arizona's prehistory and history.



Current proposals to reduce the percentage of scientifically controlled archaeological data recovery to a small sample of an archaeological site while investigating the remainder of the site in a less-controlled fashion are reminiscent of the type of non-scientific archaeology often practiced in the 1950s–1970s. Sound science is one of our core values, and a focus on scientific excellence has always been an important part of SWCA's unique culture. It is critical to maintaining our professional credibility while fulfilling our business requirements. Thus, we are concerned that a consequence of the type of proposal noted above could lead to the CRM profession's returning to the days of "salvage archaeology" at the expense of science.

We encourage ASM, with the assistance of the Arizona State Historic Preservation Officer and the academic and professional communities, to revisit rules restricting in-field analysis and culling from collections of specimens with limited data potential. We recognize that the profession would need to develop rigorous qualifications and standards to ensure that the limited type of data obtained from culled and in-field-analyzed collections be of sufficient quality to ensure that the archaeological information is of scientific use to future researchers.

We encourage ASM to continue to work collaboratively with the CRM stakeholder community and its advocacy groups, such as the Arizona Archaeological Council (AAC) and the Governor's Archaeology Advisory Committee (GAAC), in consultation with the Arizona Historic Preservation Officer to address the consequences of this dramatic curation fee increase and its indirect and unintended adverse effects on the archaeological resources of the State of Arizona.

Thank you for the continued opportunity to provide comments on proposed rates and fees pursuant to ARS § 15-1631.

Sincerely,  
On behalf of SWCA Environmental Consultants:

A handwritten signature in blue ink that reads "Cara Bellavia".

Cara Bellavia  
Director, Phoenix and Tucson

A handwritten signature in blue ink that reads "Daniel Garcia".

Daniel Garcia  
Cultural Resources Lead, Phoenix and Flagstaff

A handwritten signature in blue ink that reads "Jana Sterling".

Jana Sterling  
Director, Flagstaff, Las Vegas, and Reno

A handwritten signature in blue ink that reads "Jerome Hesse".

Jerome Hesse  
Cultural Resources Lead, Tucson



# DESERT ARCHAEOLOGY, INC.

3975 N. Tucson Blvd. Tucson, Arizona 85716  
(520) 881-2244  
[www.desert.com](http://www.desert.com)

Sarah Herr, Ph.D.

President

William H. Doelle, Ph.D.

Vice President

August 18, 2017

Dear Dr. Lyons,

This is Desert Archaeology's third letter responding to The Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resources Management Services performed by the Arizona State Museum (Proposal, hereafter). We replied with letters in advance of the first deadline on March 10, 2017, the original second deadline with a letter dated May 5, 2017 and now to the revised second deadline, after the Arizona State Museum has engaged in more public conversations over the past two months.

Desert Archaeology is a small cultural resource management (CRM) company, founded in 1982 and headquartered in Tucson with an office in Phoenix. We stand by many of the comments offered in our first two letters, as the issues about business practices and the scale of fees remain of concern. We offer additional comments in this third letter. We also strongly support the comments provided by other organizations, including the Arizona Archaeological Council (AAC) letter of August 15, 2017 and the forthcoming response from the Governor's Archaeological Advisory Commission (GAAC), as discussed in open meeting on August 8, 2017 and with GAAC members subsequently. We have attended both June presentations by the Arizona State Museum (ASM) in Oro Valley, the July presentation in Phoenix, and meetings hosted by others (such as AAC, GAAC) on this topic. In this letter we wish to express our support for a sustainably funded ASM, our desire for a proposal appropriate to the environment in which Arizona businesses work, and a solution to curation concerns that supports scientific and business values. We also comment on the ARS § 15-1631 process.

## SUPPORT FOR ASM

Although much of this letter will address our problems with this Proposal, at the outset we want to express our continuing support for ASM and our hope that it can provide effective service for archaeology in the future. In its finest moments ASM sits at the center of Arizona archaeology as a place for research and education; a repository for collections used for research, exhibits, and education; and, for providing mandated services to archaeologists working in the state. Together with the Museum of Northern Arizona, the Arizona State Museum was the birthplace of CRM --the business of archaeology in the state -- and developed the funding models that are still the basis of private sector archaeological budgets today.

In assigning ASM the responsibility for oversight of archaeological services, the state of Arizona has recognized that history and anthropology have value to its residents. Yet, the state provides little funding and it is clear that ASM is under-staffed. That needs to change. The state needs to provide support to the institutions, including ASM, that preserve and celebrate Arizona's history. A decade of decreasing budgets from the University of Arizona (UA) and the state have threatened ASM's financial

stability and have led to the fee structure that sparked SB 1418 (and amended ARS § 15-1631) and to the Proposal currently under discussion. As such, we ask the state to provide funding that recognizes the value of history to Arizona citizens. We will support ASM and UA efforts to address issues of sustainable funding with the Arizona legislature. As the state museum, fulfilling state responsibilities, the ASM deserves state financial support.

### **THE ARS § 15-1631 PROCESS**

During the open GAAC meeting the Director of ASM replied to a question from a GAAC member that asked if comments from the public will change the proposed rates and fees. The Director said “no,” public comments will not result in a change to the proposed fees. If the proposed fees are not on the table for revision, then ARS § 15-1631 (as amended) has not resulted in truly public process. It is no different than any other previous revision of fees, except that it has wasted a lot of time for a lot of stakeholders.

The comment during the GAAC meeting is the most explicit statement that the scale of the fees will not be revised as a result of public input, but it is not a surprise. The Revised Proposal of April 17, 2017 made no changes to the fee structure beyond allowing for smaller cost increments. The public meetings between mid-June and mid-August have focused, primarily, on the consequences of the as-is Proposal and ASM and UA have quickly dismissed comments that ask for consideration of funding alternatives.

### **COST RECOVERY AND THE ESTIMATION PROCESS**

Desert Archaeology recognizes that ASM incurs costs for services offered and supports a fee-based approach to the recovery of costs for those services. In the examples provided in the Proposal, some fees increase and others decrease and these changes are appropriate. We do not, however, support the real-time estimation of the costs of every task and every box of artifacts. In the massive accounting exercise that has been developed to justify the Proposal, time-based processes at the ASM have been examined and examples of costs provided. The real time estimation of services takes the premise of “socialization of costs” to an extreme that will result in a labor intensive task for ASM staff, add inefficiencies to project budget creation, and create ambiguity for CRM companies and project sponsors. The ASM has identified to the CRM community the variables that might be used to estimate costs for budgets, but at this stage, if that equation has been developed, it has not been shared, tested, or proven accurate.

If ASM can create estimates for the examples provided in this Proposal then those estimates can be enacted. Their supporting data (while cryptic) has been provided in their accompanying appendices. If the fees are proportionate to the task, it is fine that they are averages. Many of us working as archaeologists or with archaeologists have engaged in multiple projects and assume that small inequities in individual project costs will be evened out in the long term. In public conversations ASM

has allowed for a 10 percent variance from its estimates. That same bar might be used to annually evaluate the effectiveness of these averaged fees.

ASM has also noted that it sees the real time estimation process as a means of recovering costs for poorly prepared artifacts and documents received from CRM companies. ASM should not conflate its fee recovery schedule with issues of quality control. AAC and others suggest that the ASM can reject inadequately prepared information and materials; then the cost-burden is on the individual company not on all CRM companies and not on ASM.

#### IN-PERPETUITY AND THE SCALE OF FEES

In addition to cost-recovery fees the ASM is introducing 'in-perpetuity' fees to the ASM structure. A number of other repositories around the country use either in-perpetuity fees or subscriptions to provide long term funding for their collections. In the Proposal, the perpetuity fee is set at \$3,004 per box of artifacts and \$2,577 per linear foot of documents. This is substantially more than any other facility for which Arizona archaeologists have found comparative information. If the in-perpetuity fee is implemented, when it is added to the collections intake fee, the cost of one cubic foot of artifacts will increase from \$1,000 to \$4,350.

- When regulations require the curation of collections in perpetuity, they do not indicate that "perpetuity" must be defined as an accounting principle. The Grand Canyon Cooperative government affairs officer pointed out at the June 13 meeting in Oro Valley that if ASM, as a government agency, is funded such that it does not operate at a loss 'ensuring continuity' might allow a different definition of perpetuity.
- ASM and UA accountants define in-perpetuity as 180 years. Why 180 years? Other states use numbers such as 30 years and then prepare contracts that renew collections funding later.
- Previous letters from Desert and from others have asked that ASM recognize the tremendous burden that the immediate introduction of an in-perpetuity fee creates for project sponsors and CRM companies. We have asked that ASM and UA consider ways to mitigate that impact by, for example, phasing in this fee. ASM has responded that it has no choice. This is not a compelling response, as it relies on ASM and UA's particular definitions and assumptions and ASM has not proven its need for funding at this scale and in this way.

While Desert Archaeology supports the values behind the in-perpetuity cost, we do not concur with the assumptions upon which ASM bases its calculations and so do not support the introduction of and implementation of an in-perpetuity fee as it has been developed in this proposal.

## SUSTAINABILITY

One phrase that the ASM has used to eliminate consideration of other funding options is “that is not sustainable.” Sustainability is at the crux of this discussion and something that Desert has noted from the outset.

The Proposal was developed by the UA and ASM in response to the concerns of project sponsors about scalability of fees and the legislative response that led to the amendment of ARS § 15-1631. In implementation of ARS § 15-1631, the UA took to the opportunity to align ASM’s cost processes with those elsewhere in the UA, separated the mandated cultural resource services from all other ASM functions including its research and educational missions (raising the question that if the collections don’t serve education and research then what is the purpose of their preservation?), and developed a proposal that reacted to the specific concerns of the project sponsors who initially raised the issues of fees with their legislators. The resulting Proposal responds to these values and relies on particular definitions of underlying regulations, some noted above. It is a proposal conceived in reaction, but is narrow in its interests and so unbalanced. It creates as many problems as solutions. All subsequent conversations have been about how to adjust to the consequences of a flawed proposal.

The GAAC’s letter will propose the creation of a curation advisory committee, staffed by archaeologists and stakeholders who realize that curation is an issue of wider concern. This committee would be tasked to work holistically to seek solutions that work for the state of Arizona and not solely for the UA and ASM, seeing our success and sustainability as something more mutual than what has been proposed. The committee might look at repository capacity within the state, partnerships between repositories, other funding streams, or modernized curation processes and technologies. This is the scale at which this solution should be explored and implemented. Further, an approach that promotes community conversation during the creation of a proposal, rather than in its aftermath, would likely have more buy-in.

As it is, much of the time spent during the public conversations is focused the ramifications of the fee changes and the “unintended consequences,” which include orphaned collections from private land, reductions in collections, and a return to a salvage rather than scientific approach to archaeological exploration when “money is an issue.” Further, many of the solutions promoted by ASM, such as avoidance and alternative mitigation, are part of current practice when they are viable; they do not provide new solutions at the necessary scale. As noted by those at the GAAC meeting, at this point there has been enough discussion of the variety of unintended consequences that we can only assume that ASM finds those changes in the practice of CRM an acceptable consequence of their fee structure.

Finally, the additional costs that will result from the implementation of the in-perpetuity fee do not reflect our values as a small business in a service industry in Arizona. Our work and success with public and private clients is predicated on understanding that the practice of archaeology in the United States is a balancing act between development and archaeology; science and the public good. This fee proposal unbalances those priorities.

Table: Scientific and economic values of an archaeological excavation budget

Budget Line	Percent	Values
Direct cost: fieldwork	16	Skilled and unskilled job creation; basis of scientific knowledge and public education
Direct cost: inventory, analysis, and reporting	28	Skilled job creation for archaeologists; builds scientific knowledge and essential for public engagement
Indirect costs	7	Supports local businesses in purchase of supplies, outside services, hotel rooms, food, and fuel, permit fees
Public outreach	1	Directly supports public interest with lectures, newsletters, tours, etc.
Cost-recovery curation	13	Supports museum based jobs and scientific interest
In-perpetuity fee	31	Money in university fund to counter ASM's accounting liabilities
Profit	4	Supports business

In an environmental compliance business in a fiscally conservative state, attentiveness to the values behind the use of taxpayer and private money is essential to sustainable practices. This Proposal does not fully reflect those values. The only way that archaeological practice in Arizona is going to be successful is if we work together to address industry-wide problems such as curation.

Sincerely,

Sarah Herr

Cc:

Dr. Kimberly Espy, Vice President for Research, University of Arizona  
 Mr. Brooks Jeffery, Associate Vice President for Research, University of Arizona  
 Mr. Bill Ridenour, Chair of Arizona Board of Regents  
 Ms. Kathryn Leonard, State Historic Preservation Officer, Arizona State Parks  
 Mr. Tom Wilson, Chair of Governor's Archaeological Advisory Commission  
 Ms. Deil Lundin, President of Arizona Archaeological Council



August 17, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
P.O. Box 210026  
Tucson, Arizona 85721-0026

**RE: ARIZONA STATE MUSEUM (ASM) PROPOSED INCREASE IN RATES AND FEES  
FOR CULTURAL RESOURCE SERVICES**

Dear Dr. Lyons:

PaleoWest Archaeology (PaleoWest) has been providing client-focused cultural resources management (CRM) services for more than 10 years. We frequently collaborate with ASM to obtain project-specific permits under the Arizona Antiquities Act (AAA), and often secure repository agreements from ASM for monitoring, testing, and data recovery projects that we conduct on behalf of our clients. We appreciate the role of ASM in overseeing the quality of research designs and treatment plans, and for continuing to accept collections from a variety of projects throughout the state of Arizona. However, PaleoWest is concerned with the proposed fee structure outlined in Arizona Revised Statutes (ARS) §15-1631, as amended, as is nearly every other CRM company who we have spoken to about these proposed changes.

Rather than reiterate many of the points being made to ASM by other companies in the CRM industry, I would like to formally support the recent response from the Arizona Archaeological Council regarding ARS §15-1631. I contributed to, and reviewed the final edits of, the AAC's formal response to ARS §15-1631. Further, the AAC's response to this matter is fully supported by all PaleoWest key personnel. Our main concern continues to be the scale of the proposed fee increases regarding curation of archaeological collections, which we believe will be detrimental to the field and laboratory methods that CRM companies employ. PaleoWest also fears that this proposed fee structure will encourage additional litigation by private entities who must comply with the AAA, Section 106 of the National Historic Preservation Act, and other legislation that protects cultural resources from destruction.

PaleoWest thanks ASM for considering the tremendous feedback from public and private entities who have responded to the proposed changes outlined in ARS §15-1631. In this regard, we sincerely hope that a compromise can be reached between the proposed changes in ARS §15-1631, and the financial obligations of proponents who support the CRM work that generates archaeological collections. Finally, we look forward to a well-funded ASM, which serves a vital part in the Arizona CRM industry.

Sincerely,



Chris North,  
Arizona Principal

## **Lyons, Patrick D - (plyons)**

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**From:** Dan Garcia <[dan.garcia@mindspring.com](mailto:dan.garcia@mindspring.com)>  
**Sent:** Friday, August 18, 2017 3:03 PM  
**To:** ASM-ratesandfees  
**Cc:** Lyons, Patrick D - (plyons); Curtis, Noah Brian - ([nbcurtis@email.arizona.edu](mailto:nbcurtis@email.arizona.edu)); Jeffery, R Brooks - ([rjeffer@email.arizona.edu](mailto:rjeffer@email.arizona.edu))  
**Subject:** Re: FW: Question about ASM gifts/subsidies and justification for fees

Dear Dr. Lyons,

Although I have not yet received answers from the University of Arizona and Office of General Council regarding the below questions of the applicability of Arizona Revised Statutes (ARS), Titles 15 and 35, and the Arizona State Museum (ASM) interpretation of Article 9, Section 7 of the Arizona State Constitution, and ASM and the Arizona Board of Regents (ABOR) interpretation of ARS § 41-844 as they relate to proposed fee restructuring, I request that the below communication be included as my public comments pursuant to ARS § 15-1631. Please understand that the below content is my own and does not necessarily represent any views, opinions, or questions expressed by my employer, SWCA Environmental Consultants, SWCA's staff and clientele, or any of my affiliated professional and advocacy organizations.

In addition to the content below, I would like to pose one additional question at this time. It is the stated opinion of the museum that ASM is legally required to recover from the project sponsor all costs associated with providing mandated services. The proposed new fees include cost recovery for mandated services, including University of Arizona facilities and administration fees for in-perpetuity collections. As you are aware, ARS § 15-1631(B) directs ABOR to "set apart sufficient space to accommodate" the Arizona State Museum for the purposes of collection and preservation of archaeological resources. ARS § 15-1631(C) generally authorizes ABOR to recover costs associated with services mandated under 41-841 *et seq*, which in my reading of the article, are limited to efforts associated with permitting and the disposition of human remains and objects of cultural patrimony, but does not specify compensation to the University of Arizona for its mandated requirement to set apart sufficient space to accommodate archaeological collections in perpetuity. Would you please provide clarification regarding the legal basis for ASM's recovery of in-perpetuity fees related to the University of Arizona's facility management?

Again, please understand that my inquiries are to make sure, on behalf of my Cultural Resource Management peers and stakeholders, that the proposed fees are firmly based in unambiguous statute or regulation, and that remains unclear to me. I look forward to continued dialog regarding the proposed fee increase.

Cordially,

Daniel Garcia, M.A., RPA  
Archaeologist and Cultural Resource Management Professional  
2013 North Laurel Avenue  
Phoenix, Arizona 85007  
[dan.garcia@mindspring.com](mailto:dan.garcia@mindspring.com)

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**From:** Curtis, Noah Brian - ([nbcurtis@email.arizona.edu](mailto:nbcurtis@email.arizona.edu))  
**Sent:** Thursday, August 17, 2017 11:27 AM  
**To:** Dan Garcia <[DGarcia@swca.com](mailto:DGarcia@swca.com)>; Jeffery, R Brooks - ([rjeffer@email.arizona.edu](mailto:rjeffer@email.arizona.edu))  
**Cc:** Lyons, Patrick D - (plyons) <[plyons@email.arizona.edu](mailto:plyons@email.arizona.edu)>  
**Subject:** RE: Question about ASM gifts/subsidies and justification for fees

Hello Dan,

I apologize that neither Brooks nor I have previously responded to your inquiry below. Please be assured that we are working with the Office of General Counsel now to respond to your questions, and will provide you with answers as soon as they are available. As your inquiries center around legal matters, we need to ensure that our response completely and accurately reflects the statutes and regulations at play. If we are unable to get a response to your inquiry prior to the end of business tomorrow, please be assured that having emailed your questions to Patrick, they are already a part of the public comment record. Therefore, the response from General Counsel will be incorporated into our public response. These are complex questions, and I sincerely appreciate both your patience and your engagement in civil discussion.

Regards,

Noah

Noah Curtis, MAcc

Manager, Business Analysis, [Core Facilities](#)

Phone: [\(520\) 621-1085](tel:(520)621-1085)

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**From:** Dan Garcia [<mailto:DGarcia@swca.com>]

**Sent:** Wednesday, August 16, 2017 8:48 AM

**To:** Curtis, Noah Brian - (nbcurtis) <[nbcurtis@email.arizona.edu](mailto:nbcurtis@email.arizona.edu)>; Jeffery, R Brooks - (rbjeffer) <[rbjeffer@email.arizona.edu](mailto:rbjeffer@email.arizona.edu)>

**Cc:** Lyons, Patrick D - (plyons) <[plyons@email.arizona.edu](mailto:plyons@email.arizona.edu)>

**Subject:** RE: Question about ASM gifts/subsidies and justification for fees

Noah and Brooks,

Have you had a chance to look at my request regarding specific citations for ARS Titles 15 and 35, and interpretation of Article 9, Section 7 of the Arizona State Constitution as cited in the ASM proposed fee increase documents?

I would like to incorporate the information you provide into my public comment response due this Friday, so I appreciate your timely assistance.

Thank you.

**Daniel Garcia, M.A., RPA**

Cultural Resources Team Lead

**SWCA Environmental Consultants**

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24/7 - [480.213.1177](tel:480.213.1177)



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**From:** Dan Garcia  
**Sent:** Monday, August 14, 2017 4:51 PM  
**To:** 'Lyons, Patrick D - (plyons)' <[plyons@email.arizona.edu](mailto:plyons@email.arizona.edu)>  
**Cc:** Jeffery, R Brooks - (rbjeffer) <[rbjeffer@email.arizona.edu](mailto:rbjeffer@email.arizona.edu)>; Curtis, Noah Brian - (nbcurtis) <[nbcurtis@email.arizona.edu](mailto:nbcurtis@email.arizona.edu)>  
**Subject:** RE: Question about ASM gifts/subsidies and justification for fees

Thank you for the response Dr. Lyons. I see now that the clause “pursuant to this section” you interpret as referring to the entirety of ARS 41-844, and not just the burial portion of the section – thank you for clarifying this.

However, the text is ambiguous. “The expense of any curation or reburial pursuant to this section [ARS 41-844] **that is required as the result of a construction project or similar project** shall be borne by that project” [ARS 41-844(I)]. The law is not clear that “any survey, excavation, construction or other like activity” in ARS 41-844(A) is the same as “a construction project or similar project” in ARS 41-844(I). Furthermore, it seems reasonable to me that “curation or reburial pursuant to this section” specifically refers to repatriation of human remains, as the remainder of the paragraph reads “Reburials made in order to satisfy the wishes of a relative or affinal group shall be by and at the expense of the relative or group.”

I am not a lawyer, but I think it is reasonable to read this law differently. While ARS 41-844(A) requires notification of discoveries, ARS 41-844(I) does not clearly require that all costs related to survey or excavation be born in entirety by the project, just costs associated with construction and, I argue, those associated with human burials. Furthermore, if I understand correctly, ARS 15-1631(C) *generally authorizes* ABOR to *recover costs* associated with services mandated under 41-841 *et seq.* ARS 15-1631(C) and ARS 41-844(I) do not identify a *specific activity* nor *expressly authorize a fee* by statute. ARS 41-1008 states that an agency shall not (1) Charge or receive a fee or make a rule establishing a fee unless the fee for the specific activity is expressly authorized by statute or tribal state gaming compact; [and shall not] (2) Make a rule establishing a fee that is solely based on a statute that generally authorizes an agency to recover its costs or to accept gifts or donations.

Please understand that I am not trying to make waves or cause problems, I just want to make sure, on behalf of CRM stakeholders, that the fees are firmly based in unambiguous statute or regulation, and that does not seem absolutely clear to me.

I look forward to a response from your colleagues at RDI regarding specific citations for ARS Titles 15 and 35, and interpretation of Article 9, Section 7 of the Arizona State Constitution. Thank you again.

**Daniel Garcia, M.A., RPA**

Cultural Resources Team Lead

**SWCA Environmental Consultants**

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**From:** Lyons, Patrick D - (plyons) [<mailto:plyons@email.arizona.edu>]

**Sent:** Monday, August 14, 2017 2:38 PM

**To:** Dan Garcia <[DGarcia@swca.com](mailto:DGarcia@swca.com)>

**Cc:** Jeffery, R Brooks - (rbjeffer) <[rbjeffer@email.arizona.edu](mailto:rbjeffer@email.arizona.edu)>; Curtis, Noah Brian - (nbcurtis) <[nbcurtis@email.arizona.edu](mailto:nbcurtis@email.arizona.edu)>

**Subject:** RE: Question about ASM gifts/subsidies and justification for fees

Dear Daniel,

Thank you for your questions.

I can address the second question, and I will ask my colleagues in RDI to address the first.

ARS § 41-844(l) applies to “any curation or reburial pursuant to this section [i.e., Section 41-844] that is required as the result of a construction project or similar project,” and indicates that “the expense...shall be borne by that project.” ARS § 41-844 is reproduced below:

**41-844. Duty to report discoveries; disposition of discoveries; definitions**

A. A person in charge of any survey, excavation, construction or other like activity on any lands owned or controlled by this state, by any public agency or institution of the state, or by any county or municipal corporation within the state shall report promptly to the director of the Arizona state museum the existence of any archaeological, paleontological or historical site or object that is at least fifty years old and that is discovered in the course of such survey, excavation, construction or other like activity and, in consultation with the director, shall immediately take all reasonable steps to secure and maintain its preservation. If it is necessary to move the object before completion of the proceedings prescribed by this section to permit the continuation of work on a construction project or similar project, the director shall require that the move be accomplished in the manner that will least disturb and best preserve the object.

B. If the objects discovered are human remains, funerary objects, sacred ceremonial objects or objects of national or tribal patrimony, the director of the Arizona state

museum shall, to the best of his ability, give notice of the discovery to:

1. All individuals that may have a direct kinship relationship to the human remains.
2. All groups that it is reasonable to believe may have a cultural or religious affinity to the remains or objects.
3. Appropriate members of the curatorial staff of the Arizona state museum.
4. Faculty members of the state universities who have a significant scholarly interest in the remains or objects.
5. The state historic preservation officer.

C. American Indian tribal governments that wish to be notified pursuant to this section shall keep on file with the director lists of the cultural groups and geographical area with which they claim affinity.

D. If American Indian human remains, funerary objects, sacred ceremonial objects or objects of cultural patrimony are involved, the director, in addition to giving notice as required in subsection B, shall give notice to the tribes that occupy or have occupied the land on which the discovery is made and to the Arizona commission on Indian affairs and the intertribal council of Arizona.

E. The director shall respond to every report of a discovery in a timely fashion and within six months of being notified of the discovery, the director shall convene a meeting of notified persons and representatives of notified groups to discuss the most appropriate disposition of the discovered materials. At this meeting, the director shall encourage agreement among all participants regarding the most appropriate disposition and treatment of the materials. An agreement may include a decision to curate or rebury materials subject to conditions or limitations, a decision to engage in scientific analysis before repatriation or reburial or any other appropriate disposition. If an agreement is reached, it shall determine the disposition and treatment of the materials and the director shall oversee its implementation.

F. If no agreement is reached within six months of the meeting required by subsection E, the human remains or funerary objects shall be disposed and treated in accordance with the wishes of the nearest relative with a direct kinship relationship, or with the wishes of the governing body of the group with cultural or religious affinity to the remains or objects if no relative exists. If sacred ceremonial objects or objects of national or tribal patrimony are concerned, disposition and treatment shall be in accordance with the wishes of the governing body of the group with cultural or religious affinity to the objects. The authority to determine the disposition and treatment of remains or objects pursuant to this subsection shall not be exercised in a manner that would prevent timely completion of a construction project or other project.

G. If there is no person with a direct kinship relationship or a group with a cultural or religious affinity to human remains or funerary objects and the remains have no scientific value, the remains or funerary objects shall remain undisturbed. If it is necessary to move them in order to permit completion of a construction or similar project, the remains or funerary objects shall be reburied under the supervision of the director in a place as similar and close as possible to their original burial site. If the remains or funerary objects have scientific value, they may be curated by the Arizona state museum or other authorized repository for a period of one year, after which they shall be reinterred. If remains of American Indians are involved, reburial pursuant to this subsection shall be undertaken with the cooperation of the Indian tribe located nearest to the place where the remains were discovered. Reburial may, with that tribe's consent, take place on that tribe's reservation. The one-year period for scientific curation may be extended with that tribe's consent. If there is no group with a cultural or religious affinity to sacred ceremonial objects or objects of national or tribal patrimony, the director shall decide on the most appropriate disposition and treatment. Where American Indian materials are involved, the determination shall be made in consultation with appropriate tribal

representatives.

H. A repository charged with the care or custody of human remains, funerary objects, sacred ceremonial objects or objects of national or tribal patrimony pursuant to this section shall maintain them with appropriate dignity and respect and with consideration for the specific applicable cultural or religious traditions applicable to the remains or objects. When materials are returned to relatives or affiliated groups, the relatives or groups shall accept and undertake responsibility for the protection and security of the materials.

I. The expense of any curation or reburial pursuant to this section that is required as the result of a construction project or similar project shall be borne by that project. Reburials made in order to satisfy the wishes of a relative or affinal group shall be by and at the expense of the relative or group.

J. If a person believes that the provisions of this section have not been properly applied he shall give written notice of this claim to all other parties entitled to notice under subsections B and C. The parties shall meet within fifteen days of receiving the notice and attempt to agree on the designation of a third party to assist in the resolution of the dispute. If the parties cannot agree within fifteen days on a third party, the state historic preservation officer shall serve in that capacity. The adverse parties shall attempt to reach a resolution with the assistance of the third party. If a resolution cannot be reached within ninety days of the designation of the third party, the third party shall resolve the dispute. Either party may appeal a decision within thirty days to the superior court in the county in which the subject of the dispute is located.

K. If a written request for the reburial or repatriation of human remains, funerary objects, sacred ceremonial objects or objects of national or tribal patrimony in the possession and ownership or control of an agency of this state, as of the effective date of this section, is made by the government of an American Indian tribe, the requirements of this section

apply as if the remains or objects had been discovered after the effective date of this section.

L. Whenever two or more groups or tribes have affinity to the same human remains, funerary object, sacred ceremonial object or object of national or tribal patrimony and they do not agree on the disposition or treatment of such remains or object, the question of which group or tribe shall be deemed to have affinity shall be resolved pursuant to subsection J. In making the determination, consideration shall be given to all the relevant evidence of affinity.

Best wishes,

--Patrick

**Patrick D. Lyons, Ph.D., RPA**

Director, Arizona State Museum

Associate Professor, School of Anthropology

**Arizona State Museum | The University of Arizona**

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[www.youtube.com/azstatemuseum](http://www.youtube.com/azstatemuseum)



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**From:** Dan Garcia [<mailto:DGarcia@swca.com>]

**Sent:** Monday, August 14, 2017 1:19 PM

**To:** Lyons, Patrick D - (plyons) <[plyons@email.arizona.edu](mailto:plyons@email.arizona.edu)>

**Cc:** Jeffery, R Brooks - (rbjeffer) <[rbjeffer@email.arizona.edu](mailto:rbjeffer@email.arizona.edu)>

**Subject:** Question about ASM gifts/subsidies and justification for fees

Hello Dr. Lyons,

I'm hoping you can provide me with some clarification. I am attempting to locate statues/requirements of the Arizona State Museum that prohibit gifting and/or subsidy of entities external to the University of Arizona. The draft proposal to increase fees cites "ARS Titles 15 and 35, and Article 9, Section 7 of the Arizona State Constitution." I can find no clear reference to gifting or subsidy by a state entity to another state entity in Titles 15 and 35, and Article 9 Section 7 of the State Constitution only pertains to financial gifts to individuals, associations, and corporations.

Also, would you be able to provide statutory/regulatory justification for recovery of all fees associated with ASM's administration of ARS 41-841 et seq.? The citations referenced in draft proposal to increase fees – 41-844(I) and ABOR Policy 8-205(i)(1) are specific to implementation of the State Burial Laws and not specifically regarding implementation of the Arizona Antiquities Act.

Any clarification or guidance you can provide is very appreciated. Thank you.

**Daniel Garcia, M.A., RPA**

Cultural Resources Team Lead

**SWCA Environmental Consultants**

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825 W. Samalayuca Dr.  
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August 18, 2017

Dr. Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
Tucson, Arizona

via email: [plyons@email.arizona.edu](mailto:plyons@email.arizona.edu)

Dear Dr. Lyons:

You will have received many letters regarding the proposed Arizona State Museum (ASM) curation fee increase that discuss the way in which ASM's original proposal developed a proposed new fee structure. I wish to address the underlying processes being used by ASM to process repository collections, which have greatly increased the costs of providing repository services and precluded accumulation of funds for long-term curation costs.

As a former head of the ASM Collections Division (1999–2006), I proposed that ASM establish specific standards for processing archaeological collections and provide them as required minimums to all of the cultural resource management (CRM) contractors, so that as they processed collections in order to analyze and report on them, they used methods that would meet federal standards (36 CFR Part 79) (see Griset et al. 2004). This was intended to *transfer the cost of processing and cataloging to the contractor*, thereby saving much of the repository fee for in-perpetuity uses.

We began issuing an accession number as soon as the repository request was received at the beginning of the project. This allows the contractor to include the accession number and the location where the collection has been curated, in the project report. More importantly, the contractor can assign and add catalog numbers onto significant artifacts, illustrate them in the report, and segregate them in a separate box for delivery to ASM.

My intention was that ASM would do a *spot* inventory to ensure that all boxes were accounted for, remove the segregated "cataloged" items to store in the museum facilities, file the paperwork and associated photos, and house the rest of the collection in deep storage. We converted the cost assessment to a per box cost (it had been based on number of person days in the field), and added a flat registration fee to assign an accession number and set up the file that would receive all of the associated paperwork once a collection was submitted to the museum.

Unfortunately, ASM continues to "reprocess" the collections as it always has—by examining each bag and looking for additional specimens it deems interesting to add to the cataloged collection. In essence, it has been culling the repository collections to augment its research and exhibit collections. This may fulfill its mission as a state-funded public museum, but goes way beyond the requirements for providing repository services. Landowners (whether public or private) should not be assessed the cost of developing museum collections. They are required to pay the cost of preserving archaeological materials and data disturbed on their lands.

All CRM collections are submitted to ASM with digital inventories, field notes, photographs, and copies of the report. Future researchers can easily navigate the boxed collection when looking for specific items

for their research. Because the cataloged items are boxed separately by contractors, even they could remain in that box until someone needs them for research or exhibit.

ASM has many years of experience receiving collections from Arizona CRM contractors—it knows which firms follow the guidelines and which firms do not. Collections that do not meet the guidelines should be rejected, and the firm's permit to conduct archaeological investigations should be in jeopardy since ASM is the entity that issues those permits per the Arizona Antiquities Act. No contractor can continue to do business if it does not comply with the curation guidelines and submit collections that have been processed in accordance with the standards.

It behooves ASM to modify its collections intake process, thereby greatly reducing the costs and leaving the bulk of the curation fee for in-perpetuity curation. The fee *should be* based on the volume of deep storage space required, assessed as a per-box fee, as is the case at nearly all of the repository facilities in the United States. The box fee should be calculated to cover the cost of that volume for a specified number of years in the future, using averaged federal Cost of Living percentages as a projection for that period of time. The registration/intake activities (assigning the number, issuing the number, receiving the collection, spot inventorying to verify that all boxes are accounted for and have a box list, transferring the collection to deep storage, and adding the digital data and paper copies to the files) should be assessed on a fixed/sliding scale based on the number of boxes. Even a collection consisting of hundreds of boxes should require less than a week (of student labor) to intake.

There is no magic ball to determine future costs and no way to define "in perpetuity." I understand ASM's concerns, which are predicated on the underlying issue—consistent underfunding of the museum. Because the museum cannot cut academic staff, it has steadily reduced the professional curatorial staff needed to care for its collections. Ultimately, the responsibility lies with the Board of Regents to ensure that ASM remains a nationally renowned anthropology museum and fulfills its duties under the Arizona Antiquities Act. In the meantime, I hope that these comments provide a means of reducing current and future costs and beginning an in perpetuity fund.

Respectfully submitted,



Suzanne Griset, Ph.D.  
Sr. Project Manager and Principal Investigator  
SWCA Environmental Consultants

cc: Governor's Archaeological Advisory Commission

Griset, Suzanne, Arthur W. Vokes, and Catherine Sarther  
*2003 Requirements for the Preparation of Archaeological Project Collections for Submission to the Arizona State Museum Collections Division. Revised 2004.*



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August 18, 2017

Patrick Lyons, Director  
Arizona State Museum  
University of Arizona  
P.O. Box 21006  
Tucson, Arizona 85721-0026

RE: Arizona State Museum (ASM) Proposed Increase in Rates and Fees for Cultural Resource Services

Dear Dr. Lyons:

AZTEC Engineering Group, Inc. (AZTEC) has reviewed ASM's Notice of Intent and Proposal to Increase Rates and Fees for Cultural Resource Management Services issued on February 10, 2017 as well as the April 17, 2017 revised proposal issued in response to comments from stakeholders. Based on the contents of those documents and further information gleaned from subsequent public sessions regarding this matter, AZTEC would like to comment on the revised proposal.

ASM is a vital part of the cultural resource management (CRM) industry in Arizona. AZTEC appreciates the services that ASM provides and recognizes the need to secure comprehensive funding in support of continuing those mandated services. However, we are concerned that the currently proposed fee increases will have significant negative and, in some cases, irreversible impacts that will affect not just the CRM community but Arizonans and the heritage resources that we collectively and proudly share stewardship over.

Following is a list of some of our concerns:

- effect on protection of cultural resources and preservation of the archaeological record
- effect on land development/tourism and the revenue it generates for the State
- accuracy of in-perpetuity fee assessment
- effect increase in fees will have on cost-competitiveness of smaller, woman-owned CRM firms that are approaching historic significance; currently there are four founding CRM firms established between 1977 and 1982, all of which are woman-owned

Below are some potential solutions:

- coordinate with the State Historic Preservation Office, Arizona Archaeological Council (AAC), and Governor's Archaeology Advisory Commission (GAAC), to develop statewide sampling and culling guidelines
- coordinate with other Arizona repositories to develop a statewide system that facilitates more equitable distribution of collections
- coordinate with the AAC, GAAC, local CRM firms, and repositories in other states to develop a sustainable long-term solution to curation in Arizona
- redefine in-perpetuity fees
- reinstate the field-person-day model



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AZTEC appreciates the opportunity to comment on the proposed changes. Our organization has serious concerns about the proposed fee increases and reasonable suggestions for ways to ameliorate the impacts, and we trust that you will seriously consider the alternatives proposed herein.

Cordially,

A handwritten signature in black ink that appears to read "Deil Lundin".

Deil Lundin  
Cultural Resource Group Manager