**Guidance for use of Procurement Procedures Exception Form**

**(formerly Sole Source Justification Form)**

This procedure should only be used in **exceptional** circumstances.

Purchases of goods and services should go through existing collaborative agreements or where no applicable agreement exists, be based on the competitive [Procurement Journey](http://www.gcu.ac.uk/financeoffice/procurement/procurementjourney/) process.

The belief that only one source of supply for goods and/or services exists may not be sufficient grounds for an exception to the procedures, as this may have to be proven by actually undertaking a tendering exercise.

This form may be used where there is a genuine exceptional operational reason for not using an existing collaborative agreement or for subjecting the purchase to open competition. This must genuinely mean that there is only one supplier and not just be convenient to use a particular supplier. Supporting evidence will need to demonstrate market testing and enquiries to other providers or provide evidence that only one supplier exists.This method of acquisition should not be used to avoid competition or where decisions to procure have been postponed and insufficient timelines to procure through the [Procurement Journey](http://www.gcu.ac.uk/financeoffice/procurement/procurementjourney/) routes exists.

It is the responsibility of the requestor to ensure that due diligence is carried out on the proposed supplier proportionate to the value of contract.

For contracts >£50k, the requestor must liaise at an early stage with procurement for advice on due diligence requirements including completion of the ESPD (European Single Procurement Document) and adherence to University Contract Terms and Conditions.

Reasons where this form shall apply:

|  |
| --- |
| Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted for a previous Open or Restricted tender exercise, provided that the initial conditions of the contract are not substantially altered. A tender shall be considered not to be suitable where it is irrelevant to the contract, being manifestly incapable, without substantial changes, of meeting the organisation’s needs and requirements as specified in the procurement documents. A request to participate shall be considered not to be suitable where the bidder has been or would been excluded or where it does not meet the selection criteria. |
| Where the supplies or services can be supplied only by a particular supplier for any of the following reasons:* The aim of the procurement is the creation or acquisition of a unique work of art or artistic performance;
* Competition is absent for technical reasons (only if it is not caused by artificial narrowing down of the parameters of the procurement and no reasonable alternative or substitute exists);
* The protection of exclusive rights, including intellectual property rights (only if it is not caused by artificial narrowing down of the parameters of the procurement and no reasonable alternative or substitute exists).
 |
| Where it is strictly necessary for reasons of extreme urgency (where the time limits for the Open or Restricted Procedure or Competitive Procedure with Negotiation cannot be complied with) brought about by events unforeseeable and not attributable to the Organisation, such as emergency situations affecting the public e.g. flooding. |
| In the procurement of **goods**: |
| Where the products involved are manufactured purely for the purpose of research, experimentation, study or development, but not including quantity production to establish commercial viability or to recover research and development costs.  Note this should not be abused to allow a single supplier to be approached to design an item which must subsequently be purchased as a result of proprietary rights;Where a change in supplier(s) would mean that the Organisation would have compatibility issues or disproportionate technical difficulties; this procedure can be used to acquire additional deliveries from the original supplier when needed to replace or increase supplies or installations. In this case, the contract or recurrent contract length must not exceed three years, other than in exceptional circumstances.; |
| For supplies quoted and purchased on a commodity market;  |
| For the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the liquidator in an insolvency procedure, an arrangement with creditors, or a similar procedure under national laws or regulations. |
| In the procurement of **services**: |
| Where the contract concerned follows a [design contest](https://www.procurementjourney.scot/node/455/) organised in accordance with the [Public Contracts (Scotland) Regulations 2015](http://www.legislation.gov.uk/ssi/2015/446/introduction/made) and where the contract concerned is to be awarded as part of the design contest to the winner or winners. Where there is more than one winner of the design contest, all of them must be invited to participate in the negotiation; |
| In instances when all of the following apply:* Where it is for new services consisting of the repetition of similar services performed by the supplier to which the Organisation awarded an original contract, provided that such services are in conformity with the basic project for which the original contract was awarded and the award indicated the extent of possible additional services and the conditions under which they would be awarded.
* The possible use of this procedure was disclosed in the Procurement Documents and the total estimated cost of subsequent services was taken into consideration by the Organisation when applying the thresholds in relation to the original contract; and
* Not more than three years have elapsed following the conclusion of the original contract.
 |

**Reviewed February 2020**