

**PUBLIC COMMENTS REGARDING THE ARIZONA STATE MUSEUM'S  
NOTICE OF INTENT TO INCREASE RATES AND FEES  
AND THE ARIZONA STATE MUSEUM'S RESPONSES**

2 July 2025

Per ARS § 15-1631(E)(3), the Arizona State Museum (ASM) opened a public comment period during which it received feedback from stakeholders regarding its published Notice of Intent to Increase Rates and Fees (*Arizona Administrative Record* 31(6):480-493). This public comment period opened on 10 February 2025 and closed on 11 March 2025. The comments and questions published here were received via email, letters, and three in-person feedback fora held by ASM in Phoenix (27 February 2025), Flagstaff (28 February 2025), and Tucson (4 March 2025). A total of 46 comments and questions related to the new proposed rates and fees was received. Each comment or question, numbered 1 to 46, is presented and ASM's response appears below each comment or question.

1. The 2024 fee increase, as proposed, appears premature as it comes without reviewing the impacts of the 2017 increases and without consideration of a larger array of resources. While funding is an essential resource, raising fees without a commitment to smaller and larger organizational changes is unsustainable. We suggest that ASM should identify operational efficiencies and develop partnership agreements for report review and the management and curation of collections.

ASM is absolutely committed to "smaller and larger organizational changes," including many of those suggested by members of the cultural resource management (CRM) community. The recent Notice of Intent to Increase Rates and Fees details, on pages 14-16, a number of cost mitigation and efficiency efforts. Furthermore, ASM is open to other suggestions that can be implemented within the statutory and regulatory framework it must operate. However, state statutes and Arizona Board of Regents (ABOR) Rules specifically prohibit a number of the changes suggested by members of the CRM community.

Regarding "consideration of a larger array of resources," by law, the project proponent is responsible for reimbursing the costs borne by ASM in providing state-mandated cultural resource management services. ASM would welcome some level of base-level funding from the Arizona State Legislature. However, all ASM personnel, as state employees, are specifically prohibited from lobbying for funding. Such requests must come through the University of Arizona and ABOR.

Regarding the development of partnership agreements for report review, ASM cannot act on this suggestion. Direct oversight and management of the processes at the heart of ASM's mission are required by law and by common sense. Not long ago, employees of an Arizona state agency with the mission to preserve the state's cultural heritage undermined the Arizona Antiquities Act, doctored reports, and their actions resulted in damage to archaeological sites on state lands. ASM believes that if its statutory and regulatory authority were to be diluted, as proposed, it would be much harder for the institution to discover such situations and for it to continue to meet its mission related to the protection of the state's archaeological record. In addition, if these responsibilities were outsourced to other agencies (which is not permitted by law), those agencies, by state law, would be put in the position of having to recover the associated costs. There would be no cost savings for the CRM community. Whoever provides state-mandated cultural resource management services must recover the associated costs.

Regarding the development of partnership agreements for the management and curation of collections, ASM has actively assisted and advised a number of institutions in their efforts to meet state standards, or to be reinstated, as public repositories under state law, including Arizona State University, which was recently reinstated as a public repository able to accept state-owned collections for curation. The Gila River Indian Community's Huhugam Heritage Center has been designated a public repository able to curate state-owned collections in perpetuity, and the Salt River Pima-Maricopa Indian Community has also been working with ASM in order to have its new curatorial facility so designated. ASM will continue these efforts.

2. The State of Arizona needs to provide support for the Arizona State Museum (ASM) mandated programs structure. Arizona's unique heritage is something that many citizens take some pride in. Tucson – the home of ASM and of Desert Archaeology -- is unique in the United States for having 4,000 continuous years of farming, by people of many different ancestries, represented in its archaeological record. Internationally important discoveries such as these also come with an obligation to document our work and curate our findings. The University of Arizona, the Board of Regents, and/or the State of Arizona legislature need to provide reliable foundational support that allows a sustainable program for the ASM. The immediate focus of attention needs to be on the repair and construction of ASM's facilities. The need for additional curation space at ASM has been known for well more than a decade and we observe that ASM has raised almost \$600,000 towards a new \$35 million facility. A funding pathway that is not project-based needs to be identified with some immediacy.

By law, ASM must recover the costs of providing state-mandated cultural resource management services through fees. This is the business model established through statute for most entities that provide services as part of the State of Arizona. As noted above, ASM would welcome some level of base-level funding from the Arizona State Legislature. However, all ASM personnel, as state employees, are specifically prohibited from lobbying for funding. Such requests must come through the University of Arizona and ABOR.

3. As mentioned in the Tucson-based listening session on March 5, 2024, the 2017-approved fees and the 2024 proposed fees have a significant impact on preservation based archaeological work. Generally, the types of archaeological fieldwork that ASM permits can be divided into that conducted for *projects* and that conducted for *programs*. Project-based budgets are limited term budgets tied to government or private development and include funding for regulatory compliance including cultural resources management work. It appears that Arizona project proponents have accommodated the 2017 fee increases with limited impact on their work. However, the program based work of land management agencies in Arizona has been impacted by the fee increases. Work conducted for long-term planning purposes without a specific project cannot accommodate the ASM fee structure. Some agencies have limited their preservation-oriented projects and others, who used ASM sites files in the past (such as Fort Huachuca, the Bureau of Land Management, and the US Fish and Wildlife Service), have created their own numbering and report systems. At a time when we should be supporting data acquisition that allows projects to be planned for avoidance and that allows for documenting impacts to sites and landscapes the ASM fee structure is a disincentive to smart management work. Pima County has provided a compelling case related to their management of conservation lands.

From the standpoint of the entity that provides the state-mandated cultural resource management services required for *projects* and *programs*, there is no distinction in law or practice. ASM is providing

the same services and incurring the same costs in both cases. The only difference is who will be billed so that ASM can recover its costs, as required by law. Although ASM supports preservation-based approaches to the management of archaeological resources, by law, it simply cannot absorb the costs generated by agencies engaged in such work. Despite the fact that members of the CRM community recognize both ASM's space issues and its budgetary problems, some advocate for the institution to take on more costs. This is an example.

4. Some Arizona land management agencies and entities have archaeological leadership that is qualified to provide the types of services that ASM conducts. We suggest that the ASM develop permitting agreements with agency partners, after identifying the circumstances and standards that would allow agency archaeologists to provide this work, thus allowing ASM to provide services where they are necessary instead of redundant.

Services related to permitting pursuant to the Arizona Antiquities Act are not "redundant," as no other entity has this statutory responsibility. Not long ago, employees of an Arizona state agency with the mission to preserve the state's cultural heritage undermined the Arizona Antiquities Act, doctored reports, and their actions resulted in damage to archaeological sites on state lands. ASM believes that if its statutory and regulatory authority were to be diluted, as proposed, it would be much harder for the institution to discover such situations and for it to continue to meet its mission related to the protection of the state's archaeological record. Direct oversight and management of the processes at the heart of ASM's mission are required by law and by common sense. In addition, if these responsibilities were outsourced to other agencies (which is not permitted by law), those agencies, by state law, would be put in the position of having to recover the associated costs. There would be no cost savings for the CRM community. Whoever provides state-mandated cultural resource management services must recover the associated costs.

5. Given how challenging it has been for the ASM and the University of Arizona to either purchase or to construct a new curation facility, and with no solution publicly visible, we suggest that ASM commit to look at curation more systemically in Arizona and to invite and develop partnerships with agencies or organizations who might have facilities, but who would need ASM's expertise to adapt and operate them. Solutions such as the Gila River Indian Community (GRIC) housing collections from GRIC reservation lands are compelling, although tribes cannot be expected to resolve all the curation needs. We ask that ASM management focus as much on encouraging and promoting alternative facilities as on regulating them. ASM proposes to charge facilities for the necessary reviews.

ASM has actively assisted and advised a number of institutions in their efforts to meet state standards, or to be reinstated, as public repositories under state law, including Arizona State University, which was recently reinstated as a public repository able to accept state-owned collections for curation. The Gila River Indian Community's Huhugam Heritage Center has been designated a public repository able to curate state-owned collections in perpetuity, and the Salt River Pima-Maricopa Indian Community has also been working with ASM in order to have its new curatorial facility so designated. ASM will continue these efforts.

6. The fact that ASM no longer provides repository agreements for most collections made from projects on private lands is ethically challenging. In public forums most ASM staff appear not to be aware of this, even if CRM companies are.

As noted above, despite the fact that members of the CRM community recognize both ASM's space issues and its budgetary problems, some advocate for the institution to take on more costs. This is another example. ASM's curatorial mission, by law, focuses on state lands only. Although ASM recognizes the great importance and research potential of archaeological resources located on other lands (private, federal, tribal), given the institution's challenges related to space issues and funding, it would be irresponsible for its leadership to devote scarce resources to activities outside its core, state-mandated mission.

7. We gather that the listening sessions related to this proposal provide ASM with a list of ways to be more efficient in its operations. ASM's fee proposal documents note their awareness of inefficient workflows and attempts to rectify these (page 15). ASM has become increasingly bureaucratic in ways that do not ensure better research or protection of cultural resources, for example:

- The ASM now requires treatment plans with research questions for large surveys for areas over 640 acres or for ten miles of linear project area on state land. For a standard highway corridor, ten miles is about 220 acres of land. When Desert Archaeology asked whether the ASM permits office would consider extending the linear distance to something like 20-25 miles – a distance at which some variation in sites and regional boundaries might start to provide measurable archaeological results -- the reply was that ten miles is a distance that crosses two ASM 7.5" USGS quadrangles and archaeologists needed to start thinking about research when two maps were involved.

This requirement related to the area of a survey is a state regulation. It appears in the *ABOR Rules Implementing ARS § 15-1631 and 41-841, et seq., the Arizona Antiquities Act* as Policy 8-203(E)(4).

- The ASM requires monitoring and discovery plans for areas where the visibility of deposits is so limited that the research question will be whether cultural resources or discoveries are present or absent. Such projects could be served by working under a general plan.

Working under a General Plan is an option when the project falls within a jurisdiction that has a General Plan. However, there is no General plan to cover all state land. Even with limited visibility of deposits, the presence or absence of artifacts and/or features can be used to address general research questions related to, for example, which archaeological cultures are represented in the study area, when they were present, and how they used the landscape.

- When reviewing reports, ASM provides comments on correct information if it is not phrased per the regulations or to their preferences. Maps are evaluated to shifting standards that are not present in their guidance.

ASM is required by state law and ABOR Rules to ask for edits to text that is "not phrased per the regulations." Such edits ensure that reports meet state standards. Regarding "preferences," these relate to state law and ABOR Rules as well as ASM policies and guidelines.

Current map standards are listed in the document dated 10 June 2019, revised 1 July 2021, entitled "Minimum Requirements and Checklist for Reports, Treatment Plans, and Maps Submitted to the Arizona State Museum for Work Conducted under an Arizona Antiquities Act Permit" (available on ASM's website). If there is uncertainty regarding the standards in this document, permit holders are

encouraged to contact the AAA Permits Office. If permit holders have input related to these standards or how to clarify them, ASM will consider such suggestions.

- The ASM has created inefficiencies by creating rules that are out of sync with the Arizona State Historic Preservation Office. ASM is no longer a museum that supports work across Arizona but interprets its mandate as oversight of work on state land. As ASM narrows its vision, its permittees are responsible for creating products to meet multiple standards. A prime example is that archaeologists are required to document historical in-use structures such as highways and canals but can no longer use the previously assigned ASM site number as the records are no longer updated by the Archaeological Records Office. In documents, only the name of the structure can be used. However, ASM prefers that the former site number is present somewhere in the document, in parentheses, because otherwise it is difficult to link past and present information. Similar disconnects are being created now that ASM does not allow use of ASM site numbers from sites that are located on non-state lands.

As noted above, despite the fact that members of the CRM community recognize both ASM's space issues and its budgetary problems, some advocate for the institution to take on more costs. This is another example. ASM's curatorial mission, by law, focuses on state lands only. Although ASM recognizes the great importance and research potential of archaeological resources located on other lands (private, federal, tribal), given the institution's challenges related to space and funding, it would be irresponsible for its leadership to devote scarce resources to activities outside its core, state-mandated mission.

If ASM changed its policy related to in-use historic structures and required updates to site records associated to them, there would be additional costs that ASM, by state law, would have recover from clients (CRM firms), and clients would then have to pass these costs on to project proponents. ASM has long worked hand-in-hand with the State Historic Preservation Office (SHPO) in the development of policy and guidance. Indeed, a number of policies and guidance documents used by the CRM community are joint products of ASM and SHPO. The Arizona State Land Department is sometimes a cooperating agency in promulgating such products. ASM regularly solicits input from SHPO related to newly developed policy and guidance. When disagreements arise, these relate to differences in the laws and regulations under which the two entities must operate.

- If a research question is phrased in prose without a question mark the report is returned until a question mark is added.

Question marks identify sentences that are questions and distinguish them from sentences that are statements. The ABOR Rules, in a number of places, specifically require ASM to review research questions. It is important that research questions are clearly identifiable in the documents submitted for review.

- The ASM has been slow to adapt to digital workflows during report evaluation, The law only requires hard copies at curation.

ABOR Policy 8-203(E)(8) requires that “[a]ll project and summary reports shall be typed or otherwise printed.” Further, records related to Mandated Programs are designated Historical and Permanent public records by the Arizona State Library, Archives and Public Records (ASLAPR) and must be kept or transcribed on paper or other material that is of durable or permanent quality and must be physically maintained in perpetuity in alignment with policy revised as of October of 2023 and documented by the Secretary of State.

ASM interprets these requirements as relating to the final products submitted by the client in order to comply with state statutes (e.g., final reports). ASM will revisit its processes and procedures related to the review of documents and determine which draft documents may be submitted in digital form only and which draft documents must be submitted in hard copy. It is important to note, however, that, occasionally, the kind of review that ASM is required to undertake requires a printed draft document and if ASM finds, in the future, that it regularly has to print these draft documents (rather than having them submitted in hard copy), by law, it will have to increase fees to recover the associated costs.

- ASM updates its guidance sometimes, but not systematically, on its Update Log, which is not searchable. These add work for the CRM company side and the ASM charges for the services related to these processes and they don't better the protection or management of Arizona lands. Given the scarcity of staff and funding, we request that ASM consider how to focus our resources and theirs on work with purpose. In prior situations when CRM archaeologists have been invited to provide feedback to ASM, a CRM advisory board has been suggested.

ASM is always open to discussions about ways to improve policies, procedures, and workflows (within the boundaries of what has been established in state law and ABOR Rules). ASM has made many changes in recent years, particularly in the realm of business practices, at the request or suggestion of its partners in the CRM community and will continue to do so. This suggestion, to make the ASM Update Log searchable is an excellent one and ASM will be happy to do so.

8. Burial Discovery Agreements should be considered under a different type of cost recovery. Project specific burial discovery agreements might require a series of sensitive conversations that may or may not result in an agreement. Adding time-based costs to a process that works with a different set of values may be costly, risky, and discourages using this important type of agreement.

By law, ASM must recover the costs of providing state-mandated cultural resource management services through fees. This is the business model established through statute for most entities that provide services as part of the State of Arizona. Because ASM's system is time-based, it is scalable to the duration of the task and, unlike flat fees, removes the possibility that costs are "socialized" across multiple project proponents.

9. We do not understand the calculation of rates for Assistants, Specialists, and Professionals. The published 2024 wage rates for some mandated programs staff in ASM range from \$25.40/hour to \$58.54 per hour. The proposed rates for these positions range between \$101.00 and \$217.00 per hour. That seems an extreme mark up, even with the UA programs intended to raise wages and provide additional professional support for personnel. As these are the foundations for the time-based calculations, please clarify.

There are many costs that ASM and the university must incur in addition to base salaries for employees engaged in providing these mandated services. The Employee Related Expenses rate which covers the employer's portion of insurance and taxes, as well as other employee benefits, and over which ASM has no control, is currently set at 32% of direct labor costs. In addition to these we have IT costs for both hardware and software necessary to render services. Some of these software costs are solely necessary due to changes in how ASM must manage its Mandated Programs as a result of changes to ARS §15-1631 which were put into effect in 2017. Indirect costs related to service rates include building-related costs,

depreciation on equipment, interest, operations and maintenance overhead, as well as general administration. Rates utilized for these indirect costs in the model are those negotiated with the federal cognizant agency.

Another factor that impacts the calculated rates is the proportion of time employees are able to bill for in a given year. Time spent answering emails, phone calls or questions from clients, or spent generating or reviewing quotes for issuance, is time not spent providing billable services. This reduction in billable time concomitantly reduces the numerator in the rate formula, thereby increasing the calculated rates. ASM does not track employee time spent on these non-billable activities, so it is impossible to provide an objective measure of the total effect that this has on rates. A 25% increase over hours actually billed in the 12 months prior to the rate study data pull was embedded in the rate calculations to reduce the impact of this "lost time" and thereby mitigate the increase in calculated rates.

10. The new fee structure proposes instituting deterrent fees for conversations with the director about permitting issues and for non-compliance with the Arizona Antiquities Act or ABOR rules. Why not instead (or also) offer incentives or rebates for work that is well prepared? A costly system that also penalizes companies doesn't promote doing an above average job.

The new class of proposed fees is mainly designed (1) to recover costs associated with bringing clients into compliance with the state statutes administered by ASM and, (2) to deter violations. The intent of the latter is to penalize egregious disregard of state statute. The proposal that rebates could be offered for "work that is well prepared" is untenable, as such rebates would constitute the subsidizing of costs generated by the client which, by law, ASM must recover.

11. Clearly, the ASM needs additional resources. However, we believe that increasing fees without a substantial review of statewide resources and evaluation of efficiencies is premature. The funding should be tied to an alignment of values that prioritize and incentivize the best management and protection of Arizona's cultural resources.

Regarding "a substantial review of statewide resources," by law, the project proponent (not the State of Arizona) is responsible for reimbursing the costs borne by ASM in providing state-mandated cultural resource management services. ASM would welcome some level of base-level funding from the Arizona State Legislature. However, all ASM personnel, as state employees, are specifically prohibited from lobbying for funding. Such requests must come through the University of Arizona and ABOR.

12. The proposed fee increases outlined in the Notice of Intent to Increase Rates and Fees by the Arizona State Museum (ASM) disproportionately affects public agencies, small-project proponents, and other entities engaging in proactive cultural resource stewardship. While Pima County recognizes the necessity of ensuring financial sustainability for mandated cultural resource management programs, this approach risks compliance efforts and the preservation of Arizona's rich cultural heritage. Pima County's response highlights three major areas of concern, detailed below.

- Establish a Differentiated Fee Structure

ASM's proposed fees apply broadly to "construction and similar projects," but its mandates extend beyond development projects. Public agencies are responsible for the stewardship of conservation lands. Stewardship activities and programs differ significantly from construction projects. Stewardship activities include inventorying archaeological sites, monitoring resource

conditions, and mitigating potential impacts before compliance issues arise, which are essential for preserving Arizona's cultural heritage and ensuring compliance with state and federal laws.

The proposed fees do not distinguish between these efforts, making essential conservation work financially unsustainable. Unlike construction projects that may absorb compliance costs, stewardship programs often operate with limited budgets. If these fees are applied uniformly, public agencies may be forced to scale back preservation efforts, leading to increased risks for cultural resources. To address this item, we recommend ASM:

1. Create a tiered fee structure that distinguishes between large-scale development, small-scale projects, and stewardship-focused programs.
2. Ensure predictable costs so that public agencies and nonprofit organizations can budget effectively.
3. Reduce fees for public agencies and small-scale projects to encourage proactive compliance.
4. Conduct an annual cost review to ensure fees remain reasonable and transparent.

- Establish a Sliding Scale for Curation Fees

ASM's proposed curation fees of \$1,983.50 per half-cubic-foot box of artifacts and \$228.67 per linear inch of documentation represent a 223% and 244% increase since 2018, exceeding fees charged by comparable institutions in neighboring states:

- Nevada: \$540 per cubic foot
- Utah: \$800 per cubic foot; \$270 for a 5-inch document clamshell
- New Mexico: \$525 per cubic foot with a sliding scale for smaller deposits

The proposed increases place a significant financial burden on public agencies, particularly Pima County, which lacks alternative repositories and is effectively required to use ASM for curation. Unlike other regions in Arizona, where multiple repositories exist, Pima County has no other options, making the increased costs especially burdensome. To address this item, we recommend ASM:

1. Implementing a sliding scale for curation fees based on actual space used.
2. Lowering costs for small collections and documents to prevent unnecessary financial strain.
3. Providing transparent cost justifications to align fees with actual expenses and remain comparable with other states.
4. Acknowledging regional disparities and adjusting fees to reflect the lack of alternative curation options in southern Arizona.

- Remove Barriers to Digital Curation

The ASM's current curation policies rely heavily on physical document storage, resulting in excessive costs for project sponsors. Many federal and state agencies have transitioned to digital records management, which meets archival standards while significantly reducing storage and preservation expenses. To address this item, we recommend ASM:

1. Update ASM's policies to allow digital curation in line with federal and state archival standards, which already permit the long-term preservation of records in electronic formats.



2. Provide clear guidelines and technical requirements for digital submissions, ensuring that agencies and organizations can transition to electronic documentation without unnecessary complications.
3. Reduce curation fees for digital records, reflecting the cost savings associated with electronic documentation compared to physical storage.

- Conclusion

The proposed fee increases, if adopted without modification, will impose disproportionate financial burdens on public agencies and small-scale project sponsors, potentially discouraging proactive compliance and responsible cultural resource management. Pima County urges ASM and the Arizona Board of Regents (ABOR) to reconsider the fee structure to ensure it is sustainable for all affected stakeholders.

From the standpoint of the entity that provides the state-mandated cultural resource management services required for *projects* and *programs* (i.e., archaeological stewardship activities), there is no distinction in law or practice. ASM is providing the same services and incurring the same costs in both cases. The only difference is who will be billed (who the project proponent is) so that ASM can recover its costs, as required by law. Although ASM supports preservation-based approaches to the management of archaeological resources, by law, it simply cannot absorb the costs generated by agencies engaged in such work.

Regarding the suggestion that ASM develop “a tiered fee structure that distinguishes between large-scale development, small-scale projects, and stewardship-focused programs,” this would take ASM back to a system similar to what was in place before its enabling legislation was amended in 2016. The overwhelming sentiment expressed at that time, by the CRM community and project proponents (including both public agencies and private developers) was that ASM needed to abandon its tiered system, which spread costs across different classes of projects and project proponents. This “socializing of costs” was viewed as unfair. Stakeholders unanimously supported the development of a rate and fee system that is directly scalable to the size of the project (i.e., the expenses incurred by ASM). In this way, project proponents could be certain that they were only being charged for the expenses for which they were responsible and they were not subsidizing other projects. This is the system that has been in place since 2017 and ASM will not return to the old framework.

Regarding the fact that ASM’s rates and fees are not in sync with those of nearby states, this is because those other states subsidize the operations of their curation facilities. ASM would welcome some level of base-level funding from the Arizona State Legislature. However, all ASM personnel, as state employees, are specifically prohibited from lobbying for funding. Such requests must come through the University of Arizona and ABOR.

Regarding digital curation, ABOR Policy 8-203(E)(8) requires that “[a]ll project and summary reports shall be typed or otherwise printed.” Further, records related to Mandated Programs are designated Historical and Permanent public records by the Arizona State Library, Archives and Public Records (ASLAPR) and must be kept or transcribed on paper or other material that is of durable or permanent quality and must be physically maintained in perpetuity in alignment with policy revised as of October of 2023 and documented by the Secretary of State.

ASM interprets these requirements as relating to the final products submitted by the client in order to comply with state statutes (e.g., final reports). ASM will revisit its processes and procedures related to

the review of documents and determine which draft documents may be submitted in digital form only and which draft documents must be submitted in hard copy. It is important to note, however, that, occasionally, the kind of review that ASM is required to undertake requires a printed draft document and if ASM finds, in the future, that it regularly has to print these draft documents (rather than having them submitted in hard copy), by law, it will have to increase fees to recover the associated costs.

Regarding a lack of other approved repositories in Pima County, state law does not prohibit curation by an approved public repository in another county.

13. Seeing as the fee structure is in question, will you be honoring your existing quotes for established projects? In other words, will the proposed fee increases be applied to existing quotes or will those projects be grandfathered in?

When there is a planned increase in rates and fees, it is standard practice for ASM to honor all existing rates and fees for projects that have already received quotes and/or repository agreements. ASM will announce a date when the new rates and fees are effective. The only projects subject to the new rates and fees are those for which quotes and/or repository agreements have been issued either on or after the announced date.

14. Clients are still required to send in hard copies of documents, leading to slower turn-around times and a waste of paper. Can ASM transition to more to digital communications (i.e., report reviews, etc.)?

ABOR Policy 8-203(E)(8) requires that “[a]ll project and summary reports shall be typed or otherwise printed.” Further, records related to Mandated Programs are designated Historical and Permanent public records by the Arizona State Library, Archives and Public Records (ASLAPR) and must be kept or transcribed on paper or other material that is of durable or permanent quality and must be physically maintained in perpetuity in alignment with policy revised as of October of 2023 and documented by the Secretary of State.

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15. Can ASM provide a simulated quote for a project, under the old rates and fees as well as the new, proposed rates and fees, as an example?

ASM will publish, on its website, multiple examples of projects so that stakeholders can compare the costs associated with different types of projects under the current rate and fee structure and the proposed rate and fee structure.

16. Can ASM focus on expediting approvals for alternative repositories?

ASM has actively assisted and advised a number of institutions in their efforts to meet state standards, or to be reinstated, as public repositories under state law, including Arizona State University, which was recently reinstated as a public repository able to accept state-owned collections for curation. The Gila River Indian Community's Huhugam Heritage Center has been designated a public repository able to curate state-owned collections in perpetuity, and the Salt River Pima-Maricopa Indian Community has also been working with ASM in order to have its new curatorial facility so designated.

17. Could ASM seek additional funding/support from primary project proponents?

This question is asked from the perspective of a CRM firm, an ASM client that passes on costs charged by ASM to project proponents that hire the firm. By law, the project proponent is already responsible for reimbursing the costs borne by ASM in providing state-mandated cultural resource management services. Because its costs in providing services have increased, ASM is proposing increases to its rates and fees.

If this question is taken to mean that ASM should consider requesting of major project proponents additional funding, above and beyond the expenses they have incurred for individual projects, this would undercut two basic tenets of the system ASM developed in 2017 based on unanimous input from both project proponents and CRM firms: (1) ASM's charges should be scalable to match the scope of individual projects, and (2) costs should not be "socialized" across multiple project proponents.

18. ASM should consider seeking interns from other locations, such as Tribes or external entities, to participate in work in its Mandated Programs offices.

Because ASM is a unit of the University of Arizona, there are rules regarding who is able to participate in formal, for-credit internships at the museum. However, because ASM is eager to create opportunities for the cross-training of colleagues working in the state's Tribal institutions in particular, in the past, the museum has applied for federal grant and contract funds to support such activity. ASM is open to continuing these efforts.

19. Could ASM return collections to tribes to free up space?

For the last several years, ASM has been engaged in efforts to transfer collections and associated records from tribal lands to tribal museums, archives, and cultural centers that meet federal curation standards. Such transfers must be formally initiated by the federal agency with legal control (which covers the associated costs) and the relevant tribal institution(s). Based on the desires of the Gila River Indian Community (GRIC), for example, all collections from GRIC lands formerly curated by ASM have been transferred to the Huhugam Heritage Center. ASM has been in discussions to similarly transfer all collections recovered from the Tohono O'odham Nation to the Himdag Ki:. ASM is also open to transfers to curatorial facilities managed by the Salt River-Pima Maricopa Indian Community as well as other descendant communities in Arizona. On a related note, since the current ASM Director began his employment at ASM, as Head of Collections, there has been a sustained effort to divest the museum of collections that fall outside its core focus (the US Southwest and northwest Mexico). For example, ASM is currently in the middle of the process of returning to the Philippines thousands of objects collected by William Longacre and Edward Dozier. Similar efforts, involving other regions of the US and other countries are planned for the future, as time and other resources allow.

20. Digitizing reviews would help improve efficiency for both clients and ASM, especially with concurrent reviews.

See response to Comment No. 14, above.

21. Could ASM consider moving to a ¼ inch or ½ inch minimum billing unit for document submissions?

Yes, ASM will reduce the minimum billing unit for document submissions to ¼ inch.

22. It would be helpful to make the final copy of a document sent to ASM the final copy to be curated (specifically when ASM is the last in line with a concurrent review).

See response to Comment No. 14, above.

23. ASM's forms are redundant in that they require the client to input the same information across multiple forms. Would it be possible to create one living document that stays in draft form, so that, in the end, clients only submit one form? What may be more efficient for ASM comes at the cost of the client's efficiency.

ASM is working with a new database system and developing a new client portal that may allow for this suggested change. However, due to our need to employ programmer(s), it will likely take a significant amount of time for this goal to be realized.

24. Why is digital image curation \$38/image?

The total cost for digital image curation comprises two task lines, shown below. The professional line is at the smallest time increment of 6 minutes, or 0.1 hours, but the professional rate is high. Our curation specialists are adamant that a professional needs to review the work to ensure the accuracy of information going into the catalogue/database. The Specialist's time is spent indexing and encoding metadata into the photo files. These costs do not cover any of the long-term storage costs for digital images (e.g., Amazon Glacier or on-premises servers). They merely cover the cost of employee time spent curating the data relevant to the images based on the rates in effect at the time the quote is accepted by ASM's customer.

CURATION Prepare Photos - Specialist - (PHOTO) 0:18

CURATION Process Images - Professional - (PHOTO) 0:06

25. Does the annual permit need to be annual, or could ASM consider issuing multi-year permits?

Per ABOR Rules, Policy 8-202(A), both Blanket Permits and Project-Specific Permits may only be issued for a period of up to one year from the day the permit becomes effective.

26. Is the new building construction cost included in the new fee proposal/cost model?

Yes, there is a pro-rated (per one-cubic-foot box) charge based on the university's recent proposal and cost study for the construction of a new, off-campus curation facility. The planned facility will accommodate 80,000 cubic feet of collections.

27. Could the rate calculations be reiterated in the final proposal? This information would demonstrate where costs are coming from and could possibly be used to advocate for support from external entities.

ASM will publish on its website all the data used to construct the proposed rate and fee model. The data will be redacted, however, to conceal personal information such as employee names and employee numbers.

28. Do charges related to responses to inadvertent discoveries of human remains and protected items apply to private land?

Yes. This is specified in ARS § 41-865(E), which also states that “[i]f the landowner is unwilling or unable to bear the costs required, the acquisition and preservation fund shall bear the full cost of removal.” The state legislature, in ARS § 41-866, created the acquisition and preservation fund, “consisting of monies received from fines and forfeitures of proceeds imposed pursuant to section 41-865, subsections G and H and from grants and private donations.”

State law dictates that “[t]he director shall expend monies in the fund to defray the costs of the acquisition of real property that contains human remains and funerary objects and the costs of the removal, reburial, repatriation and preservation of human remains and funerary objects.” Unfortunately, this fund has only received two influxes of monies since its creation, totaling a little more than \$100,000, and all but several hundred dollars have been expended over the past twelve years on the costs of the removal, reburial, repatriation and preservation of human remains and funerary objects.

29. How does ASM recover costs for inadvertent discoveries of human remains and protected items on private lands? How does ASM recover costs for inadvertent discoveries other lands? Is ASM concerned that parties may avoid reporting in order to avoid associated costs?

ASM issues invoices to landowners and agencies. Also see response to Comment No. 28, above. ASM is concerned about the unintended consequences of this practice. However, it is specified in state statute (ARS §§ 15-1631, 41-841, 41-865,) that ASM can recover these specific costs and, per state law, ASM is required to recover the costs it accrues in providing services.

30. What happens if federal funding to the University of Arizona decreases?

All funding used by ASM to provide state-mandated services is generated by fees charged to clients. Although the recent reduction in federal funding to universities across the US will have impacts on research, teaching, and public outreach at the University of Arizona, there will be no effect on ASM's ability to provide state-mandated services.

31. Has ASM considered the unintended consequences associated with a non-compliance fee? Might some prefer a fee over compliance?

This question assumes that ASM has no other recourse related to noncompliance. The Director can revoke the permits of personnel in CRM firms and has done so in the past. Also, multiple classes of parties are subject to possible criminal prosecution by county attorneys and/or the Attorney General based on violations of the Arizona Antiquities Act.

32. On page 2 of the Notice of Intent, ASM discusses fees related to clients not in compliance with state statute and ABOR Rules. Would ASM characterize the fees as a deterrent for non-compliance? Are they intended for permit-holders or all parties?

Some of the proposed fees are intended to curtail non-compliance. Adoption of these fees by ABOR will have zero financial impact on ASM clients who comply with statutory and professional standards and are merely a means of encouraging clients who might not have complied previously to do so in the future. Also see response to Comment No. 31, above.

33. Where does the statutory authority to assess fees to discourage poor behavior come from? ASM should be clear in distinguishing cost recovery from penalties.

ARS § 15-1631(C) states that “[t]he Arizona board of regents shall adopt any fees for services performed by the state museum pursuant to title 41, chapter 4.1, article 4 and section 41-865.” ASM interprets its mandate to provide oversight of the activities described in title 41, chapter 4.1, article 4 and section 41-865 as service rendered and is establishing fees for rendering those services accordingly via the statutory process described in ARS § 15-1631. Also see response to Comment No. 10, above.

34. Pima County is concerned about how these increases in fees will impact small-scale projects, specifically land conservation projects. Pima County is involved in many small projects with low budgets or no budget. Pima County entities might be the proponents of projects focused on protecting cultural resources. It seems like it would be very difficult for these County entities to absorb these costs. Is there any way the revised rate and fee proposal could incorporate a tiered approach to services to reduce costs for small projects? Some projects have been abandoned due to lack of funds. One way to address this is to differentiate projects from programs. ASM’s cost structure favors projects but punishes programs. Could ASM create contracts with agencies (e.g., programmatic agreements, MOUs) to facilitate programmatic work? Several state agencies do not get money from the state general fund, so arranging agreements with fellow state agencies, especially related to environmental conservation, would be helpful.

See response to Comment No. 12, above.

35. Agricultural producers, farmers and ranchers, incur fees related to ASM services. Can ASM work with other agencies that have the infrastructure, to reach agreements that lessen the administrative burden and reduce the costs that ASM has to recover?

See responses to Comment No. 1 and Comment No. 4, above.

36. The consequences of higher costs include reduced engagement with the site files by clients.

By law, the project proponent is responsible for reimbursing the costs borne by ASM in providing state-mandated cultural resource management services. ASM receives no funding, either from the state legislature or ABOR, for the operations of its Mandated Programs offices. As ASM’s costs have increased

over time, it has had no choice but to increase its rates and fees. Regarding the Archaeological Records Office ("site files"), there are currently no fees for an in-person visit to this office or for information that is accessed in a "virtual appointment."

37. Increased fees may lead to an increase in contractors wanting to use other repositories and may impact tribal repositories.

ASM is aware of this situation and, as discussed above, is working with other institutions, advising and assisting them in the process of obtaining the designation of public repository under state law (i.e., becoming able to accept state-owned collections for curation in perpetuity).

38. Burial Discovery Agreements (BDAs) were negotiated with Tribes, including their councils, yet some cities did not adhere to general BDAs. Will some continue to adhere to general BDAs and will some not?

Most BDAs issued by ASM are either Standard or Project-Specific BDAs. Standard BDAs have replaced the Phoenix, Tempe, Pima County, and Mesa General BDAs because the Standard BDAs provide the most current respectful protocols. A BDA issued by ASM for a project must be adhered to by the parties involved in the agreement.

39. ASM charges fees associated with the review of Principal Investigators and Project Directors. Do these costs impact the ability of new people advance to these positions in the field? Might these costs deter small companies or organizations from submitting new people for review? Could ASM consider outsourcing review of qualifications to an outside entity such as a volunteer board or panel?

Per ARS § 41-842, it is the responsibility of ASM to determine the qualifications of organizations applying for permits. Further, ABOR Policy 8-202(C) specifies that it is ASM's responsibility to review applications for permits, specifically related to the qualifications of both Principal Investigators (PIs) and Project Directors (PDs). This is a responsibility that cannot, by law, be outsourced. Direct oversight and management of the processes at the heart of ASM's mission are required by law and by common sense. In addition, it seems unlikely that some external, volunteer board or panel would be able to respond as quickly as ASM to the needs of clients in terms of evaluating prospective PIs and PDs so that these individuals may be listed on permits. It is unclear how any volunteer board or panel would recover its costs and, if ASM availed itself of the services of such an entity and incurred costs in the process, these costs, by law, would have to be passed on to the client and, ultimately, to the project proponent.

40. ASM regularly conducts studies of the average time required to complete tasks. Can these be shared for the sake of transparency?

Yes. ASM has committed to conducting such studies on an annual basis and will publish the data on its website. Also see response to Comment No. 27, above.

41. Has ASM considered the possibility that raising its fees may contribute to non-compliance?

ASM is required by law to recover the costs it accrues in providing services and the costs of providing those services have increased substantially. Also see response to Comment No. 31, above.

42. Is the repository taking private land collections?

The ASM Archaeological Repository is currently able to issue Repository Service Agreements (RSAs) to any archaeological project that is carried out under an Arizona Antiquities Act (AAA) Project-Specific Permit, in addition to site monitoring projects conducted on private, federal, and tribal lands. However, given ASM's space crisis and in order to fulfill our mandates under state law, the ASM Archaeological Repository is not currently issuing RSAs for collection surveys, testing, and excavation projects that are not carried out under an AAA Project-Specific Permit. In recognition that there may be circumstances in which ASM may be the most appropriate curation facility for a collection, RSA requests for projects not carried out under an AAA Project-Specific Permit are considered on a case-by-case basis.

43. How do we address the curation crisis? We need to have that discussion as a professional community. Can ASM take the lead?

Beginning in the early 1970s, archaeologists recognized what has come to be called the curation crisis. Federal legislation and regulations enacted during the 1960s, including the Reservoir Salvage Act (1960), the National Historic Preservation Act (1966), and the National Environmental Policy Act (1969), and similar state statutes resulted in an explosion of archaeological fieldwork and collections of artifacts and associated records requiring curation. As residential, commercial, and infrastructure development have increased with population, growth in the volume of archaeological materials recovered as a result of legally mandated fieldwork has continued to outpace increases in funding and space available for curation.

In one of the first papers to address this problem, William Lipe (1974) proposed a comprehensive approach. He suggested improvements in four areas: space (construction of new storage facilities and strategic use of storage space based on anticipated frequency of use, i.e., incorporating the concept of "deep storage"), funding (situating deep storage facilities in inexpensive locations, as opposed to university campuses, and educating project sponsors regarding the true costs of curation), reducing the flow of materials into repositories (through an emphasis on avoidance of archaeological sites as ground-disturbing activities continue and better use of sampling when excavations must occur), and encouraging more use of existing collections in archaeological research. ASM agrees that this list captures the key strategies for addressing the curation crisis and has long advocated for stemming the flow of collections into repositories. ASM suggests that this can best be achieved through better prioritization of which sites are subjected to data recovery based on landscape-scale research and preservation plans (similar to what the US Bureau of Land Management has done in New Mexico over the last two decades).

At a public forum related to ASM's 2017 Notice of Intent to Increase Rates and Fees (hosted by the Arizona Department of Transportation, in Phoenix, on 20 July 2017), there was discussion of a possible two-tiered approach to archaeological data recovery (i.e., some sample of a site from which resulting collections are curated entirely and a sample that is subject to culling or some other procedure that limits the size of collections). The consensus, however, was that culled collections are problematic in that they are severely limited in terms of research potential, and preserving research potential is at the heart of what we do in the cultural resource management community.

If a two-tiered approach moves forward, overarching guidelines must be developed, based on input from many different kinds of experts. Some discussions of this topic touch on the question of what might be the "ideal" minimal proportion or percentage of a site to be excavated, assuming curation of all materials recovered. ASM's approach to the review of research designs (mitigation plans) does not focus on



percentages of sites to be excavated. Instead, the focus is on the appropriateness of the proposed research questions and the goodness of fit between these questions, the nature of the resource(s) involved, the size and location of the APE (area of potential effects) relative to the resource(s) involved, the proposed data recovery techniques, and the classes of data to be recovered. These same principles show up in the state reporting standards issued jointly in 2009 by the State Historic Preservation Office (SHPO), ASM, and the Arizona State Land Department (ASLD):

[https://www.statemuseum.arizona.edu/sites/default/files/RTP\\_SHPO\\_standards\\_10\\_09.pdf](https://www.statemuseum.arizona.edu/sites/default/files/RTP_SHPO_standards_10_09.pdf)

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

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

Stakeholders also discussed the benefits of alternative mitigation strategies such as working with existing collections. There was some discussion regarding whether the community should reconsider how eligibility is determined/applied, and whether managers should be more conservative in this area. Consensus settled on the notion that the use of eligibility is related to a conservation approach to the archaeological record and that we, as a community, should focus on how to resolve adverse effects (e.g., through alternative mitigation) rather than the issue of eligibility. Stakeholders suggested including more academic archaeologists in future discussions and also highlighted the importance of tribes being engaged meaningfully in this process.

At another public forum related to ASM’s 2017 Notice of Intent to Increase Rates and Fees (3 August 2017, in Flagstaff), there was additional conversation about the notion of a “two-tiered approach” to archaeological data recovery. Comments offered by stakeholders included the following:

- This approach could be characterized as “salvage versus science,” and represents a step backward in historic preservation/cultural resource management.
- Before ASM’s 2017 proposal, costs were already pushing the CRM industry toward more of an emphasis on salvage and less of an emphasis on good science.
- Determining which portions of a site to prioritize under a two-tiered model would entail an unacceptable level of effort and cost (no real cost savings would be realized).

At this meeting, discussion of the possible benefits of large-scale, alternative mitigation plans like the Fruitland Project Mitigation Plan and the Permian Basin Mitigation Program continued. Such overarching, regional plans take a landscape-scale approach to archaeological resources, rather than continuing to manage and treat sites on a project-by-project basis. Landscape-level planning gets around piecemeal decision-making at the project or site level by taking a step back and considering research priorities and how certain types of sites might best contribute to the advancement of scientific knowledge. In the case of the Fruitland Project Mitigation Plan, project proponents contributed funds toward data recovery from sites not directly impacted in order to further research about ancestral Puebloan and Navajo sites in the general project area. Regarding the latter group of resources, this was particularly important, as

the project area is the Dinétah, where the Navajo emerged as a unique cultural entity. Project proponents were particularly supportive of this plan because they could see the value in illuminating the earliest archaeology of the Navajo people, compared to digging a few trenches in sites that would yield very little new or meaningful information about the past. In short, project proponents could point to substantive contributions to society as a whole, rather than the archaeological clearance of well pads, pipelines, and roads.

Stakeholders at the 3 August 2017 meeting suggested that such overarching plans (and Arizona, like New Mexico, would need multiple regional plans), with clearly defined research priorities, could be very helpful to land-managing agencies, in that it would be easier to determine where proposed development projects are likely to be most expensive or least expensive (i.e., where such projects would be in the best economic interest of a land-managing agency, for example, the Arizona State Land Department). ASM pointed out that these sorts of plans, which place the decision-making in a sound scientific context at the beginning of the management process (planning), prevent situations where, at the end of the management process (curation), stakeholders are put in the position of discussing and making plans about the possible culling of collections. ASM contends that the best legal, scientific, and ethical approach is to make the best scientifically informed decisions about which sites and which portions of sites to excavate and to then curate the resulting samples in perpetuity to preserve research potential.

In the 2017 Flagstaff meeting, as at the 2017 meeting in Phoenix, hosted by the Arizona Department of Transportation, there was some discussion regarding whether the community should reconsider how eligibility is determined/applied, and whether managers should be more conservative in this area. ASM supports the State Historic Preservation Office's (SHPO) position on this issue (as expressed in the Phoenix meeting), i.e., that the use of eligibility is related to a conservation approach to the archaeological record, and that we, as a community, should focus on how to resolve adverse effects (e.g., through alternative mitigation plans and practices) rather than the issue of eligibility.

Consensus settled on the notion that SHPO is an absolutely key and central stakeholder in the process of developing landscape-scale research and preservation plans, given the fact that most CRM archaeology is driven by federal laws. Professional associations representing CRM firms and archaeologists, such as the Arizona Archaeological Council, were also identified as key stakeholders going forward. Stakeholders also discussed the benefits of alternative mitigation strategies such as working with existing collections.

#### Reference Cited in Response to Comment 43

Lipe, William D.

1974 A Conservation Model for American Archaeology. *The Kiva* 39(3-4):213-245.

44. Can ASM provide cost data related to a simple project and a complex project under the new rate and fee structure?

See response to Comment No. 27, above.

45. Can ASM provide more education or training regarding when it's best to negotiate a Project-Specific Burial Discovery Agreement?

ASM has provided training in this area in the past and will do so again.

46. If ASM runs out of space again, will repository agreements be voided?

No, ASM will honor all repository agreements that have already been issued. The University of Arizona has committed to funding additional space for ASM to meet its legal responsibilities related to curation.