

***TRIBAL AFFAIRS OFFICE
(TAO)***

***TRIBAL ANNUAL CONTRACTING
PROCESS HANDBOOK***

Table of Contents

| | |
|--|-----------|
| I. INTRODUCTION..... | 3 |
| II. TRIBAL CONTRACTS..... | 4 |
| 1. Three-Year (3) Base Contract..... | 4 |
| 2. Annual Contracting Process..... | 5 |
| A. Tribal Contracting Time-Line..... | 7 |
| B. Development of Exhibit I: Annual Allocation Process | 8 |
| C. Development of Exhibit II: Annual Work Plans/GAC..... | 8 |
| D. Review of Appendices..... | 9 |
| III. CONTRACT AMENDMENT VS ADDENDUM..... | 10 |
| 1. Addenda for Existing Tribal Profiles..... | 10 |
| 2. Addenda for New Tribal Profiles..... | 10 |

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 DHS 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 programs to their members. 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 of Health Services' 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 the DHS Tribal consultation policy.
- 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 Departments.

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

- 1) A uniform source of information regarding the Tribal contracting process.
- 2) A means of identifying procedural differences between the TAO and Division contracting processes.
- 3) A way of defining the roles and responsibilities of the parties involved in the Tribal contracting process.

Definitions

- (1) "Contract Appendix" means a program addition to the main body of the three year Contract. An annual Tribal Appendix requires the signature of both parties, or their authorized designee(s).
- (2) "Exhibit" means a financial addition to the main body of the three year Contract. An annual Tribal Exhibit requires the signature of both parties, or their authorized designee(s).
- (3) "Contract Addendum" means an addition to the Contract which is attached after both parties have signed the base Contract, the Appendix(s) and the Exhibit(s). An addendum is issued for new Division programs that are processed by TAO after October 1 of each year.
- (4) "Contract Amendment" means a signed memorandum from the Department which notifies the tribes that funds will be added, or subtracted to the Contract. An Amendment requires the signature of both parties, or their authorized representative(s) unless the only effect of the Department memorandum is to add funds, or change the time period.

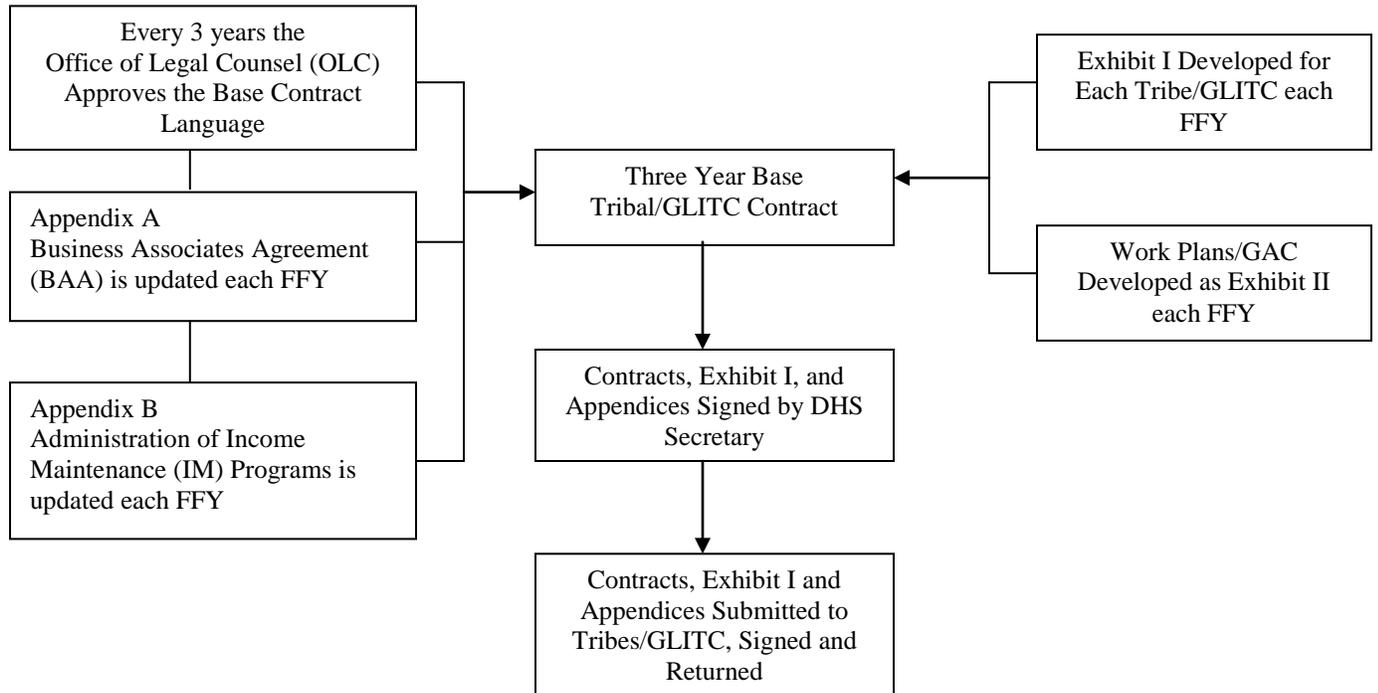
II. TRIBAL CONTRACTS

1. Three-Year (3) 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 contact 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 sent to the Tribes.
- **Appendix A:** This appendix, also known as the Business Associate Agreement (BAA)'s purpose is to guarantee compliance with Health Insurance Portability and Accountability Act of 1996 (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; updated each FFY with any new standard language; and approved and signed by both parties or their designee(s).
- **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 and signed by both parties or their designee(s).
- **Exhibit I:** Exhibit I provides a listing of Tribes' annual program funding allocations. An Exhibit I is developed for, and signed by, each Tribe prior to the start of each FFY. Tribes' Exhibit I documents are created by the Tribal Affairs Office and are based upon initial annual allocations that are established and approved 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.

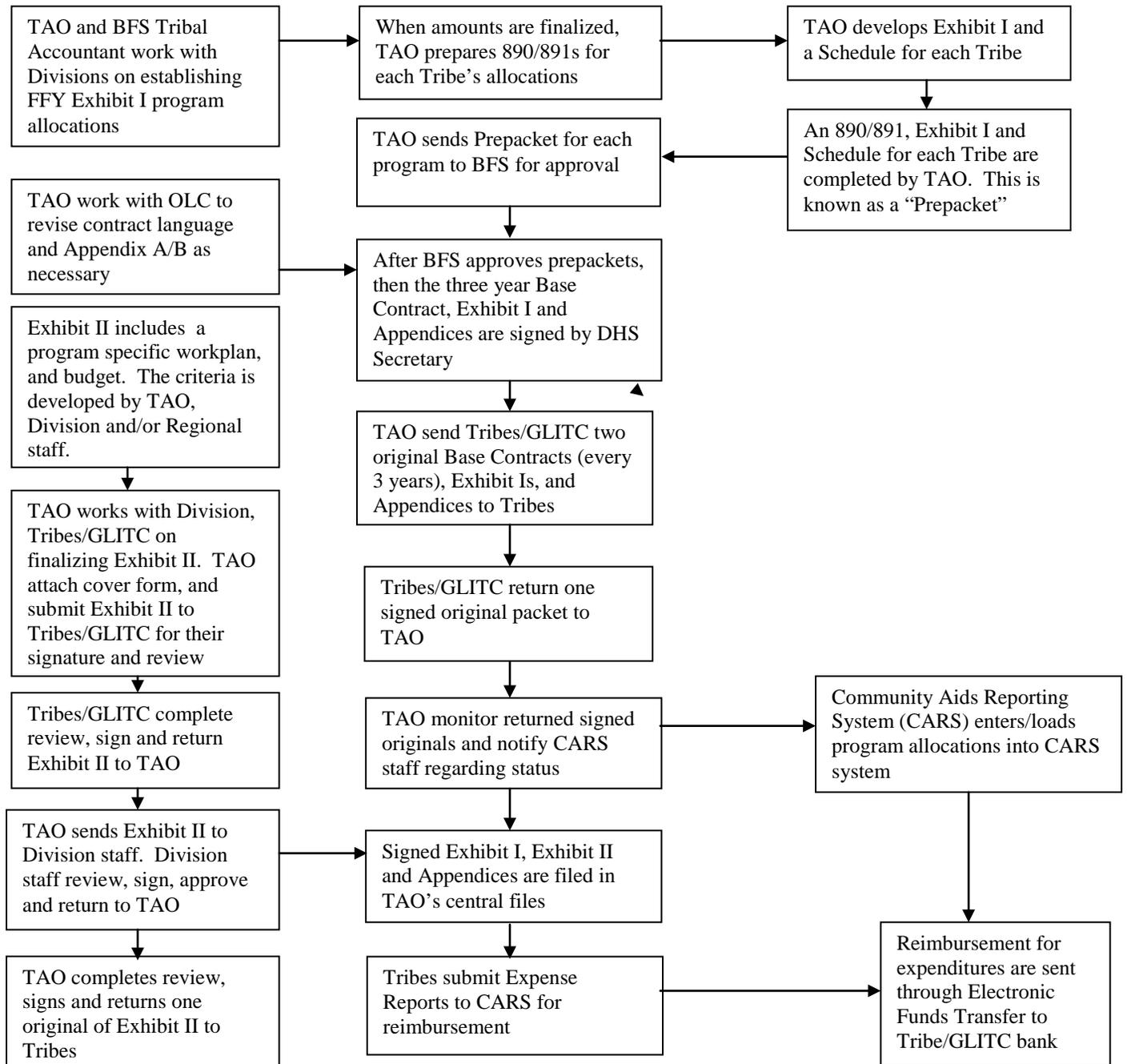
The following diagram illustrates a simplified version of the base contract development.



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 is not reissued each FFY. Any section(s) that have been updated during the three year period are sent to each Tribe/GLITC in their FFY contract packet. The base contract language remains in effect throughout the three- year time period.

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 Appendices A and B for the annual contracting period of FFY October 1st through September 30th.

| Task | Due Date |
|---|--------------------------------------|
| TAO fiscal staff schedule fiscal contracting coordination meetings with Division fiscal/program staff, and BFS accountants. | 1 st week of February |
| TAO consultation staff schedule program contracting coordination meetings with Division program managers, and regional staff. | By 3 rd Week of February |
| TAO fiscal staff and Division staff review and revise program allocations. Allocation approved by Divisions representative. | By end of February |
| BFS Tribal Accountant reviews and approves FFY and CY program allocations. | By 1 st week in March |
| TAO prepares and submits prepackets for all Divisions to BFS CARS. | By March 15th |
| Tribal prepackets approved by BFS. | By end of March |
| TAO and Division staff review and revise work plan (Exhibit II) formats, as needed. | Beginning of April |
| Tao completes Family Service Program training for tribal program staff. | Last week of April |
| TAO sends work plans to Tribes/ GLITC. Divisions, Tribes, and TAO negotiate and revise workplans/budgets or GAC objectives. | 1 st week of May |
| Every three years TAO consults with OLC and Division content experts on updates to the Tribal Base Contract. Every FFY, TAO staff review any changes to the annual State/County Contract and update language for the Base Tribal Contract, as needed. | By End of May |
| TAO fiscal staff review, revise and publish updates to Tribal CARS Manual and Expenditure Report formats on the TAO Internet site. | By End of May |
| Contractual procedures, program requirements, work plan formats, and IM fraud plan format sent to Tribes/GLITC. | By 2 nd week of May |
| Tribes/GLITC develop work plans with performance outcomes or GAC objectives and submit to TAO for routing and review. | By 2 nd week of July |
| If requested by Division staff, TAO will prepare and submit updated prepackets to change Profile(s) allocations. Any changes that are received after this date will be processed as an addenda or amendment(s) to Exhibit II. | By 2 nd week of August |
| Final work plans/ budgets are reviewed/approved by Division Program Managers and TAO. | By 2 nd week of August |
| Contract documents including a cover memo are finalized and printed; submitted to the DHS Secretary by TAO; approved/signed by the DHS Secretary; and sent via U.S. mail to the Tribal leadership/ GLITC Executive Director. A few days later, TAO will send copies of cover memo to "cc" recipients as an FYI. | By the 3rd week of August |
| Tribal leadership/ GLITC Executive Director review, sign, and return contracts to TAO. | By 3 rd week of September |
| Approved work plans and budgets are sent to Tribes/GLITC Program staff. | 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 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 (FFY). 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 prepaket prior to the second week in August. After that date, changes to initial or new allocations will be made through the contract addendum or amendment process.

The Exhibit I development and approval process is as follows:

- Each Division sets allocation levels and distribution formulas for their Tribal profile(s).
- TAO and the Bureau of Fiscal Services (BFS) Tribal Accountant work with Division staff to verify appropriate allocation levels.
- When allocations are finalized, TAO will prepare 890/891s and Exhibit Is for each Division's tribal allocations as a prepaket. Division contact(s) will be "cc"d when the prepackets are sent to the BFS CARS Unit.
- As needed during the prepaket process, Division staff may provide TAO with the authorization to alter the initial tribal allocations, or include funding for additional tribal profiles that were not originally included in the initial prepaket.
- Prepackets are approved by BFS within 13 working days.

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 TAO, 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:

- 1) Provide the names and contact information for appropriate DHS and tribal staff;
- 2) Define program objectives and outcomes;
- 3) Provide a program budget and justifications for program expenses;
- 4) State the program indirect cost rate; and
- 5) Document the signatures of authorized DHS 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 DHS/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. Tribal staff submit Federally approved in-direct cost rates to TAO | Tribal Auditing staff |
| 5. Exhibit II sent to tribe(s) for completion. | TAO |
| 6. Tribe completes, signs and returns Exhibit II to TAO. | Authorized Tribal personnel |
| 7. TAO reviews Exhibit II, approves indirect cost rate in budget, forwards to Division program manger for review and signature. | TAO |
| 8. Division program manager review and, if approved, signs off on cover sheet, returning it to TAO. If Exhibit II not approved, Division staff negotiate revision with Tribe. | Division Program Manger, TAO |
| 9. TAO signs off on form cover and send signed copies to Division and Tribal program manager. | TAO |
| 10. TAO retains original Exhibit II in TAO tribal file. | TAO |

D. Review of Appendices:

The language specified in the base contract and appendices remain in force throughout the three year contract period. Appendix A – the Business Associate Agreement (BAA) and the Administration of Income Maintenance Programs (Appendix B) are revised and signed each FFY.

In July of each year, TAO staff contact (1) the DHS Security Officer for the most up-to-date Tribal Appendix A; and (2) the Division of Health Care Access and Accountability (DHCAA) Income Maintenance (IM) staff for a revised Appendix B. Any FFY changes incorporated in Appendix A and Appendix B are based on new requirements in Federal and/or State laws, rules and regulations.

III. CONTRACT AMENDMENT VS ADDENDUM

After the Exhibit I document has been developed and signed by the parties, any increases in the funding amount, or changes to the contract period of a profile must be accomplished through a unilateral contract amendment. If the funds are decreasing then both parties are required to sign the amendment. An amendment 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 are processed for any new funds that are granted after Exhibit I has been approved and signed by both parties.

For further information, see definitions in the Tribal Contracting Process Handbook “Introduction” Section.

1. Addenda for an Existing Tribal Profile:

Developing a contract amendment or 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 prepacket forms and amendment or addendum documents. The basic information includes:

- For “new” contract addenda include the following information:
 - The total amount of the contract;
 - The appropriation and project number (if available);
 - The breakdown of the funding for each tribe;
 - The contract period; and
 - The Profile(s) ID
- For “change” contract amendments include the following information:
 - The total amount of the decrease or increase;
 - The appropriation and project number (if available);
 - The breakdown of the funding decrease or increase for each tribe;
 - The contract period; and
 - The Profile(s) ID

When the authorization has been received, the TAO fiscal staff will prepare the addenda or amendment(s) and the prepacket documents. The prepacket documents are e-mailed to the Bureau of Fiscal Services (BFS) CARS Unit for review, routing and approval. After the prepacket has been approved by BFS, two originals of the addendum or amendment will be submitted for approval and signature to the authorizing Division’s Administrator, Deputy Administrator or the staff person that submitted the request. TAO fiscal staff will track the Division’s approval and signature progress. Once approved and signed, TAO fiscal staff will attach a Tribal Routing form and mail the signed addendum or amendment to each of the Tribes(s)/GLITC.

If it is a “unilateral” amendment then there is no signature is required by the Tribes. One original is mailed to the Chairman/President and copies are mailed to the “cc” recipients.

If a Tribal signature is required, there is a “60 day between signature” DHS legal requirement. TAO fiscal staff will monitor the Tribal approval and signature process. If the “60 day between signature” period is ending without a signed addendum in place, then TAO staff will contact Tribal staff to determine what is causing the delay. The Tribes will retain one original in their files and return on original to the TAO fiscal contact.

TAO fiscal staff will make a copy and submit the amendment or addendum to the CARS Unit so they can input the data into the CARS system to begin the payment process. In addition, TAO staff will make copies and mail them to the “cc’ recipients.

2. Addenda for New Tribal Profiles:

The preparation and processing of contract addendum for new tribal profiles includes some additional steps which include completion of a New Profile Request form, F-80881 Upon receiving the authorization for an allocation to a new profile:

- (1) TAO staff will e-mail CARS staff with a request for them to assign a new Profile ID # in the requesting Division’s Tribal number sequence;
- (2) TAO staff will complete the first part of the form but Division staff will need to complete:
 - a. Complete Profile Name (name of the program)
 - b. A 25 or less character Profile Name
 - c. The Profile Type
 - d. Prepayment 0, 1, 2, or 3 (3 is standard)
 - e. Rolling and Allocating Expenses – either “Yes” or “No”
 - f. Reimbursable Percentage (standard is 100%)
 - g. A paragraph about any “Reporting Instructions.” This paragraph should include the both funding and a program descriptions.
 - h. Division staff will then e-mail completed F-80881 to TAO fiscal staff
 - i. TAO fiscal staff will include the completed form in the prepacket for this new program along with the other prepacket documents.
 - j. TAO will use the F-80881 information to create a detailed profile sheet, which will be included in the internet Tribal CARS Manual.