



Technical advice contract	Doc #	PR.CSERV.00002-004
	Approval Date	11/05/2016

Technical advice contract

PR.CSERV.00002-004

	Name	Validation	Date
Prepared by:	Robert Wiener	Validated	09/05/2016
Verified by:	Ralf Erckmann	Validated	10/05/2016
Reviewed by:	Valérie Landry-Sivel	Validated	10/05/2016
Approved by:	Ralf Erckmann	Validated	10/05/2016
Authorised by:	Trevor WOODS	Validated	11/05/2016





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DOCUMENT CONTROL SHEET

Reference documents

a) Contextual documents

Commission Regulation (EU) 319/2014 - Regulation of 27 Mars 2014 on the fees and charges levied by the European Aviation Safety Agency Regulation (OJ L93/58, 28.03.2014) and repealing the Regulation (EC) 593/2007
 ED Decision 2015/249/E - On the delegation of powers of the Executive Director to certain members of the Agency's and repealing ED Decision 2015/168/ED
 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/

b) Internal documents

WI.IMS.00064 - Records management within P&A section
 WI.IMS.00065 - Rotorcraft department records management
 WI.IMS.00066 - General aviation & RPAS department records management
 WI.IMS.00067 - Propulsion section records management
 WI.IMS.00068 - Filing plan large aeroplanes department

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
002	30/04/2013	Issue 002. This revision accounts for: - Inclusion of technical assistance upon request of EU NAAs and non-EU NAAs without Bilateral Agreement - Simplification of the existing workflow.
003	01/09/2014	Issue 003. Migration of PR.TAC.00001-002 in compliance with Convergence project.
004	11/05/2016	Issue 004. Broadening the scope of the procedure to also cover research activities; general review/update.





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INTRODUCTION

Purpose and scope

The European Aviation Safety Agency, hereafter referred to as the “Agency”, occasionally receives requests from:

- industry to provide “pre-application services”, i.e. technical advice services before an actual application process has started. With these requests, the client generally 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;
- authorities or other public or private organisations to provide technical advice for the fulfilment of their own legal obligations or in the context of research projects they conduct.

The purpose of this procedure is to lay down general requirements for performing technical advice, under a new or amended Technical Advice Contract. It also stresses important issues the Agency staff has to consider when being involved in the provision of technical advice under a Technical Advice Contract (TAC).

The activities covered by this procedure are performed by the Agency on a purely voluntary basis, i.e. as a service, and shall be regulated by a contract between the Agency and the client.

This procedure shall explicitly not apply to any services and activities already covered by other processes (such as Certification Support for Validation (CSV), Outsourcing Contracts, research carried out under article 26 of Regulation (EC) No 216/2008, etc.), and to those cases where Bilateral Agreements and, where applicable, their implementing provisions require the Agency to perform technical assistance upon the request of the aviation authority entitled to do so under the provisions of the Bilateral Agreement.

Legal framework

According to Article 59.1(d) 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, the revenues of the Agency may include charges for services provided by the Agency.

According to Article 64.4(b) 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 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.

According to Article 2(b) of Commission Regulation (EU) No 319/2014 of 27 March 2014 on the fees and charges levied by the European Aviation Safety Agency, and repealing Regulation (EC) No 593/2007, charges means the amount levied by the Agency and payable by applicants for services provided by the Agency other than certification.

In Article 2(d) of Commission Regulation (EU) No 319/2014 of 27 March 2014 on the fees and charges levied by the European Aviation Safety Agency, and repealing Regulation (EC) No 593/2007, the service is defined as all activities carried out by the Agency other than certification tasks, including supply of goods.

Basic Principles

1. Acceptance of requests for general technical advice services

The Agency accepts requests for technical advice services, unless:





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- a.) in the case of a request from industry, the client's declaration of interest contains concepts/ideas which are outside the scope of the Agency's competences,
- b.) the Agency considers that concepts/ideas behind the request are not mature or not realistic/feasible,
- c.) the Agency has insufficient resources available,
- d.) for other reasons the Agency considers it inappropriate, or against the interest of the Agency, to provide the service.

In case of acceptance of a request for technical advice, appropriate contractual arrangements shall be adopted depending on the nature of the request, prescribing amongst others the scope, liability and payment modalities applicable in each case.

Should the Agency decide to reject the request, the decision will be communicated in writing to the client by the Applications Management Section.

2. Scope of the Service

Industry members, authorities or other public or private organisations requesting technical advice from the Agency shall submit a declaration of interest (e-mail or letter) to the Agency, for the attention of the Applications Management Section Manager.

The scope of the service will then be determined by the Agency on the basis of the request and laid down in Annex I to the service contract.

Under no circumstances shall the services provided to industry cover certification tasks. Such services shall, moreover, not be related to the Agency's function as the competent authority in accordance with Regulation (EC) No. 216/2008 and shall not prejudice or influence its decision making ability in that capacity.

The Technical Advice Contract with industry shall not refer to items covered by applications that have previously been cancelled by the client after the application process has already started. There shall be no request for technical advice in parallel with the application process for certification, as advice cannot be provided on items the Agency is supposed to certify.

The contract with authorities shall not be misconstrued or interpreted as a waiver or delegation of a national requirement prescribed by national law or equivalent contracts. No legal entity is entitled to waive/delegate its legal obligations to the Agency.

The contract with public or private organisations requesting Agency involvement in research activities shall not be misconstrued or interpreted as a validation of the results of their research activities.

3. Estimate of working hours and duration

All estimates will be provided by the Agency under consideration of the availability of resources otherwise required by the Agency to fulfill the tasks assigned to it by Regulation (EC) No 216/2008.

For contracts with industry, the estimate of the required working hours should not exceed 300 hours per project.

For contracts with industry, the estimate of the required duration for the provision of the services under a contract must not exceed 1 (one) calendar year.





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4. Technical Advice Contract signature and commencement of service provision

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.

5. Conflict of interest

Staff members involved in technical advice projects are instructed not to use information or knowledge obtained in the course of the Technical Advice Contract for purposes other than specified in the contract.

Agency staff members and seconded NAA staff members involved in the technical advice project shall be made aware of this by their manager (or by the TAC project manager for seconded NAA staff) of the risk of conflict of interests.

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 Regulation (EC) No 216/2008.

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.

Reference is made to Annex 1 ("Policy on impartiality and independence: prevention and mitigation of Conflict of Interest") of the Code of Conduct for the staff of EASA.

6. Confidentiality

Agency staff members involved in the provision of technical advice are required to respect the confidentiality in accordance with Article 17 of the Staff Regulations of Officials of the European Union. Regulation (EC) No 1049/2001 on public access to documents intrinsically applies to information provided by the requesting authority. NAA staff members involved in the provision of technical advice are required to respect the confidentiality in accordance with the contractual arrangements between the Agency and the NAA.

All involved staff members must constantly ensure that the information does not fall into unauthorized hands, if necessary by storing them in secure locations. The unauthorized 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 proprietary rights over such information and its use for purposes other than those required for the performance of the technical advice would constitute misuse of information, unauthorized disclosure of proprietary information, a conflict of interest and an act ultra vires of its capacity.

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 Regulation (EC) No 216/2008 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".





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7. Data Protection

Any personal data included in or relating to the technical advice request, 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. NAA staff shall also be made aware of provision when the task is seconded to them.

8. 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.

9. Termination of the contract

The contract terminates when all working hours are utilized or when the duration is expired, whichever 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 Regulation (EC) No 216/2008 as a competent authority. The Technical Advice Contract contains clauses for termination of the contract by the Agency and/ or by the client.

10. Amendments to the contracts

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

Nevertheless, should the responsible Department believe that amendments to the contract are not detrimental to the Agency and its activities, the contract may be amended. Any amendment to the contract shall be subject to a written agreement concluded by the contracting parties.

11. Disclaimer for insertion in all EASA communication with the client in the case of a contract with industry:

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





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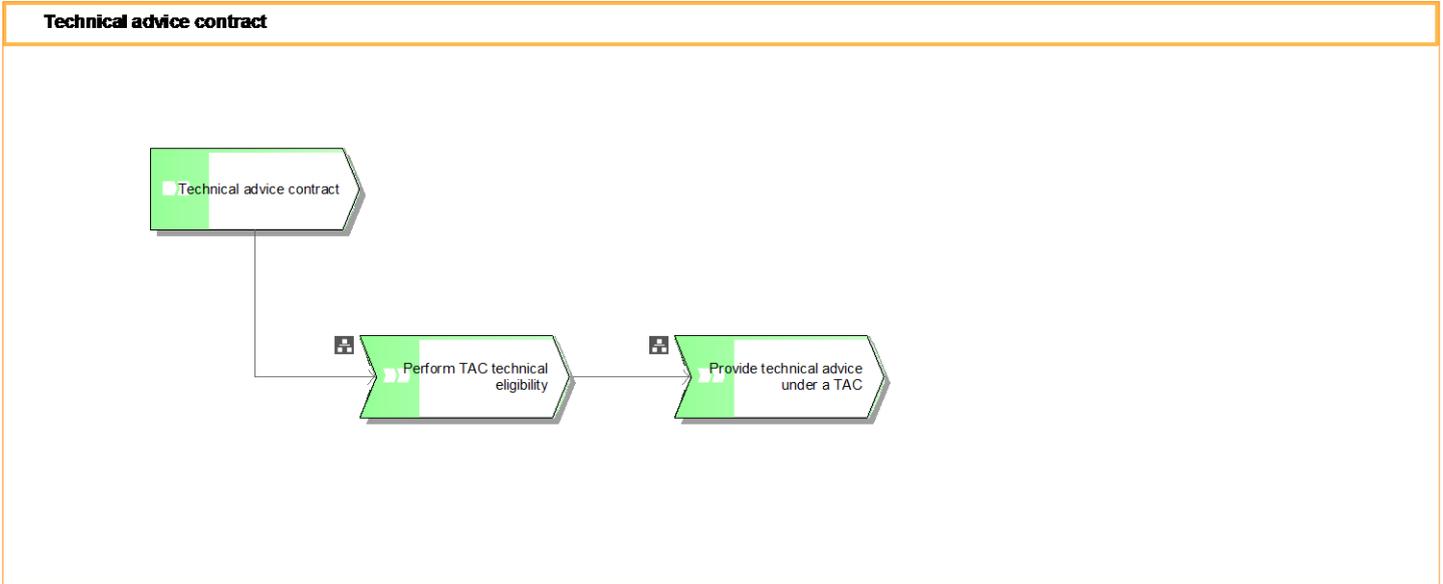
shall not create or be understood as creating any expectations with respect to any future certification or approval whatsoever. They shall not in any way bind the European Aviation Safety Agency (“EASA”) or otherwise affect its independent status, role or tasks as a public authority.

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."



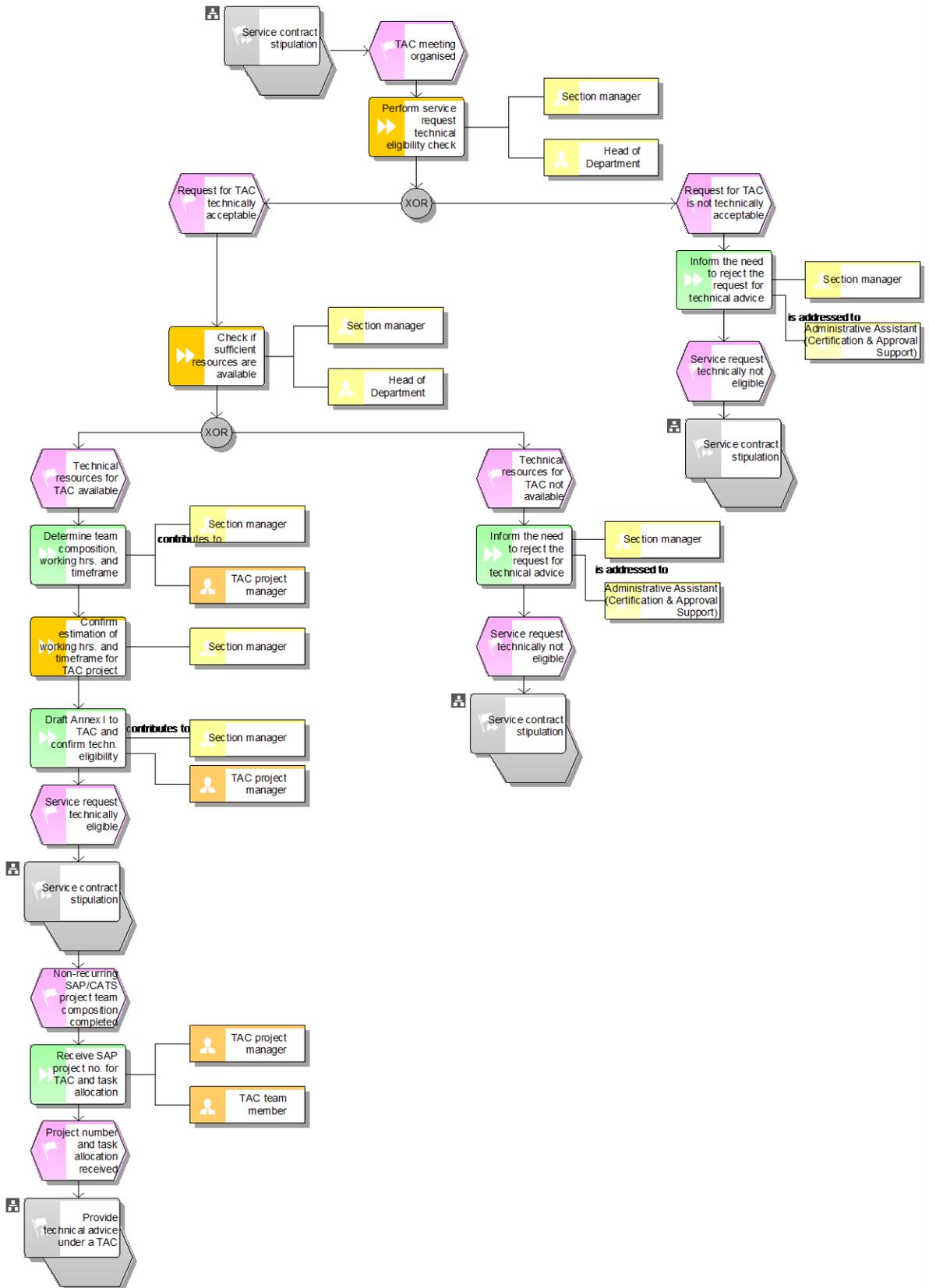


Structure of process charts





Perform TAC technical eligibility





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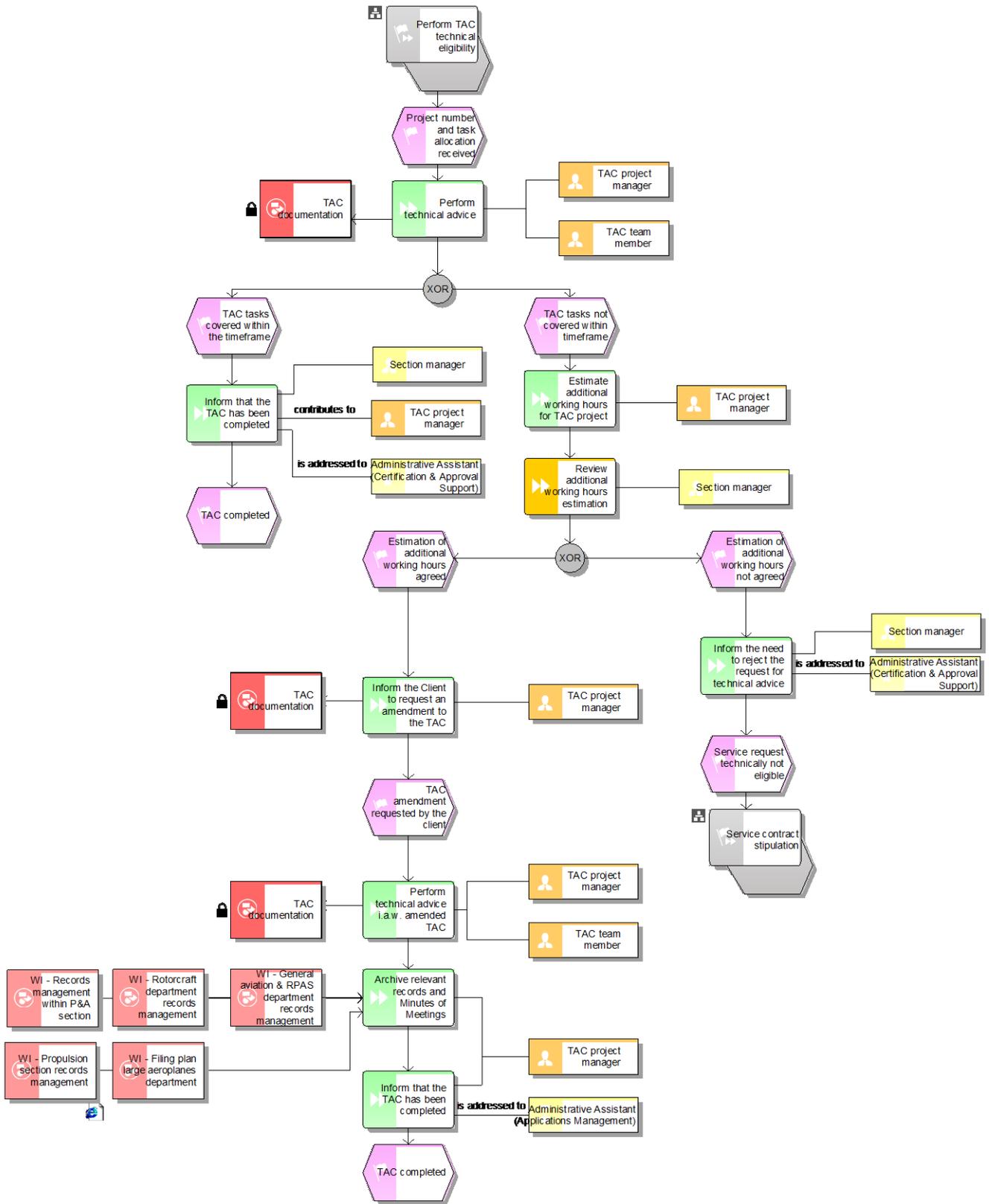
Activity	Description to the process activity
Check if sufficient resources are available	The responsible Head of Department and the responsible Section Manager shall commonly decide whether sufficient resources are available to carry out the technical advice in the indicated timeframe.
Perform service request technical eligibility check	The Applications Management Section shall organise a meeting with the responsible Head of Department and the responsible Section Manager to determine if the service request is technically acceptable.
Determine team composition, working hrs. and timeframe	The responsible Section Manager shall nominate the TAC project manager and team. The TAC project manager shall provide the Applications Management Section with an estimate of required working hours and timeframe.
Confirm estimation of working hrs. and timeframe for TAC project	The responsible Head of Department and the responsible Section Manager shall review the estimation of working hours and timeframe.
Draft Annex I to TAC and confirm techn. eligibility	The TAC project manager shall, with input from the responsible Section Manager, draft the Annex I to the TAC. The TAC project manager shall send the Annex I to the Applications Management Section and confirm the technical eligibility of the request.
Inform the need to reject the request for technical advice	Inform Applications Management Section of the need to reject the request for technical advice
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
Perform technical advice	<p>In the case of a technical advice request from industry, the TAC project team shall attend one or, if necessary, more technical advice meeting(s) with the client. The meeting and the detailed Agency views/advice shall be formally documented ("TAC documentation"). The TAC documentation shall be signed by the TAC project manager and shared with the client. It is recommended that both parties agree to and sign the document(s).</p> <p>In the case of a technical advice request from an authority or another public or private organisation in the field of research, meetings with representatives from the requesting authority or organisation may not be required, depending on the technical advice contractual arrangements. However, the detailed Agency views/advice shall equally be documented and shared with/agreed by the requesting authority or organisation, as in the case of a technical advice request from industry.</p> <p>The TAC project manager shall monitor the performance of the TAC within the timeframe and working hours allocated to the project.</p>
Inform that the TAC has been completed	Inform Applications Management Section that the TAC has been completed
Estimate additional working hours for TAC project	The TAC project manager shall inform the responsible Section Manager of the additional working hours needed.
Review additional working hours estimation	---
Inform the Client to request an amendment to the TAC	<p>If the number of hours is not sufficient, or if the subject of the TAC needs to be changed in the process of the TAC, the TAC project manager after reviewing the estimate of the additional working hours with the responsible Section Manager, informs the Client to request an amendment to the TAC.</p> <p>The TAC project manager shall inform the Applications Management Section of the additional working hours needed for TAC.</p>
Inform the need to reject the request for technical advice	Inform Applications Management Section of the need to reject the request for technical advice
Perform technical advice i.a.w. amended TAC	---
Archive relevant records and Minutes of Meetings	The TAC project manager shall archive the relevant records including the Minutes of Meetings in accordance with the applicable Work Instruction on Records keeping and archiving.

Internal Process Interfaces
Perform TAC technical eligibility Service contract stipulation





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RECORDS

Appendix A : Operational Documents

Provide technical advice under a TAC	
Record	Activity
TAC documentation	- Perform technical advice i.a.w. amended TAC
TAC documentation	- Inform the Client to request an amendment to the TAC
TAC documentation	- Perform technical advice

Appendix B : External Documents

