

APPENDIX VI:

**UNIVERSITY OF ARIZONA PRESENTATION
AT ARIZONA HISTORIC PRESERVATION CONFERENCE
15 JUNE 2017, ORO VALLEY, ARIZONA**



SB 1418 and Changes to the Arizona State Museum's CRM Service Rates and Fees

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Today's Presentation:

- Introduction to Arizona State Museum (ASM)
- Arizona Senate Bill (SB) 1418
 - The mandated proposal and public comment process

Today's Presentation (cont.):

- Concepts underlying the proposed new rate and fee structure
- Stakeholder comments to date
- ASM responses
- Discussion

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Introduction to ASM



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ASM's Mission Statement:

- The Arizona State Museum, an anthropology museum, preserves, creates, and shares knowledge about the peoples and cultures of Arizona and surrounding regions.

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SB 1418 requirements:

- Charges ASM assesses for services performed pursuant to the Arizona Antiquities Act (ARS § 41-841, et seq.) and ARS § 41-865 must be adopted by the Arizona Board of Regents (ABOR).

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SB 1418 requirements (cont.):

- posted Notice of Intent to Raise Fees
- publication of a Draft Fee Proposal in the AZ Administrative Register and notification of stakeholders

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SB 1418 requirements (cont.):

- 30-day (minimum) public comment period
- Revised Draft Fee Proposal
- 20-day (minimum) public comment period

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SB 1418 requirements (cont.):

- posting of Final Fee Proposal within five business days of the end of the second public comment period

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ASM CRM Services:

- Arizona Antiquities Act Permits
- Project Registration (Curation Agreements)
- Collections Intake (processing)
- Curation in Perpetuity
- Burial Agreements
- Burial Excavation and Analysis

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Underlying Concepts:

- Per ARS Titles 15 and 35, and Article 9, Section 7 of the Arizona State Constitution, **ASM may not gift to or subsidize external entities that receive services.**

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Underlying Concepts (cont.):

- Per ARS § 41-844(I) and ABOR Policy 8-205(I)(1), **the costs of providing mandated services must be borne by project sponsors.**

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Underlying Concepts (cont.):

- a move from task-based (average-time) to time-based (actual cost) billing
- recovery of **in-perpetuity curation costs** as well as one-time costs

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Underlying Concepts (cont.):

- estimates/quotes based on a client questionnaire and ASM's own historical information

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SB 1418 Timeline:

- Notice of Intent, 21 Dec 16
- 1st Draft Fee Proposal, 10 Feb 17
- 1st Public Comment Period
 - 11 Feb 17 – 12 Mar 17
- 2nd Draft Proposal, 17 Apr 17

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SB 1418 Timeline (cont.):

- 2nd Public Comment Period
 - 18 Apr 17 – 7 May 17
- Extension of 2nd Public Comment Period, 11 May 17
 - Through 18 Aug 17
- Final Fee Proposal, 25 Aug 17

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SB 1418 Timeline (cont.):

- ABOR adoption of ASM Fee Proposal, 27-29 Sep 17
- Fees effective, 1 Oct 17

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Stakeholder Outreach:

- Stakeholder Meeting, 20 Sep 16
- Stakeholder Meeting, 12 Dec 16
- Southwest Native Nations Advisory Board Meeting, 12 May 17
- CRM Forum, 13 Jun 17

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Purposes of CRM Forum:

- listen to and seek additional input from CRM stakeholders re: ASM's proposed new rate and fee structure
- improve articulation between ASM's proposed new business practices and business practices in the CRM industry

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Stakeholder Comment #1:

- CRM firms need **binding estimates** of ASM charges in order to budget for projects. The **uncertainty** associated with what have been called "non-binding" estimates is problematic.

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ASM Response:

- ASM will issue **project quotes** that are **scope-dependent**.
 - ASM will honor a quote unless there is a material variance in the scope of the project, as measured between information received via the Request for Quote and collections actually submitted.

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ASM Response (cont.):

- A change in project scope will oblige the CRM firm to contact ASM for a revised quote based on the new project scope.

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Stakeholder Comment #2:

- Charges for Collections Intake account for a large proportion of any testing or excavation budget.
 - **Uncertainty** regarding these charges is a great cause for concern.
- **Billing cannot go on indefinitely.**
 - CRM firms must close out projects to obtain final payment from project sponsors.

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ASM Response:

- **ASM** will honor quotes for charges related to Collections Intake tasks and **will bill for these costs on a one-time, up-front basis**, with two caveats:
 - material changes in project scope will entail the issuing of a new quote; and

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ASM Response (cont.):

- quotes for these tasks are based on the assumption that CRM firms will turn in collections in accordance with state standards and that ASM will not have to incur additional costs in bringing collections up to standards.

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ASM Response (cont.):

- CRM firms may be subject to additional costs in the future, if submitted collections are found to be non-compliant.

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CRM Forum Feedback:

- Does this mean that in-perpetuity fees are set (stable) for the foreseeable future?
- Will there be refunds if projects are cancelled?
- What constitutes a “material change” in project scope?

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Stakeholder Comment #3:

- ASM proposes to charge for curation of objects and documents in perpetuity, as required by state law.
 - Some refer to this as a 400% increase in the per-box rate and ask that ASM “phase in” this change.

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ASM Response:

- The average cost of submitting a box of artifacts to ASM has increased from \$1,000 to \$4,325:
 - \$1,321 for Collections Intake, and
 - \$3,004 for Curation in Perpetuity
- Previously, ASM did not collect funds to cover costs of curation in perpetuity.

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ASM Response (cont.):

- Study of 40 repositories over 10 years:
 - only one increased fees less than 100%
 - two thirds increased fees at least 200%
 - one quarter raised fees at least 300%
 - one tenth increased fees at least 400%
 - one increased fees more than 600%

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ASM Response (cont.):

- More repositories are charging a one-time collections processing fee as well as **annual fees** to cover ongoing costs.
- The use of a one-time processing fee with ongoing **annual fees** is the dominant model in the eastern U.S.

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ASM Response (cont.):

- To cover costs in perpetuity, a repository must:
 - charge a one-time collections processing fee **as well as an annual fee**; or
 - use a funding model akin to a perpetuity due linked to an **interest-bearing account**, as described in ASM's initial and revised draft proposals.

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ASM Response (cont.):

- The use of an interest-bearing account actually allows ASM to charge project proponents **a lower one-time fee and less overall** for curation in perpetuity.
- There is no source of funding available to cover costs incurred during any proposed “phase-in” period.

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Stakeholder Comment #4:

- There will be unintended consequences, including reduced scopes of work for projects, the recovery of smaller samples, non-compliance with state laws, illegal culling of collections, and attacks on the state’s statutory and regulatory framework.
 - ASM should develop a culling policy.

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ASM Response:

- The cost of compliance should not be an excuse for noncompliance.
- 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).

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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.

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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.

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CRM Forum Feedback:

- The scale of the increase in costs is particularly difficult to deal with given that it is so sudden.
- Curation costs could potentially outstrip other project costs.
- Will ASM and other agencies accept smaller samples in data recovery?

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CRM Forum Feedback (cont.):

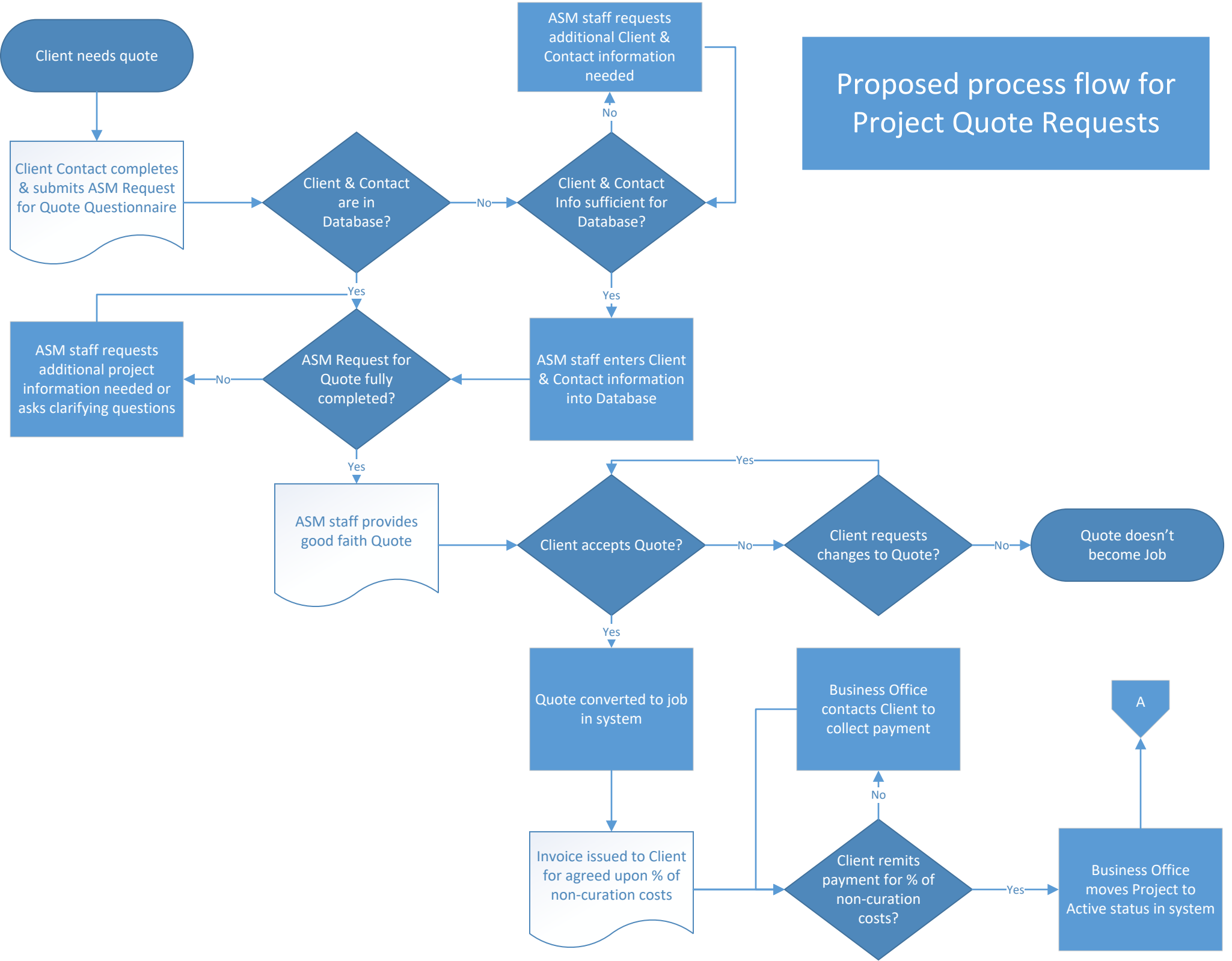
- Community discussion about a two-tiered approach
- Tribal perspectives on smaller data recovery samples?
- Agency forum needed

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Discussion

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Proposed process flow for Project Quote Requests



Client needs quote

Client Contact completes & submits ASM Request for Quote Questionnaire

Client & Contact are in Database?

ASM staff requests additional Client & Contact information needed

Client & Contact Info sufficient for Database?

Proposed process flow for Project Quote Requests

ASM staff requests additional project information needed or asks clarifying questions

ASM Request for Quote fully completed?

ASM staff enters Client & Contact information into Database

ASM staff provides good faith Quote

Client accepts Quote?

Client requests changes to Quote?

Quote doesn't become Job

Quote converted to job in system

Business Office contacts Client to collect payment

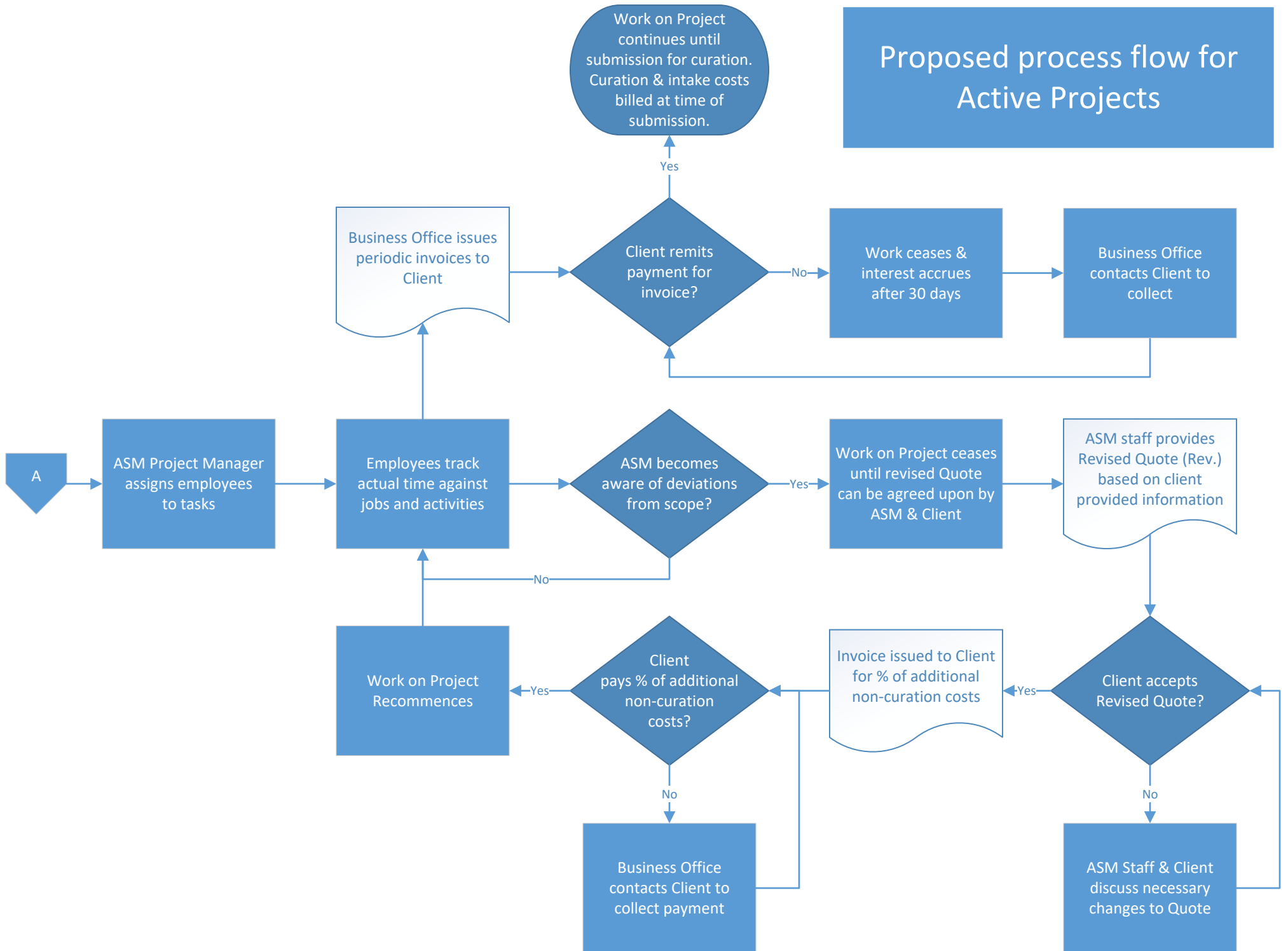
Invoice issued to Client for agreed upon % of non-curation costs

Client remits payment for % of non-curation costs?

Business Office moves Project to Active status in system

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Proposed process flow for Active Projects





DRAFT Framework for Data Points

Client Information:

- Client Name (CRM Firm Name)
- Contact Name
- Contact Email
- Billing Contact Information

Project Identifiers:

- Project Proponent
- Project Name
- Project Description
- Project ID (Client Primary Key)
- Estimated Start Date
- Estimated End Date

Project Inputs (some or all may be relevant, depending upon project type):

- Number of Sites and Person-Field Days at Pre-Hispanic sites?
- Number of Sites and Person-Field Days at Historic Period sites?
- Are any sites on private land? If so, how many?
- Will you be curating at ASM?
- How many half-boxes of bulk archaeological collections do you estimate will be submitted for curation?
- How many artifacts do you estimate will need to be catalogued individually?
- How many digital images do you estimate will be submitted for curation?
- How many linear inches of documentation do you estimate will be submitted for curation?
- How many sites will be monitored, tested, or excavated?
- How many total person-field days do you estimate for this project?
- How many acres will be surveyed?
- How many new sites do you estimate you will discover?
- How many sites do you estimate will require a site card update?
- Does the project fall within any of the following management areas?
 - Salt River Pima-Maricopa Indian Community
 - Gila River Indian Community
 - Tohono O'odham Nation
- Which tribe(s) and/or groups with cultural affinity will be involved?
- Is the work plan general or project-specific?
- Which land ownership category(ies) is (are) involved (State, Private or a combination)?
- How many sets of human remains do you estimate will be excavated?

Quotes will be binding, but for two potential exceptions:

- 1) Material deviation in scope of the project from that described within the initially submitted Request for Quote form.
- 2) Submission of collections for curation not in accordance with State Standards, per the [ASM Repository Manual](#).

General Facts:

Quote turnaround time is 2 business days of receiving the completed ASM Request for Quote.

There are no fees for quotes.

Quotes cannot be expedited.

REFERENCES:

Sources on the Archaeological Curation Crisis and Studies of Archaeological Repository Fees

Childs, S. Terry and Karolyn Kinsey

2003 *Costs of Curating Archeological Collections: A Study of Repository Fees in 2002 and 1997/98*. Studies in Archeology and Ethnography #1. Archeology and Ethnography Program, National Park Service, Washington, DC.

<http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1056&context=natlpark>

Childs, S. Terry, and Seth Kagan

2008 *A Decade of Study into Repository Fees for Archeological Curation*. Studies in Archeology and Ethnography #6. Archeology Program National Park Service, Washington, DC.

<http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1097&context=natlpark>

Childs, S. Terry, Karolyn Kinsey, and Seth Kagan

2010 Repository Fees for Archaeological Collections. *Heritage Management* 3(2):189-212.

available online **for a fee** at:

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

Lyons, Patrick D., E. Charles Adams, Jeffrey H. Altschul, C. Michael Barton, and Chris M. Roll

2006 *The Archaeological Curation Crisis In Arizona: Analysis and Possible Solutions*.

Report Prepared by the Governor's Archaeology Advisory Commission Curation Subcommittee, State Historic Preservation Office, Phoenix.

https://d2umhuunwbec1r.cloudfront.net/gallery/asp-archive/committees/downloads/GAAC_Curation_Crisis_Full.pdf

**SUMMARY* OF COMMENTS/QUESTIONS SUBMITTED TO ARIZONA STATE MUSEUM (ASM)
AND RESPONSES OFFERED AT CULTURAL RESOURCE MANAGEMENT FORUM (13 JUNE 2017) AND
ARIZONA HISTORIC PRESERVATION SESSION (15 JUNE 2017)**

- Thank you for listening. Thank you for creating a forum to hear the concerns of the cultural resource management community.
- Stakeholders appreciate ASM's commitment to a two-day turn-around in issuing quotes.
- Will in-perpetuity fees be stable for the foreseeable future?
 - Yes. ASM will have to go through the Senate Bill 1418 process in the future to increase rates and fees. This will provide all stakeholders with time to comment and to prepare for any potential increases.
- Will there be refunds if projects are cancelled?
 - Yes. Refunds, however, (in most cases) will not be 100 percent, as ASM will incur some costs that must be recovered.
- What constitutes a "material change" in project scope?
 - At the present time, ASM proposes using a threshold of plus or minus 10 percent.
- The scale of the increase in costs is particularly difficult to deal with, given that it is so sudden.
 - ASM had originally planned to make its proposed new rate and fee structure effective as of 1 October 2017. Based on feedback from stakeholders and ASM's desire to achieve better alignment between its business practices and the needs of stakeholders, the new proposed rate and fee structure, if adopted by the Arizona Board of Regents, will not go into effect until 1 July 2018.
- Curation costs could potentially outstrip other project costs. Will ASM and other agencies accept smaller samples in data recovery?
 - 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).
- There should be a community discussion about a proposed "two-tiered" approach to archaeological sites (i.e., some sample of a site from which resulting collections are curated entirely and a sample that is subject to culling or some other procedure that limits the size of collections).
 - ASM will be happy to help organize and participate in this discussion.
- What opinions do Arizona tribes have regarding the prospect of smaller data recovery samples?
 - ASM has had preliminary discussions with tribal representatives through the museum's Southwest Native Nations Advisory Board, will follow up in a meeting with the Four Southern Tribes in July, and is planning a tribal meeting to be held in August, in Prescott. Initial feedback suggests that tribes see value in encouraging more avoidance of sites in the context of the proposed new rate and fee structure. They also see value in encouraging and supporting compliance with the Arizona Antiquities Act and the state's human burial protection statutes.
- ASM should sponsor a state agency forum.
 - The Arizona Department of Transportation has offered to host such a forum and planning is underway for a session to be held in late July, in Phoenix.
- Will ASM (as it has in the past) hold workshops on how to properly prepare collections to be submitted for curation? This will help stakeholders by saving time and money.
 - Yes. ASM will offer another series of these workshops, in southern, central, and northern Arizona.

***This document replaces a partial summary posted earlier.**

- One stakeholder suggested that ASM should be afraid that funds collected to cover curation costs in perpetuity may be “swept” by the legislature.
 - The University of Arizona (UA) uses interest-bearing accounts for many different kinds of projects and services. This is a new funding model in the cultural resource management field but not at UA. This is a common business tool, and without it, ASM will not be able to cover costs/provide services. Furthermore, the majority of funds collected for curation costs will be mirrored on the books by a liability (unearned revenue), which will not be completely amortized for approximately 180 years from the time of collections intake. Were these funds to be swept, a substantial unfunded liability would result. This would be fiscally irresponsible, and is highly unlikely, as only unencumbered cash is ever subject to such “sweeps.”
- One stakeholder suggested that there were other financial tools (aside from the perpetuity due model proposed by ASM) that would meet ASM’s needs at a lower cost to project proponents.
 - ASM asked for details on such a model, so that it might be considered in the SB 1418 process, and suggested that the stakeholder send them in written form. The stakeholder did not provide any details in person and, to date (10 August 2017), has not submitted any written information about an alternative funding model for covering costs in perpetuity.