**Tender Exemption Guidance Notes**

To be read in conjunction with the [Tender Exemption Request Form](https://sharepoint.nexus.ox.ac.uk/sites/uasmosaic/finance/Documents/200715%20Tender%20Exemption%20Request%20Form%20v7.0.docx?Web=1).

**When an exemption may apply**

In exceptional circumstances, it may be impractical to seek competitive bids through a quotation or tender process.

The following list sets out when an exemption might be appropriate. The items in the list are not mutually exclusive and more than one may apply.

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| * Technical compatibility – for example, an upgrade to an existing solution or the purchase of additional goods (or parts) and associated services that must be compatible with existing goods.
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| * Protection of exclusive rights – for example, where the proposed supplier owns exclusive rights (e.g. intellectual property rights) that prevent anyone else undertaking the work, where a warranty may be invalidated if maintenance/repair is not carried out by a specified or approved source or where the required goods or materials are available only as proprietary or patented articles.
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| * Single provider - where the supplier is in a monopoly position.
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| * An extension of an existing contract where a change of supplier would cause extensive and disproportionate technical difficulties.
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| * A one-off, unique opportunity that offers significant and demonstrable value – for example, to take advantage of particularly advantageous terms for the purchase of goods in a closing down sale or re-conditioned goods.
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| * Extreme urgency, that was unforeseeable (not just unforeseen), not attributable to the requestor and which precludes the invitation of quotations or tenders.
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| * A grant award mandates the use of a particular supplier.
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**Approval required:** the [Tender Exemption Request Form](https://sharepoint.nexus.ox.ac.uk/sites/uasmosaic/finance/Documents/191018%20Tender%20Exemption%20Request%20Form%20v6.0.docx?Web=1) setting out the decision to dispense with a competitive process must be endorsed by the Head of Department or Departmental Administrator where:

* The purchase is less than £100,000 (ex-VAT) **AND**
* constitutes a valid exemption from a competitive process (as justified by reference to the list above) **AND**
* is with a preferred supplier **OR** the supplier in question has agreed to the University’s terms and conditions.

For purchases exceeding £100,000 (ex-VAT), or for purchases less than £100,000 (ex-VAT) that are not on the University’s terms and conditions, the exemption **must also be signed by the Purchasing Department**. (*Note: in Estates Services only, all exemptions exceeding £25,000 must also be signed by the Purchasing Department*.)

In very exceptional circumstances, an exemption may be granted where the usual requirements for an exemption cannot be met, but where the action is deemed to be in the overriding interests of the University, for example:

* where there is a risk of losing significant grant funding
* where an instruction for work has been received by a central service department (e.g. Estates Services) and the timescales associated with the instruction do not allow for a competitive process.

Such exemptions must **also be signed by either** **the Director of Purchasing or Director of Finance**, and must provide demonstrable value for money.

**Supporting factors to consider in deciding whether an exemption is appropriate**

In determining whether an exemption is appropriate, the following points should be considered and, where relevant, included in the [Tender Exemption Request Form](https://sharepoint.nexus.ox.ac.uk/sites/uasmosaic/finance/Documents/191018%20Tender%20Exemption%20Request%20Form%20v6.0.docx?Web=1):

1. Why has the prospective supplier been selected?
2. Is there a potential or perceived [conflict of interest](https://www.admin.ox.ac.uk/councilsec/compliance/conflictofinterest/) that needs review and approval?
3. Has the supplier previously dealt with the department or wider University?
4. Have any evaluation criteria been used to select the supplier?
5. Has the market been explored for alternative suppliers?
	1. Are there suitable competitors to the prospective supplier? If yes, why can they not be invited to tender?
	2. Is there a possibility of a complaint from another supplier?
6. How can you demonstrate that the prospective offer provides the University with value for money?
	1. How does it compare with previous purchases of the goods and/or services within the University?
	2. How does it compare with previous purchases of the goods and/or services by other organisations you know of?
7. Could the specification be altered in any way to allow other suppliers to compete, without impacting the desired outcome?
8. Has the supplier agreed to the University’s terms and conditions, or are there other previously agreed terms?

These factors are a guide only and may not apply to every request. Each request must be considered on its own merit.

**Department must keep a record of exemptions**

Departments must keep records of all tender exemption requests to satisfy internal and external auditors and to enable challenges from any other supplier to be addressed.

Please note that all major research funders look for compliance with University procedures and policies where no specific guidance is provided under their own terms. Non-compliance with University procedures and policies could therefore result in related costs being considered ineligible by the funder.

**Tender Exemption Approval Summary**

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| **Reason for Exemption** | **Value (ex-VAT)** | **Supplier / Terms & Conditions** | **Approval Required** |
| Any, except ‘overriding University interest’ | £25,000 - £100,000 | University preferred supplier OR supplier agrees to University’s terms and conditions | Head of Department or Administrator(*Estates Services only*: AND University Purchasing Department) |
| Any, except ‘overriding University interest’ | £25,000 - £100,000 | Supplier who will not sign University’s terms and conditions | Head of Department or Administrator ANDUniversity Purchasing Department |
| Any, except ‘overriding University interest’ | Over £100,000 | Any | Head of Department or Administrator AND(*Estates Services only*: BESC AND)University Purchasing Department |
| ‘Overriding University interest’ | Over £25,000 | Any | Head of Department or Administrator ANDDirector of Purchasing or Director of Finance (submit via University Purchasing Department) |