


OPERATIONS ADVISORY NOTICE (OAN)		 Transport Malta Civil Aviation Directorate Flight Operations Inspectorate Transport Malta Centre Triq Pantar Lija LJA 2021 Malta
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Subject: Flight Operations Inspectorate Policy for the Assessment of Nominees for Key Positions		

0.1 PREAMBLE

This policy document is designed to ensure commonality and transparency by CAD assessors in the evaluation of nominees for key positions with an organisation within the oversight of TM CAD Flight Operations Inspectorate. **This OAN has been updated in accordance with Regulation EU 1387/2019 (inclusion of GM1 ORO.GEN.200(a)(1) Management System) and GM2 ORO.AOC.135(a) Personnel Requirements.**

This OAN revokes OAN 02/17.

The following is an explanatory list of terms used in this policy:

He / him / his - Apply equally to both genders.

CAD- The competent authority in Malta.

Operator / organisation - The AOC holder or an entity that is in the process of applying for an AOC.

Sponsor - The organisation nominating a candidate for acceptance in a key position by CAD.

Assessor(s) - CAD personnel conducting assessments for the purpose evaluating the suitability of nominees for key posts.

Nominee / Candidate - A person, sponsored by an organisation for acceptance by CAD in a key positions within the organisation.

Key Position(s) / Personnel - One or a combination of incumbencies within the organisation and includes:

- Accountable Manager (AM)
- Nominated Person Flight Operations (NPFO)
- Nominated Person Crew Training (NPCT)
- Nominated Person Ground Operations (NPGO)
- Safety Manager (SM)
- Compliance Manager (CM)

1.0 INTRODUCTION

In order that an adequate level of safety in air operations is achieved, both the Malta Civil Aviation Directorate (CAD) and the Operators holding AOC and ATO certificates must work in a consistent manner towards a common goal.

To ensure compliance with the regulation, the CAD must establish means to oversee standards expected from the Operators. The assessment of the standard and competence of the Operator's personnel in key positions falls within the remit of the CAD.

Although the responsibility for the induction of personnel in key positions rests with the Operator, the regulation obliges the competent authority to oversee that the required acceptance standards are met.

This policy is embedded in the CAD Flight Operations Inspectorate Inspecting Staff Manual and outlines the process to be applied to ensure transparency and consistency in the assessment / acceptance by CAD, of persons in key positions sponsored by an Operator.

Essentially, nominees for key positions will be expected to satisfy the CAD that they possess the experience and qualification required for them to be able to fulfill their role within the management organisation of their sponsor and to ensure compliance with the regulation.

2.1 ACCEPTANCE PRE-REQUISITES (GM2 ORO.AOC.135(a))

Nominated persons in accordance with ORO.AOC.135 should be expected to possess the **experience and meet the qualification provisions of (1) to (5)** that are listed hereunder.

Exceptionally, in particular cases, the CAD may accept a nomination that does not meet these provisions in full. In such circumstance, the nominee should have comparable experience and also the ability to perform effectively the functions associated with the post and with the scale of the operation (refer also to Provisional Acceptance).

Nominated Persons **for flight operations, crew training and ground operations** should have:

- (1) practical experience and expertise in the application of aviation safety standards and safe operating practices;
- (2) comprehensive knowledge of:
 - i. the applicable EU safety regulations and any associated requirements and procedures;
 - ii. the AOC holder's operations specifications; and
 - iii. the need for, and content of, the relevant parts of the AOC holder's operations manual(s);
- (3) familiarity with management systems preferably in the area of aviation;

- (4) appropriate management experience, preferably in a comparable organisation; and
- (5) Five years of relevant work experience of which at least 2 years should be from the aeronautical industry in an appropriate position.

Furthermore:

Flight operations. The NPFO shall hold or have held a valid flight crew licence and the associated ratings appropriate to a type of operation conducted under the AOC. In case the nominated person's licence and ratings are not current, his deputy shall hold a valid flight crew licence and the associated ratings.

Crew training. The NPCT or his deputy shall hold a current type rating instructor on a type/class operated under the AOC. The NPCT should have a thorough knowledge of the AOC holder's crew training concept for flight, cabin and when relevant other crew.

Ground operations. The NPGO should have a thorough knowledge of the AOC holder's ground operations concept.

Compliance Manager. The CM should have a proven track record of audit planning and 24 months experience as auditor.

2.2 ACCEPTANCE PRE-REQUISITES (GM1 ORO.GEN.200(a)(1))

Safety Manager. The competencies for a safety manager should include, but are not be limited to, the following:

(1) Knowledge of:

- (i) ICAO standards and European requirements and provisions on safety management;
- (ii) basic safety investigation techniques; and
- (iii) human factors in aviation.

(2) Relevant and documented work experience, preferably in a comparable position, in:

- (i) management systems including compliance monitoring systems and safety management;
- (ii) risk management; and
- (iii) the operations of the organisation.

(3) Other suitable competencies

- (i) the promotion of a positive safety culture;
- (ii) interpersonal, influencing and leadership skills;
- (iii) oral and written communication skills;

(iv) data management, analytical and problem-solving skills;

(v) professional integrity.

3.0 PROCESS FOR THE NOMINATION OF PERSON IN KEY POSITION(S)

In the case of, Accountable Manager, Nominated Person, Safety Manager or Compliance Manager, the sponsoring organisation shall submit, not less than twenty (20) working days prior to proposed date of assessment:

- i. A formal application of proposal for nomination and;
- ii. Completed TM CAD form 0068(Initial issue / variation of AOC).

The application shall be accompanied by the following documents:

- i. Curriculum Vitae;
- ii. Relevant Qualifications
- iii. Proposed contract of employment (redacted of financial terms)

4.0 PROCESS FOR ASSESSMENT

- a) The assessment will be conducted at the offices of CAD. It is expected that the candidate has the company manual suite available with him.
- b) Assessors shall be Flight Operations Inspectors, Senior Inspecting Officers or Inspecting Officers (when the assessment team includes one of the preceding grades).
- c) Two assessors will be present during the session.
- d) The decision on the outcome of the assessment by the CAD assessors must be unanimous.
- e) In the event that the candidate is not accepted by the CAD, he shall not be permitted to reapply for the same post with the sponsoring organisation for a minimum period of twelve months.
- f) A list of topics (not exhaustive) for discussion can be found in Appendix A of this document.

Prior to accepting a nominee for a key post, the assessors will also pre-evaluate (based on the criteria for size and scope of the nominee's sponsoring organisation), the number of monthly hours the nominee will be expected to contractually commit to the organisation.

It must be understood that, a candidate for assessment who is and will continue to be employed in a key position with another organisation, shall not be permitted to work a contractual aggregate exceeding the applicable Working Time Directive.

Should the candidate be accepted in a key position, this will be conditional to the circumstances of the organisation remaining status quo and/or no increase in the candidate's responsibilities is undertaken. In such cases a review of qualification requirement and commitment see 7.0

For the avoidance of doubt, previous employment of a Key Person in a similar position with another organisation will not result in automatic acceptance by the CAD within the new organisation.

The decision of the CAD assessors will be final and not subject to appeal.

5.0 PROVISIONAL ACCEPTANCE

CAD can provisionally accept sponsored nominees under one of two circumstances:

- a) In the event that the nominees are sponsored by an organisation that is in the process of attaining an AOC, then a full assessment of the nominees' knowledge of the organisation's processes would be limited, particularly since the documentation phase of the AOC application would be thereto incomplete. Under such circumstances, the CAD assessors may provisionally accept the sponsored nominees in their proposed incumbencies for the purpose of assisting with the establishment of the organisation's management system in pursuit of attaining an AOC.

Notwithstanding, at this initial stage of AOC attainment, the NPFO and the NPCT or their deputies must be in possession of qualifications established under GM2 ORO.AOC.135(a).

A provisional acceptance under this arrangement will be subject to a follow-up assessment during the AOC+3 month audit, by which time the provisionally accepted key personnel would have become familiar with the organisation's processes.

- b) If a candidate is proposed for a key position by an organisation already holding an AOC and during the CAD assessment the nominee reveals that he does not possess adequate qualification, he may be provisionally accepted, without prejudice to the statutory qualification requirements for NPFO and NPCT.

In this case the assessors will invariably require the candidate to attend specific courses to meet established criteria hereunder.

Under such circumstances, the provisional acceptance shall be for a period not greater than six months, until the required qualification criteria are met. This period may be extended for a further period of six months if proof has been provided that the qualifying courses have not been available within this period.

If within this twelve month period, the nominee has not qualified in the assessed criteria, the CAD provisional acceptance will lapse and a new assessment by CAD will be required. It will be the responsibility of the organisation's Accountable Manager to notify CAD that his organisation is in default of requirements of this policy.

The Accountable Manager shall advise the CAD on how the functions of the post will be fulfilled by the organisation.

5.1 Provision to the foregoing:

If the proposed Nominated Person Crew Training (NPCT) does not have a TRI endorsement for the class / type of aircraft operated by the organisation, for the period until such an endorsement is attained, the incumbency shall require a deputy, who shall be a qualified TRI for the class / type of aircraft.

If the proposed Safety Manager (SM) does not have any operational flying and FDM experience and the requirement for FDM is applicable to the organisation, then the proposed Safety Manager must undergo an appropriate FDM course, prior to exercising responsibility over the FDM process. During this period of qualification, the organisation shall appoint an appropriately qualified deputy for the purpose or subcontract all FDM processes, including flagged event risk assessments.

Furthermore, if the SM lacks adequate qualification in safety risk assessment and/or incident investigation, then for the period of provisional acceptance of the SM, the operator shall establish a suitable means to comply with the requirement.

If the proposed Compliance Manager (CM) has the required auditing experience as stipulated in (Acceptance Pre-requisites, above), however does not have EU Reg 965/ 2012 compliance oversight qualification then, until such a time that the proposed CM attends an approved qualification course, the organisation's compliance oversight shall be conducted by appropriately qualified internal/external auditors or subcontract oversight planning and audits.

If the proposed Nominated Person Ground Operations (NPGO) (when responsible for cargo operations, or operators approved to carry DG) is not qualified to a minimum of IATA Standard 6 in Dangerous Goods (DGR) operations, then the organisation will not be permitted to carry DGR until the appropriate qualification is attained or a suitably qualified deputy to GOM is appointed.

6.0 ACCEPTANCE, NOTIFICATION AND CHANGES TO AOC

The outcome of the assessment will be notified to the nominee's sponsor. In the event that the nominee is acceptable to the CAD, the sponsor will also be advised in writing if the acceptance is provisional and whether the contracted hours of employment are adequate.

Written notification of acceptance (of the nominee) to the organisation shall include the proviso that should the operational situation of the organisation change from the circumstances at the time of acceptance of the nominee, the CAD reserves the right to review the acceptance criteria of the nominee. This is particularly evident in the case where one person holds multiple key positions, erstwhile permissible due to the size and nature of the operation. If the organisation's size and scope of operation varies the CAD may also determine that a multiple key position holder relinquish one or more incumbency.

7.0 COMBINATION OF ROLES

The acceptability of one person holding more than one key role with, one role being the Accountable Manager, shall be dependent on the size and scope of the operation.

Competence – candidate must fulfill all requirements for all nominations that operator applies for – no credits shall be given for concurrent roles.

Each operator must declare minimum working hours for each position. Working hours shall be dependent upon the scale of the operation but limited to the applicable Working Time Directive.

Suggested working hours shall be included in the contract of employment referred to in 3.0.

The complexity of the organisation or of the operation may prevent, or limit, combinations of nominations that may be acceptable in other circumstances. As applicable, appropriate amendments will be made to the Key Personnel section in the AOC.

7.1 Persons Holding Key Positions With Different AOC's

A person appointed as a nominated person by the holder of an AOC must not be appointed as a nominated person by the holder of any other AOC, unless acceptable to the Authorities concerned.

Holding Nomination in more than one AOC is acceptable under following conditions:

- i. The operator must make arrangements to ensure continuity of supervision in the absence of nominated persons and thus have a declared deputy.
- ii. Nominated persons must be contracted to work sufficient hours to fulfill the management functions associated with the scale and scope of the operation.

8.0 WITHDRAWAL OF ACCEPTANCE

It must be understood that CAD acceptance of a nominee may be withdrawn at any time even after the nominee has embarked on substantive employment with the organisation. This process will only be initiated if a valid reason exists. Reason for such a withdrawal of acceptance include, but not limited to:

- i. Inadequate appropriate interaction with the CAD;
- ii. Persistent delays in closing audit findings;
- iii. Lack of qualification as a consequence of change management in size and scope;
- iv. Culpable infringement of regulations;
- v. Criminal / fraudulent activity.

9.0 GRANDFATHER RIGHTS

This policy will become effective on the 1st July 2017. Other than the Acceptance Pre-requisites established in GM2 ORO.AOC.135(a), persons accepted in key positions before this date are exempt from the qualification requirements stipulated in this policy. Notwithstanding, after the effective date of this policy, any change of incumbency within the same organisation or engagement within another organisation, or a change in the size and/or scope of the employing organisation may entail in the full application of the elements of the acceptance process, herein established.

APPENDIX A

Set of typical questions for all nominated persons

1. Name two major documents which have to be obtained to be authorized to conduct commercial air transport?
2. Describe your duties and responsibilities and where can you find them?
3. Define key elements of Safety Management System?
4. Who are the mandatory nominated persons required for an AOC (CAT) holder?
5. Describe the principles of Compliance Monitoring system in your company.
6. Where can you find up to date civil aviation regulations?
7. What is your role in Compliance Monitoring System?
8. Where can you find current EU regulations covering commercial operations requirements for Compliance Monitoring system?
9. What is your role in Safety Management System?

Set of typical questions for Ground Operations nominated person

1. Describe Mass and Balance documentation concept in your organisation
2. Describe how your organisation will assure that the aircraft is properly loaded, load is properly distributed and secured.
3. What kinds of ground operations personnel are employed by your organisation?
4. What are the training requirements for your organisation's ground operations staff and where are these requirements defined?
5. What is the reference document in ground handling contracting? Describe its use.

6. How will you ensure the adequacy of ground handling equipment and services in case of outsourced ground handling services?
7. How are the ground handling information distributed to the crews and other operational personnel concerned, within your organisation?
8. How will you ensure the distribution of ground handling instructions to out stations?
9. Which current regulations cover commercial operations in the area of Dangerous goods transportation?
10. Name ICAO and IATA reference DG regulations.
11. Is your organisation certified for DG transportation?
12. Where is the DG transportation approval stated?

Set of typical questions for Flight Operations nominated person

1. Describe the means of flight safety information dissemination put in place in your organisation?
2. How do you assure the recency of pilots in your organisation?
3. To which FTL scheme does your organisation adhere to?
4. Where are the CAD requirements fulfilling Subpart Q requirements contained?
5. What are your responsibilities within your organisation?
6. Describe occurrence reporting system in your organisation.
7. What is the purpose of aerodrome classification process and what is your role in this?
8. Is your airline ETOPS approved? If yes, describe the ETOPS concept.
9. What performance class are the aircraft operated by your airline?
10. How are passenger and crew masses defined in your organisation?

11. Describe the record keeping system in your organisation.
12. What parts of OM are under your responsibility in terms of production, publication and amendment?
13. Is your organisation approved for the transportation of DG?
14. Describe the method of operational control in your organisation.
15. Describe the main difference between operations manual OM-A and OM-B?
16. Describe your role in SMS.
17. Describe the difference between nomination and designation of commander.

Set of typical questions for Crew Training nominated person

1. Name current regulations which prescribe flight and cabin crew training requirements.
2. In which OM are crew training requirements specified?
3. How does your organisation assure flight and cabin crew currency?
4. How does your organisation assures flight crew recency qualification?
5. What is the period of validity of an OPC (Operator Proficiency Check)?
6. Who is entitled to perform line checks?
7. What do you have to take into consideration when planning to use flight simulator for your flight crew training and checking?
8. Describe the CRM concept and state why do you think it is important for your staff?
9. Describe the difference between nomination and designation of commander.
10. Describe the concept of aerodrome competence qualification in your organisation.

11. Describe your role in SMS.

Set of typical questions for Compliance Monitoring Manager

1. How do you setup the Audit Plan?
2. What elements does the audit plan contain?
3. Do you have a process to monitor regulation updates?
4. How do you deal with findings that could have an immediate safety impact on the operation?
5. Which regulation deals with Mandatory Occurrence Reporting?
6. What is the maximum time stipulated to submit an MOR to the authority?
7. Describe your role in SMS.

Set of typical questions for Safety Manager

1. Which ICAO Annex dictates the requirements of SMS?
2. Which part of the EU regulation deals with Safety Management System?
3. Which are the main components of the SMS?
4. What is the purpose of the Safety Review Board?
5. Who chairs the SRB and what is your role?
6. Can you describe the HIRA process of your organisation?
7. What are the top hazards for your type of operation?
8. How does the State implement the SSP?

9. Can you mention any top 3 risks identified in the SSP?
10. Which document will assist you in dealing with any type of emergency?
11. Do you know which regulation applies in case of an accident?
12. Who is responsible to identify hazards and mitigate the associated risks?
13. What are the high level safety objectives of your organisation?
14. Can you detail the levels of risk severity and probability as applicable to your type of operation?
15. Does your organisation implement FDM? If yes, who is responsible for the monitoring of the programme?
16. Which European regulation dictates FDM requirements?
17. What process or procedure do you use in cases of events triggered by FDM analysis?
18. How do you integrate FDM with occurrence reporting?