

## SKA Observatory Procurement Policy

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## Preamble

This Procurement Policy (the “Policy”) applies to all procurement activities carried out by the Square Kilometre Array Observatory (“SKAO”). The Policy establishes the framework for approval of detailed supporting frameworks and procedures concerning procurement and will take effect following approval by the SKAO Council.

This Policy provides an overarching guiding framework for procurement. Specific arrangements and understandings relating to a particular phase or stage of the SKA Project, or other projects undertaken by the SKAO, are detailed in appendices to this Policy as may be approved from time to time.

## Definitions

The definitions in this Policy have the same meaning as those in the Convention Establishing the Square Kilometre Array Observatory (the “Convention”). Additional definitions, specific to this Policy, are listed below.

Contract	A legally binding commercial agreement between a Supplier and the SKAO including a Purchase Order
Contribution Partner	A Member with an agreement in place to make an In-Kind Contribution
Delivery Partner	The entity performing an In-Kind Contribution on behalf of a Contribution Partner
In-Kind Contribution	A non-cash contribution of goods, services or works to the SKAO by a Member in consideration for an agreed value
In-Kind Contribution Agreement	The agreement between the SKAO and the Contribution Partner to deliver an In-Kind Contribution
Invitation to Tender	A set of documents drawn up by SKAO for the purpose of inviting potential Suppliers and Contribution Partners to submit offers for goods, works or services with an estimated value greater than EUR 200K.
Market Survey	The documents drawn up by SKAO for the purpose of inviting potential Suppliers and Delivery Partners to express their interest in a forthcoming Invitation to Tender and providing them with the opportunity to pre-qualify for an Invitation to Tender.
Member	Means both full Members and Associate Members as defined in the Convention.
Procurement Services	The SKAO business function established and empowered to conduct procurement on behalf of SKAO
Requestor	The SKAO representative of the end user of goods, works or services to be procured, in most cases the Requestor is also the budget holder

## 1. Core Principles

- 1.1 Procurement activities undertaken by the SKA Observatory shall be based on the core principles of Fair Work Return, equity, transparency and competitiveness.
- 1.2 Procurement should also facilitate Member's industrial aspirations, whilst minimising, as far as possible, risk to the project. Procurement by the SKAO shall be sourced from within countries represented by the membership of the Observatory in preference to those outside the membership.
- 1.3 The primary objective of the SKAO procurement function is to effectively and efficiently acquire Contracts and In-Kind Contribution Agreements supporting delivery of the SKAO's mission, whilst ensuring that all its activities are compliant with this Policy.
- 1.4 A Member shall not be unreasonably disadvantaged by their choice of delivering contributions in-kind or in cash.

## 2. Purpose, Application and Responsibilities

- 2.1 This Policy applies to all Staff involved in the procurement process, whether as Requestors, Procurement Officers or approvers, including Staff accepting/rejecting goods, services or works and Staff authorising payments to Suppliers.
- 2.2 This Policy commits all Staff involved in the procurement process to use their best endeavours and professional judgement to ensure that procurement is compliant with this Policy.
- 2.3 This Policy applies to all tendering and supplier selection activities, all procurement related commitments to which SKAO is, or intends to be, a party to, and all procurement actions which amend, modify or terminate contractual rights, duties or obligations (such as change orders), settlement of contract claims, letters of intent that authorise or commit work to be performed, notices of termination, notices of work suspension and the end-of-life disposal of SKAO assets including In-Kind Contributions.
- 2.4 Approval of relevant procurement procedures shall be in accordance with the approved Schedule of Delegations of Authority.

## 3. Policy Limitations

- 3.1. This Procurement Policy does not apply to those excluded agreements and services controlled by other SKAO policies and procedures, and which are highlighted below:
  - Collaboration Agreements
  - Routine employment contracts
  - Export Control Agreements
  - Data sharing agreements
  - Services acquired from International Organisations, governments or government regulatory bodies or agencies
  - Non-procurement related MOUs, letters of intent and heads of agreement which do not commit SKAO funds or commit SKAO to perform work

- Non-Procurement related confidentiality agreements and non-disclosure agreements
- Royalty payments
- Ex-gratia payments and honoraria

## 4. Code of Conduct, Legality and Confidentiality

- 4.1 This Policy is intended to align with best practice procurement ethics. When taking part in procurement related activities, SKAO should ensure that all of those activities are defensible in the public domain. All procurement activities, and subsequent dealings with Suppliers, shall be carried out in an equitable, impartial and professional manner.
- 4.2 SKAO's procurement activities shall be audited regularly according to a plan to be approved by Council. Safeguards and controls to ensure compliance with this Policy shall be established and maintained by SKAO.

## 5. Intellectual, Commercial and Confidential Information

- 5.1 All commercial information provided by Suppliers engaged in a procurement process will be treated as confidential by the SKAO. SKAO shall protect intellectual property rights and commercial information from unauthorised access by third parties, or misuse by the parties bound by a Contract.
- 5.2 Any disclosure of commercial information at completion of a procurement process must be authorised by the Council.
- 5.3 Particular attention shall be given to the circumstances under which SKAO discloses confidential information resulting from Market Surveys and Invitations to Tender.

## 6. Health and Safety

- 6.1 SKAO shall, where applicable, require its Suppliers to comply with all relevant health and safety policies and rules it may approve from time to time. These policies and rules shall be made available to all potential Suppliers, as appropriate.
- 6.2 Conditions affecting safety, either with respect to the design and testing of equipment, or for work on SKAO sites, shall be explicitly defined in SKAO technical requirements forming part of the procurement process.

## 7. Sustainability and the Environment

- 7.1 Where possible, SKAO shall aim to ensure sustainable procurement, avoiding the unnecessary depletion of natural resources. SKAO shall seek to consider environmental factors when making decisions, including what products are made of, where they have come from and the environmental cost of making them.
- 7.2 SKAO seeks to identify and manage the environmental impacts within its supply chain and will work with Suppliers to facilitate and encourage sustainable practices within their organisations and drive such practices within Suppliers' own supply chains.

- 7.3 SKAO shall challenge its Suppliers to reduce their environmental footprint through:
- conservation of resources, including the use of energy, water and materials;
  - waste minimisation, both within their operations and through reduction of non-reusable packaging;
  - reducing the impact of transportation; and
  - applying the principle of 'whole life costing' to promote sustainable procurement. This looks at all life-cycle costs (including disposal costs) of goods services and works and makes sure they are minimised.

## 8. Commitments

- 8.1 All commitments between SKAO and Suppliers should be agreed in writing prior to the commencement date of any work.
- 8.2 Letters of intent or authorisations to proceed shall only be used in exceptional circumstances and must be pre-approved by the Director-General regardless of value.

## 9. Documentation of Activity

- 9.1 All steps within the procurement process shall be documented and auditable. In all cases the specific member of Staff actioning procurement related activities should be clearly identifiable in SKAO records.

## 10. Fair Work Return

### 10. Fair Work Return

- 10.1 *The policies and actions of SKAO shall seek to deliver an appropriate return on the investment being made by the Members. Specific arrangements and mechanisms, including balancing mechanisms, to ensure delivery of an appropriate return on investment shall be described in a Fair Work Return Framework.*
- 10.2 *Fair Work Return is identified to have been achieved when the cumulative value of the goods, works and services provided by a Member through the procurement process, broadly reflects the financial contribution committed by that Member;*
- 10.3 *Specific procurement and Fair Work Return arrangements and understandings relating to a particular phase or stage of the SKA Project, or other projects undertaken by SKAO, are detailed in appendices to this Policy as may be approved by the Council from time to time.*

## 11. Waivers

- 11.1 In order to deviate from the principles established in this Policy, the Director-General must recommend a Policy waiver be agreed by a two-thirds majority of the Council, except for those Policy provisions identified as requiring unanimity in section 13.2.

## 12. Deviations without Waiver

- 12.1 All deviations from this Policy should be reported to the Council by the Director-General with a recommendation to either:
- cancel the affected procurement (if possible);
  - restart the procurement process from whichever stage the deviation first occurred; or
  - continue with the deviated process, including awarding the contract to a Supplier under the deviated process.
- 12.2 The Council should consider the extent to which the deviated process compromises the core principles of Fair Work Return, equity, transparency and competitiveness.

## 13. Entry into Force and Amendments

- 13.1 This Procurement Policy shall be approved by the SKAO Council by unanimous vote.
- 13.2 Any amendment of this Policy shall require a two-thirds majority, with the exception of Article 10 which shall require unanimity to amend.
- 13.3 The addition of new appendices or amendment of appendices shall be considered as an amendment of the Policy. The Council will agree upon any specific parameters in the appendices requiring unanimous approval for amendment at the time of amendment of the Policy.
- 13.4 Arrangements to manage amendment of the appendices where it relates to a subsequent optional phase of the SKA Project, or other future project, shall be agreed by Council.

## 14. Language

- 14.1 All procurement documentation and written exchanges between SKAO and Suppliers will be in the English language.

## SKA-1 Construction-Specific Procurement Parameters

### 1. Purpose

1.1 The purpose of this document is to set the procurement parameters for construction of SKA-1, as approved in the SKA-1 Construction Proposal.

### 2. Parameters for SKA-1 Construction

2.1 The following principles and parameters, which are defined further in the Fair Work Return Framework, shall apply to the construction of SKA-1:

- 2.1.1 Members shall receive at least 70% Fair Work Return on their contribution to the capital cost of SKA-1 construction, excluding contingency; there will be a target of at least 70% Fair Work Return on the contribution to the capital cost of construction inclusive of contingency. Further opportunities for Members to achieve return on investment through procurement of elements outside of the capital cost of construction will be pursued.
- 2.1.2 Members shall provide a minimum of 30% of their total contribution to SKA-1 capital cost of construction in cash, but may provide up to 100% of their total contribution to the SKA-1 capital cost of construction in cash.
- 2.1.3 A 'weighting' of 50% will be applied to the value of SKA-Low Infrastructure and SKA-Mid Infrastructure workpackages for the purposes of calculating Fair Work Return. That is, work to deliver these workpackages will be counted at 50% of their value for the purposes of calculating Fair Work Return.