

TRIBAL AFFAIRS OFFICE

TRIBAL CONTRACTING PROCESS HANDBOOK

OCTOBER 2008

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I. INTRODUCTION

The Tribal Affairs Office (TAO) has the responsibility to facilitate and coordinate the contracting process between the Department and the eleven Wisconsin tribes as well as the Great Lakes Inter-Tribal Council (GLITC), a non-profit consortium made up of ten Wisconsin tribes and one Michigan tribe.

The TAO works in conjunction with the Department's divisions in order to provide direct funding to tribal governments which supports health and family services for tribal communities. Over the years, tribal governments have taken on an increasingly larger role in the provision of health and human service programming to their memberships. Accordingly, the Department, allocates funds directly to tribal governments when the tribal communities have both the interest and capacity to provide the specified services.

The rationale behind this contracting process is predicated on:

- The Department's acknowledgment of the sovereign status of tribal nations and the state's commitment to fostering a government-to-government relationship with tribes as outlined in Executive Order #39 instituted by Governor Doyle in 2004.
- The belief that, due to the unique culture, social factors and needs of each tribal community, access and efficacy are enhanced when services are provided by tribal entities.

The purpose of this manual is to provide division program and fiscal staff with:

- A uniform source of information regarding the tribal contracting process.
- A means of identifying procedural differences between the TAO and division contracting processes.
- A way of defining the roles and responsibilities of the parties involved in the tribal contracting process.

II. TRIBAL CONTRACTS

1. Base Contract

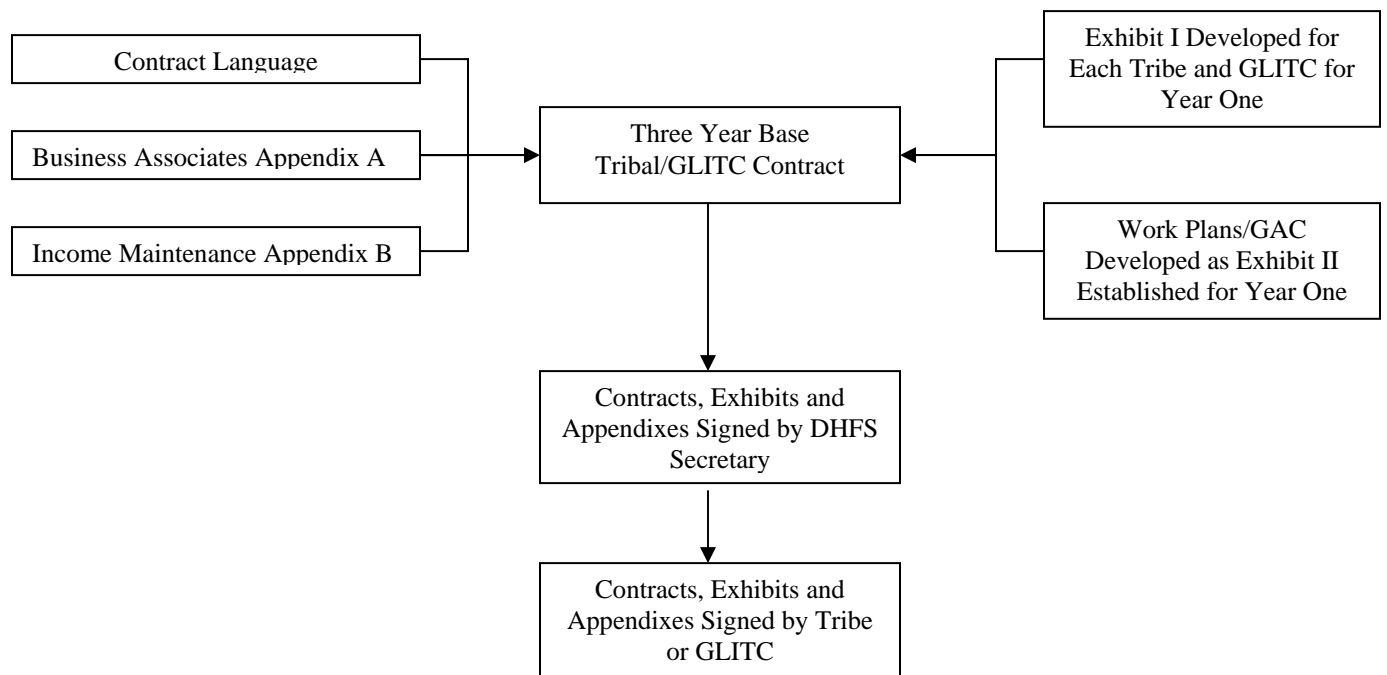
The TAO develops a three-year base contract with each of the eleven tribes and the GLITC. The tribal contract period follows the federal fiscal year, October 1st through September 30th. The tribal contract is composed of:

- Base Contract Language: The tribal contract language is similar to the language used in county contracts, however, some modifications are required due to the sovereign status of Indian nations. Generally speaking the contract specifies the obligations and authority of the parties as well as the conditions and processes associated with execution of the contract. The base contract document is developed at the beginning of the three-year contract period. The base language remains in force during the entirety of the contract period, but may be modified if changes are required. The base contract language is reviewed prior to the

beginning of each FFY. If changes are made to the base contract language, a revised contract document will be issued and signed by all of the parties.

- Appendix A: This appendix, also known as the Business Associate Agreement, is concerned with compliance to HIPPA regulations and related issues of client confidentiality. As in the case of the base contract language, Appendix A is established at the beginning of the three-year contract period and reviewed prior to the start of each FFY.
- Appendix B: This appendix to the contract is related to the administration of income maintenance (IM) programs. The appendix language reflects the requirements, processes and procedural expectations associated with the funding and operation of tribal income maintenance programs. This appendix is only issued to those tribal agencies that administer IM funds. At the onset of each fiscal year, as changes in federal regulations or other contributing factors occur, the appendix is revised accordingly.
- Exhibit I: Exhibit I provides a listing of tribes’ annual program allocations. An Exhibit I is developed for, and signed by, each tribe prior to the start of the FFY. Tribes’ Exhibit I documents are created by the Tribal Affairs Office and are based upon initial annual allocations that are established by the division providing the funding.
- Exhibit II: Exhibit II refers to work plans, specific program agreements or Grant and Contract (GAC) objectives that have been established relative to a specific program profile. With rare exceptions, an Exhibit II will be developed for each funded program. An exhibit II will define the objectives, restrictions and requirements associated with the specific program for which the funds have been allocated.

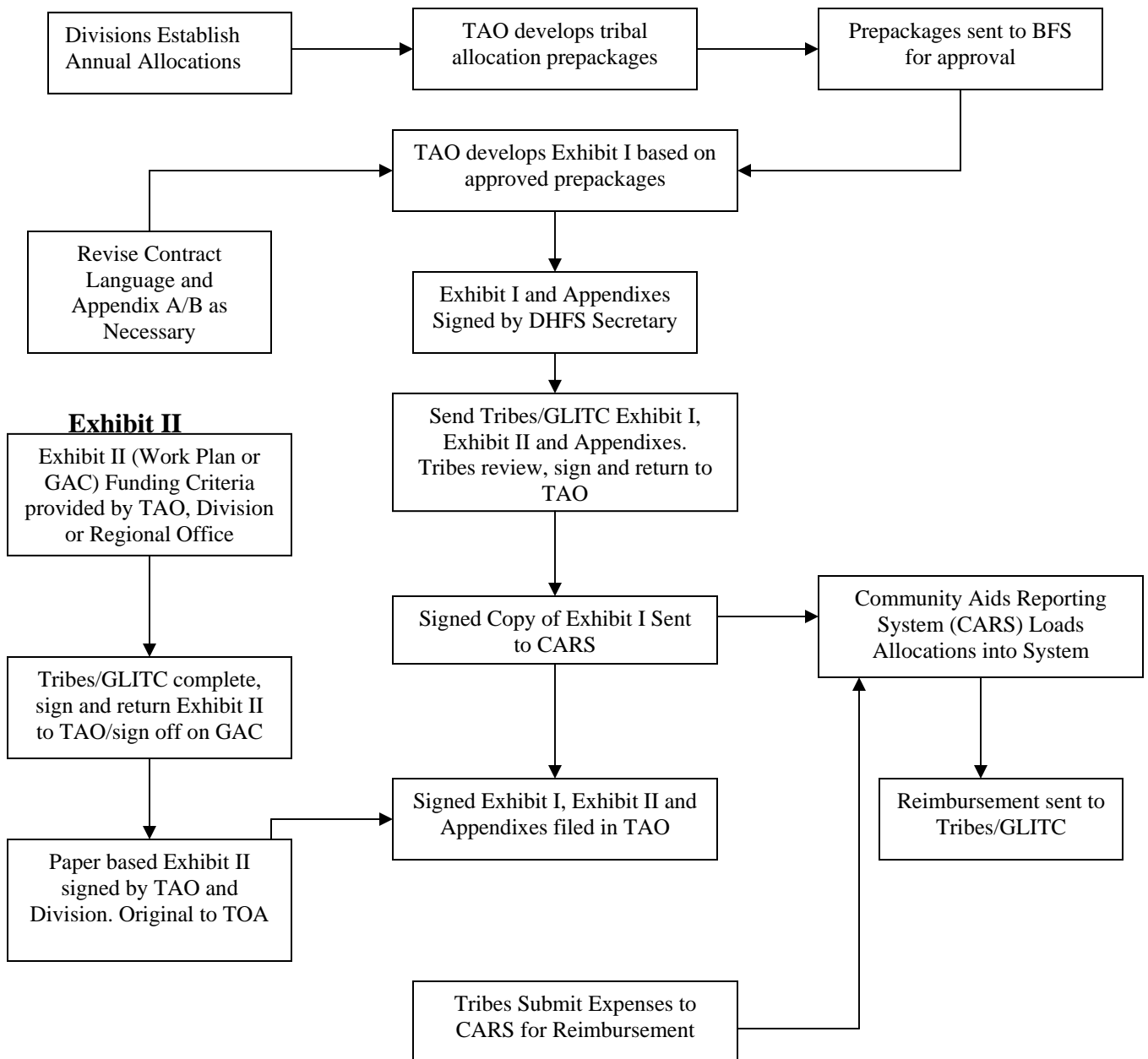
The following diagram illustrates a simplified version of the base contract development.



2. Annual Contracting Process

The annual contracting process mirrors the first year of the three-year base contract with one notable exception: The base contract document and the appendixes are not reissued in the second or third year of the contract period unless language has been revised. The base contract remains in force, however, an Exhibit I and all Exhibit II documents will be developed and signed by both parties prior to the beginning of the FFY.

A more detailed version of the annual contract process is illustrated below:



A. Tribal Contracting Time Line

The following time line indicates activities and approximates due dates related to development of the annual tribal Exhibit I, Exhibit II and Appendixes A and B for the annual contracting period of October 1st through September 30th.

Task	Due Date
Fiscal contracting coordination meetings with TAO, division fiscal/program staff, and BFS accountants	1 st week of February
Program contracting coordination meeting of TAO, division program managers, and regional staff	By 3 rd Week of February
Review and revise program allocations with division staff. Approval from divisions completed	By end of February
Preliminary review and revise program allocations with BFS staff. Program allocations approved by BFS	By 1 st week in March
Tribal prepackages for all divisions sent to BFS	By March 15th
Tribal prepackages approved by BFS	By end of March
Division staff review and revise work plan (exhibit II) formats.	Beginning of April
Family Service Program training for tribal program staff completed	Last week of April
TAO sends work plans to tribes and GLITC and Regional staff begin to negotiate GAC objectives with tribal/GLITC program staff.	1 st week of May
Update contract language with county contract language, as appropriate. Review and revise contract language with BFS, DES, DHCF, DLTC, OPIB, DMHSAS, DCFS and OLC.	By End of May
Fraud plan cover letter, format or continuation form completed	By End of May
Review and revise Tribal CARS Manual and Expenditure Report formats (600t)	By End of May
Contractual procedures, program requirements, work plan formats, and IM fraud plan format sent to tribes and GLITC	By 2 nd week of May
Tribes and GLITC develop work plans with performance outcomes or GAC objectives and submit to TAO	By 2 nd week of July
Prepackages to change to tribal allocations must be submitted. Authorizations received after this date will be processed as addenda to the contract.	By 2 nd week of August
Work plans reviewed and approved by division Program Managers and Tribal Affairs office	By 2 nd week of August
Contract documents completed, signed by Secretary and sent to tribes and GLITC. (Email copies to tribal managers)	By the 3rd week of August
Tribes and GLITC review, sign, and return contracts to TAO	By 3 rd week of September
Approved work plans, program report formats, CARS Manual, 600t Expenditure Report forms, sent to tribes and GLITC	By end of September
Federal fiscal and program year begins	October 1st

B. Development of Exhibit I: Annual Allocation Process

As indicated by the above time line, the development of the annual tribal contracts is a nine month process. A major component of this process is each division's establishment of establishment of annual program allocations for the tribes and GLITC.

The Department allocates tribal program funds, with a few exceptions, on the basis of the Federal Fiscal Year. The decision to do so is predicated on the fact that tribal fiscal processes are based on the FFY. Each year, as the allocation process unfolds, the discrepancy between the FFY year, calendar year and State fiscal year poses a certain degree of challenge. This is especially true for some program areas that, for a various reasons, may not have adequate information to accurately project allocations within the tribal contract time frame. Therefore, in some cases, the initial allocation amount will be an approximation that may be adjusted at a later date, when more information is available. Adjustments to the tribal allocations, should they be needed, can be accomplished by submitting an additional prepackage prior to the second week in August. After that date, changes to initial or new allocations will be made through the contract addendum process.

The Exhibit I Development process is as follows:

- Each division sets allocation level and distribution formula for tribal profiles.
- Bureau of Fiscal Services works with Divisions to verify appropriate allocation levels.
- When allocations are set, the Tribal Affairs Office will prepare and submit prepackages for each Division's tribal allocations.
- Prepackages are approved by BFS and Division fiscal personnel.
- As needed, Division staff may provide the Tribal Affairs Office with the authorization to alter the initial tribal allocations or add funding to tribal profiles that were not included in the initial prepackage.
- In the second week in August, the Exhibit I documents are created for each tribe based on the allocations approved up to that date. Authorizations for changes in the allocations after this date will be accomplished by the contract addendum process.

C. Development of Exhibit II: Annual Work Plans/ GAC

Exhibit II provides contract language, conditions and objectives that are specific to a funded profile and supplements language contained in the base contract. Exhibit II can take the form of a work plan, GAC objectives or other document. Unless otherwise agreed upon by the authorizing division and the Tribal Affairs Office, an Exhibit II is developed for each funded tribal program. The TAO provides the division program manager with a template of the Exhibit II format. However, as each exhibit is uniquely tailored to the requirements of its profile, the format for may be modified. Regardless of the format, each Exhibit II must:

- Provide the names and contact information for appropriate DHFS and tribal staff.
- Define program objectives and outcomes.
- Provide a program budget and justifications for program expenses.
- State the program indirect cost rate.
- Document the signatures of authorized DHFS and tribal representatives.

Roles and Responsibilities in the Development of Paper-Based Exhibit II

Task	Responsible Party
1. Create an Exhibit II format that is appropriate for the profile.	The base format is provided by the TAO which can be modified by agreement between the TAO and division personnel.
2. Attach requirements, expectations, restrictions and other information required by DHFS/Division.	Division program/fiscal personnel
3. Division program manager negotiates objectives and programming with tribal staff. Division forwards Exhibit II to TAO.	Division and tribal program staff.
4. Exhibit II sent to tribe(s) for completion.	Tribal Affairs Office
5. Tribe completes, signs and returns Exhibit II. to TAO.	Authorized tribal personnel
6. TAO reviews Exhibit II, approves indirect cost rate, forwards to Division program manger for review and signature.	Tribal Affairs Office
7. Division program manager reviews and, if approved, signs off on cover sheet, returns to TAO. If Exhibit not approved, division staff negotiate revision with tribe.	Division Program Manger, TAO
8. TAO signs off on cover page and sends signed copies to division and tribal program manger.	Tribal Affairs Office.
9. Retain original Exhibit II in TAO tribal file.	Tribal Affairs Office.

D. Review of Appendixes:

The language specified in the base contract and appendixes remains in force throughout the three year contract period, unless changes become necessary since the contract and or the appendixes were last signed. This is most likely to occur in the case of changes in federal regulations associated with HIPPA (Appendix A) or Income Maintenance programs (Appendix B).

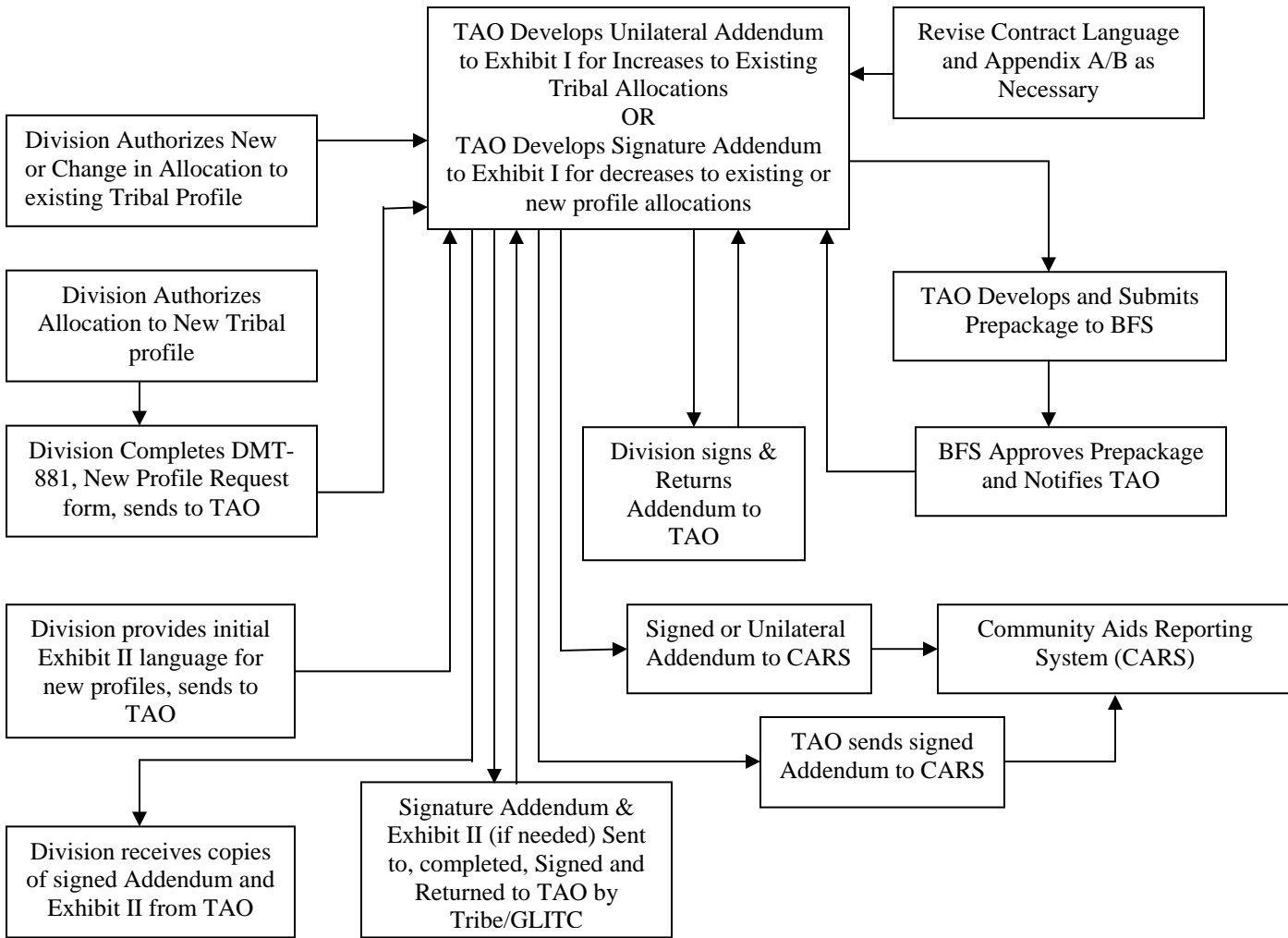
Each year the existing Appendix A is reviewed by the Tribal Affairs Office and the Office of Legal Counsel with respect to compliance to current HIPPA requirements. If the Appendix requires modification, the TAO and OLC will make the appropriate changes to the Appendix A. Unless the Appendix A has been altered, another document will not be issued until the start of the next three-year contract period. If the appendix has been changed, the revised document will need to be signed by the Secretary and the authorized tribal representative.

Appendix B will be reviewed each year by the assigned DHCF and TAO staff. Revisions to the existing Appendix B are based on changes in Federal and or State regulations regarding the administration of Income Maintenance programs. Should changes be required, the revised document will be approved by the DHCF, TAO and the OLC prior to signature by the Department Secretary and the authorized tribal representatives.

III. Contract Addenda

After the Exhibit I document has been developed and signed by the parties, any changes in the amount or funding period of a profile must be accomplished by means of a contract addendum. An addendum is the legal document that redefines the terms stated in Exhibit I of the tribal contract. The Tribal Affairs Office uses a standard format, as shown in Attachment 4, for amending all tribal contracts.

Contract addendums take two forms, unilateral and signature. Unilateral addenda are only used if the proposed change increases an allocation to an existing profile. Signature addenda are used in the case of initial funding for a new profile, a change in the funding period or an allocation decrease to an existing profile. The following flow chart illustrates the process for amending tribal contracts:



1. Addenda for an Existing Tribal Profile:

Developing a contract addendum begins with Division authorization. The authorization is a written communication that is sent to the Tribal Affairs Office by the requesting division. The authorization must include all information that is required to complete the required prepackage and addendum forms. The basic information includes:

- The current total tribal allocation for the profile and the distribution of the funding to the specific tribal organizations.
- The total amount and tribal distribution of the authorized change in allocations.
- The Profile number and full name of the profile.
- The appropriation number.
- The contract period.
- The name of the person authorizing the change and the names of those DHFS staff (program, fiscal and regional) to receive a copy of the addendum.

When the authorization has been received, the TAO will prepare the addenda and prepackage documents. The prepackage documents are emailed to the Bureau of Fiscal Services for review and approval. After the prepackage has been approved, two originals of the addendum will be sent to the Administrator of the authorizing division for signature. Upon return to the TAO, the signed addendum will be sent to the tribe/GLITC.

In the case of unilateral addenda, the second original is sent to the CARS unit for entry into the system. In the case of a signature addendum, both signed originals are sent to the tribe for signature who will return one signed original to the TAO. The TAO will forward the second original to the CARS unit and provide copies to the parties named on the addendum c.c. list.

2. Addenda for New Tribal Profiles:

With one exception, the preparation and processing of contract addenda for new tribal profiles follows the same process as addenda for existing profiles. In the case of new profiles, a New Profile Request form, DMT-881, must be completed. Upon receiving the authorization for an allocation to a new profile, the Tribal Affairs Office will email the DMT-881 form to the requester. The requesting division will complete the form and return it to the Tribal Affairs Office. The completed DMT-881 form will be submitted to the BFS with the other prepackage documents. The TAO will also use the information on the DMT-881 form to create a detailed profile sheet, which will be included in the tribal CARS manual.

3. Developing or Amending Exhibit II

The development of an Exhibit II related to a new tribal profile will parallel the process described in the preceding section, 2,C.

4. Revising Contract/Appendix Language

Generally speaking the issuance of a contract addendum will not require a revision of the existing appendixes. However, should the conditions or language set forth in the Exhibit II related to a contract addendum contradict the base existing appendix, a revision of the appendix may be required. Should this situation arise, it will be processed on a case-by-case basis.