



Provide technical advice	Doc #	PR.TAC.00001-001
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Provide technical advice

PR.TAC.00001-001

	Name	Validation	Date
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DOCUMENT CONTROL SHEET

Process Area Product airworthiness/ environment certification
Main Process Technical advice contract
Main Process Owner Alain LEROY

Reference documents**a) Contextual documents**

Commission Regulation (EC) 593/2007 - Regulation of 31 May 2007 on the fees and charges levied by the European Aviation Safety Agency Regulation (OJ L140, 01.06.2007)
Regulation (EC) 216/2008 - Regulation of European Parliament and of Council of 20 Feb. 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency and repealing Council Directive 91/670/EEC, Regulation (EC) 1592/2002 and Directive 2004/36/EC

b) Internal documents

TE.TAC.00012 - TAC MoM
WI.DRM.00040 - Records management within P&A section
WI.DRM.00041 - Rotorcraft section record management
WI.DRM.00042 - General aviation records management
WI.DRM.00043 - Propulsion section records management
WI.DRM.00044 - Large aeroplanes section records management

Abbreviations/Definitions

Client
The natural or legal person requesting a Technical Advice Contract
EASA
European Aviation Safety Agency
NAA
National Aviation Authority
TAC
Technical Advice Contract

Log of issues

Issue	Issue date	Change description
001	21/07/2010	First issue



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INTRODUCTION

Purpose and scope

The industry occasionally requests the Agency to provide "pre-application services", i.e. technical advice services before the actual application process has started. The reason for these requests is generally that the client intends to use new or novel technologies in its design of aeronautical products and consequently seeks the Agency's preliminary view about using such technology.

The purpose of this procedure is to lay down general principles related to the provision of technical advice, under a new or amended Technical Advice Contract to the clients. It also stresses important issues the Certification Directorate staff has to consider when involved in the provision of Technical Advice Contracts.

Legal framework

In accordance with Article 20 of Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency repealing Regulation (EC) No 1592/2002 (hereafter referred to as "Basic Regulation"), the European Aviation Safety Agency (hereafter the "Agency") shall take the appropriate decisions in the area of airworthiness and environmental certification.

In particular, with regard to the products, parts and appliances referred to in Article 4(1)(a) and (b) of the Basic Regulation, the Agency shall carry out on behalf of Member States the functions and tasks of the state of design, manufacture or registry when related to design approval.

According to recital 20 of the introduction to the "Basic Regulation", it is deemed necessary to develop aircraft designs which better protect the safety and health of passengers.

According to Article 59.1(d) of the Basic Regulation the revenues of the Agency may include charges for services provided by the Agency. According to Article 64.4(b) fees and charges shall be levied for the provision of services and such charges shall reflect the actual cost of each individual provision of services.

Basic Principles

In order to ensure that the Agency meets all its statutory obligations and duties of the service and delivers expected outcomes the following basic principles shall be adhered to:

Integrity and fairness

All clients shall be treated equally and fairly

1.1. Eligibility of clients for general technical advice services

The client's service request eligibility check will be split between Administrative and Technical for the purpose of decision making with decisions on each being made by the Applications and Procurement Service Department and by the Certification Directorate.

Decision-making will not necessarily coincide with service provision. That will be provided in the most efficient and effective way to meet the client's needs.

1.2. Acceptance of requests for general technical advice services

The Agency reserves the right to reject requests for technical advice services, when

1. the client's declaration of interest contains concepts/ideas which are outside the scope of the Agency's competences
2. the Agency considers that concepts/ideas behind the request are not mature or not realistic/ not feasible
3. the Agency has insufficient resources available
4. the Agency for other well justified reasons considers that it would not be appropriate or in the interest of the Agency to provide the service.

Sending a draft of the contract to clients for information does not prejudice the Agency's subsequent decision whether or not it will finally enter into contractual relations for pre-application services.

Should the Agency decide that the request for service cannot be granted, the justified decision will be communicated in writing to the client by the Applications and Procurement Service Department.



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1.3. Scope of the Service

Industry members interested in receiving technical advice service from the Agency shall write a declaration of interest addressed to the Manager Applications Management Section.

Based on the request for services as detailed declaration of interest from the client (e-mail or letter), the scope of the service will be determined by the Agency and laid down in Annex I to the service contract. The services that shall be provided are subject to the terms and conditions specified in the contract.

Under no circumstances shall the services provided by the Agency cover certification tasks. Such services shall moreover not be related to the Agency's function as a competent European Agency for Aviation Safety and shall not prejudice or influence its decision making ability in that capacity.

The contract shall not refer to items covered by applications that have previously been cancelled by the client, when the actual application process has in fact already started. There shall be no parallel application of the contract with the application process for certification, as advice cannot be provided on items the Agency is supposed to certify.

1.4. Estimate of working hours or duration

All estimates will be provided by Certification Directorate.

The estimate of the required working hours should generally not exceed 300 hours per project per year.

The estimate of the required duration for the provision of the services under a contract must not exceed 1 (one) calendar year.

These limitations should generally be respected in order to make sure that the Agency has enough resources to fulfil the tasks assigned to it by the Basic Regulation.

1.5. Allocation and release of required resources

It must be noted that by signing the contract the Agency commits itself to perform all tasks covered by the contract. During the meeting between the Applications and Procurement Service Department and the representatives of Products Department and Certification Experts Department it will be decided whether the Certification Directorate has sufficient resources available for carrying out all tasks within the time frame indicated. The allocation and release of the required resources is a precondition for signature of the contract by the Agency.

1.6. Contract signature and commencement of service provision

The service contract between EASA and the Client will be countersigned by the Finance & Business Services Director/ Head of Applications & Procurement Services Department under the appropriate delegation from the Executive Director. The Agency will commence the service provision on the day the contract enters into force, i.e. on the day on which the contract is signed by the last contracting party, or at a later date as described in Annex I to the contract.

1.7. Involvement of NAA staff in provision of general technical advice services

National experts could be chosen to be part of the Agency's team. In this case, only a secondment, officially requested by A&P, will be accepted. A task allocation of the entire project to a NAA is not possible. The principles of this procedure shall be made known to any seconded NAA staff member before commencing the services.

1.8. Conflict of interest

Agency staff members and seconded NAA staff members involved in the provision of services under the contract should be made aware of the risk of conflict of interests. It is the responsibility of their management, or of the TAC Project Manager for seconded NAA staff, to make them aware of this risk.

The overriding idea behind avoiding any appearance of a conflict of interest is to avoid possible accusations of bias and partiality in any decision-making process the Agency may be involved in, so as to maintain its independence and credibility.

The contract will not impose an obligation for Agency staff to take into account the knowledge obtained during performance of the contract for the purpose of issuing certificates and will not grant any entitlement to the client in relation to such activities pursuant to Article 29 of the Basic Regulation.



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In the provision of services under this contract, staff members are instructed not to use information or knowledge obtained in the course of the contract for purposes other than as specified in the contract in a way that prejudices the Agency's official function as a competent authority according to the EASA Regulation or any other legal instrument.

Both parties shall ensure that the Agency and its staff members are not placed in a situation which could give rise to a conflict of interests. The Agency shall make its best effort to replace any staff member who is exposed to such a situation.

The services will not include making any firm commitments – or statements that the client can perceive as firm commitments – on issues that will be addressed and decided by the Agency during the normal certification process.

1.9. Confidentiality

Agency staff members and seconded NAA staff members involved in the provision of services under the contract are specifically required to respect the confidentiality that intrinsically applies to business information provided by the client. Such staff members must constantly ensure that such information does not fall into unauthorised hands, if necessary by storing them in secure locations. The unauthorised disclosure of such information can be harmful and the Agency could be held liable for loss sustained if the act is attributable to Agency staff members or seconded NAA staff members. A member of staff has no personal rights over such information and its use for purposes other than those required for the performance of the tasks would constitute a misuse of information.

However, in the contract the client agrees that the Agency reserves the right to use information resulting from the performance of the contract for any procedure dealing with an innovative design or where concerns arise about public safety, under the authority given to it by the EASA Regulation or any other legal instrument. Such use of information will continue to be subject to the conditions of "Confidentiality" and of "Ownership of the results - Intellectual and Industrial Property".

1.10. Data Protection

As mentioned in the contract, any personal data included in or relating to the contract, including its execution shall be processed by the Agency pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, and by the client pursuant to national laws based on Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regards to the processing of personal data and on the free movement of such data. NAA staff shall also be made aware of provision when the task is seconded to them.

1.11. Ownership of the results - Intellectual and Industrial Property

The contract specifies that the ownership of all copyright and other pre-existing intellectual or industrial property rights, including any documentation, data, technical information and know-how provided to the Agency in performance of the Contract remains vested to the client. All such information shall be held in strictest confidence and shall not be disclosed or copied to third parties by the Agency.

1.12. Minutes of Meeting/ List of opinions

After each meeting with the client the TAC Project Manager shall ensure that the Agency views are detailed in a formal way and documented.

The Minutes of Meeting document, which shall be signed by the TAC Project Manager will be shared with the clients and it is recommended that it should be agreed and signed by both parties. The document is intended to provide the Agency's understanding of what it stated during the meeting.

1.13. Termination of the contract

The contract terminates when all working hours are utilized or when the duration is expired, which ever occurs earlier, or when the Agency determines that the tasks concerned shall instead be addressed by the Agency in its authority given to it by the Basic Regulation as a competent authority.

The Technical Advice Contract contains clauses for termination of the contract by the Agency and/ or by the client .

1.14. Invoicing

According to Articles 10 and 11 of the Fees and Charges Regulation, the services provided by EASA give rise to charges which shall be equal to the real cost of the service provided including administrative costs.

1.15. Amendments of the contracts



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Changes, like increasing the number of working hours or extending the duration and/or the Annex's list of topics, should be avoided if possible, and such possibility should not be publicly advertised or encouraged with the clients.

Nevertheless, should the Product Department believe that amendments to the contract are not detrimental to the Agency and to his activities as a certifying authority, the contract could be amended. Any amendment to the contract shall be subject to a written agreement concluded by the contracting parties.

1.16. Disclaimer for insertion in all EASA communication with the client

All EASA staff involved in the provision of Technical Advice Contracts to the industry shall take care to insert the following disclaimer in all communications made by EASA in the framework of technical advice contracts itself, after appropriately filling in relevant TAC number and date:

"DISCLAIMER:

This document / communication and all information contained or referred to herein are provided for information purposes only, in the context of, and subject to all terms, conditions and limitations expressed in the contract TAC [XXXX insert number] of [XXXXXX insert date], under which the work and/or discussions to which they relate was/were conducted. Pieces of information or opinions expressed or referred to herein shall not constitute any binding advice or any basis for legal action or recourse against its authors (direct or indirect, including their employer) whatsoever. They shall not create or be understood as creating any expectations with respect to any future certification or approval whatsoever. They shall not in any way bind the European Aviation Safety Agency ("EASA") or otherwise affect its independent status, role or tasks as a public authority.

All intellectual property rights in this document shall remain at all times strictly and exclusively vested with the EASA. Any communication or reproduction in full or in part of this document or any information contained herein shall require EASA's prior approval and bear the full text of this disclaimer."



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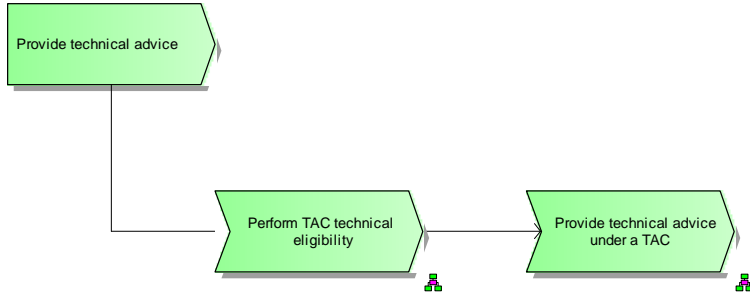
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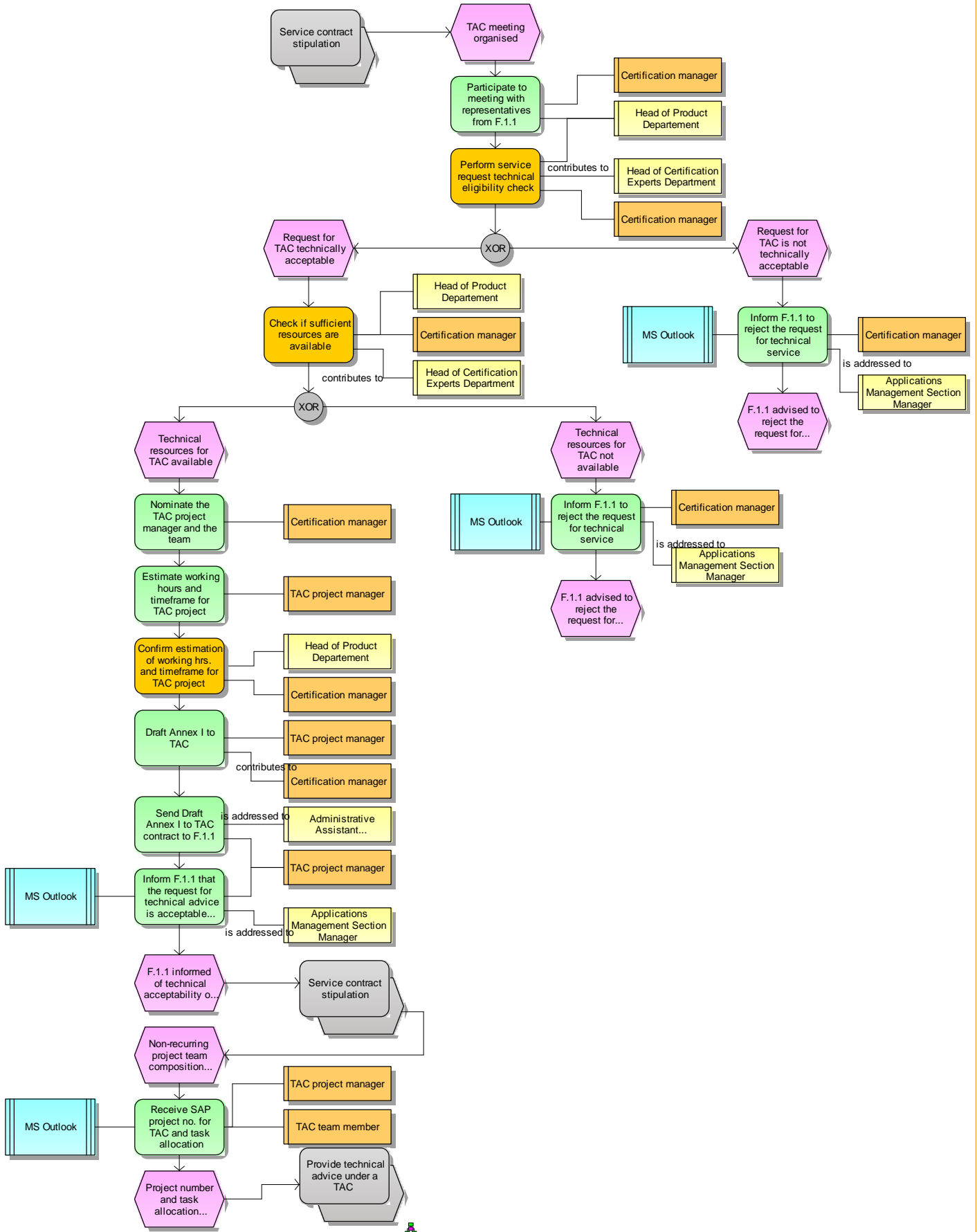
Structure of process charts

Provide technical advice





Perform TAC technical eligibility





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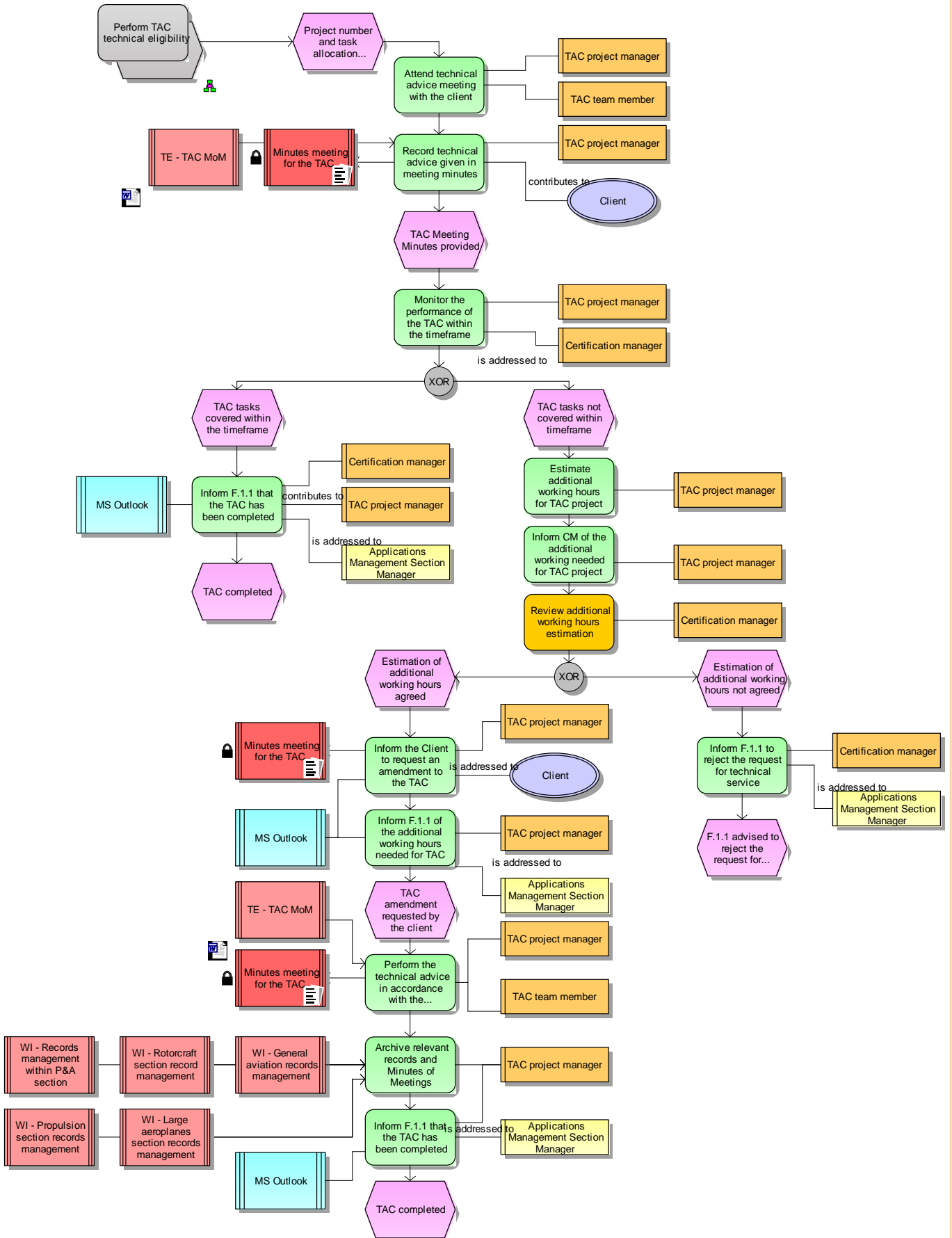
Activity	Description to the process activity
Check if sufficient resources are available	During the meeting between A&P and representatives of Certification Directorate, it will be decided whether the Certification Directorate has sufficient resources available to carry out (and in the indicated time frame) the technical advice tasks identified by the client in the Declaration of Interest.
Participate to meeting with representatives from F.1.1	If the request from the client is acceptable from the administrative perspective (application does not refer to an application for any certification activity previously cancelled by the client, etc.) F.1.1 shall organise a meeting with representatives of the Certification Directorate where the request for technical advice shall be brought to the attention of the technical experts.
Perform service request technical eligibility check	The Head of Products department together with a nominated Certification Manager and with the Head of Certification Experts department shall perform a technical check to determine if the client's service request is technically acceptable.
Nominate the TAC project manager and the team	If the request from the client is technically acceptable, the Certification Manager shall nominate and commit the TAC project Manager and eventually the team.
Estimate working hours and timeframe for TAC project	If the request from the Client is technically acceptable the nominated TAC Project Manager shall provide A&P with an estimate of working hours needed.
Confirm estimation of working hrs. and timeframe for TAC project	The Head of Product department together with the Certification Manager shall review the TAC Project Manager's estimation of working hours and the task accomplishment time frame.
Draft Annex I to TAC	The TAC Project Manager shall draft, with input from the Certification Manager, the Annex I to the TAC based on the request received from the client.
Inform F.1.1 to reject the request for technical service	---
Send Draft Annex I to TAC contract to F.1.1	---
Inform F.1.1 that the request for technical advice is acceptable from a technical perspective.	F.1.1 can now draft and sign the contract.
Receive SAP project no. for TAC and task allocation	---

Internal Process Interfaces

Service contract stipulation
Provide technical advice under a TAC



Provide technical advice under a TAC





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Activity	Description to the process activity
Attend technical advice meeting with the client	---
Record technical advice given in meeting minutes	---
Monitor the performance of the TAC within the timeframe	---
Inform F.1.1 that the TAC has been completed	---
Estimate additional working hours for TAC project	---
Inform CM of the additional working needed for TAC project	---
Review additional working hours estimation	---
Inform the Client to request an amendment to the TAC	If number of hours is not sufficient, or if the subject of the TAC needs to be changed in the process of the TAC, EASA TAC Manager after reviewing the estimate of the additional working hours with the Certification Manager, informs the Client to request an amendment to the TAC.
Inform F.1.1 of the additional working hours needed for TAC	---
Inform F.1.1 to reject the request for technical service	---
Perform the technical advice in accordance with the amended TAC	---
Archive relevant records and Minutes of Meetings	Archive the relevant records including the Minutes of Meetings in accordance with the Certification Directorate WI on Records keeping and archiving.

Internal Process Interfaces

Perform TAC technical eligibility



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RECORDS

Appendix A : Operational Documents

Provide technical advice under a TAC	
Record	Activity
Minutes meeting for the TAC	<ul style="list-style-type: none">- Inform the Client to request an amendment to the TAC- Record technical advice given in meeting minutes- Perform the technical advice in accordance with the amended TAC

Appendix B : External Documents