

<b>MERSEYSIDE FIRE AND RESCUE AUTHORITY</b>			
<b>MEETING OF THE:</b>	<b>AUTHORITY</b>		
<b>DATE:</b>	<b>23 MAY 2019</b>	<b>REPORT NO:</b>	<b>CFO/022/19</b>
<b>PRESENTING OFFICER</b>	<b>MONITORING OFFICER</b>		
<b>RESPONSIBLE OFFICER:</b>	<b>JANET HENSHAW</b>	<b>REPORT AUTHOR:</b>	<b>SHARON MATTHEWS</b>
<b>OFFICERS CONSULTED:</b>			
<b>TITLE OF REPORT:</b>	<b>APPROVED EXEMPTIONS TO CONTRACT STANDING ORDERS 2018/19</b>		

<b>APPENDICES:</b>	<b>APPENDIX A: TABLE OF EXEMPTIONS</b>
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### **Purpose of Report**

1. To advise Members of the approved exemption requests to Contract Standing Orders for the period 2018/19.

### **Recommendation**

2. That Members note the contents of the report.

### **Introduction and Background**

3. Contract Standing Orders form part of the Authority's Constitution. The Constitution provides the framework for managing the Authority's financial affairs and procedures for Contract Standing Orders. These apply to every Officer and Member of the Authority.
4. Within Contract Standing orders there is a requirement to keep a register of approved exemptions for each financial year. This report outlines the information pertaining to the financial year 2018/19.
5. Exemptions to contract procedures are permitted where it can be proven that it is inefficient or uneconomic to comply with the requirements detailed in Contract Standing Orders. Examples of where exemptions are permitted are as follows :
  - The Goods, Works or Services are unique and provided by only one organisation with no reasonably satisfactory alternatives available.
  - The procurement involves the purchase of proprietary or patented Goods or Services obtainable from one firm; are sold at a fixed price and no reasonably satisfactory alternative is available.

- The Goods, Works or Services constitute an extension of an existing contract which is allowed within the contract terms, or the Goods/materials, Works or Services consist of repairs to, or the supply of parts for, existing proprietary plant or equipment and/or where the initial contract value or specification is not fundamentally changed or increased.
  - That new Works or Services are required which are a repetition of Works or Services carried out under an original contract.
  - That Goods are required as a partial replacement for, or addition to, existing Goods or installations and obtaining them from another source would result in issues with compatibility or disproportionate technical difficulties in operation or maintenance.
  - Tenders are invited on behalf of any consortium or collaboration, of which MFRA is an identified member, in accordance with any method adopted by that body. Where however, an MFRA officer invites tenders on behalf of the consortium the receipt, opening and acceptance of tenders must comply with the MFRA Financial Regulations and Financial Procedure Rules or any overriding National or European Union legislation.
  - The Goods, Works or Services are of a sensitive nature (such as security) where publication of the tender documents would constitute a security breach and undermine the effectiveness of the final product.
6. No exemptions can be granted which would result in a breach of UK or European law.
7. A total of 55 exemptions with a combined value of £1,043,708 were approved in this period.
8. Table 1 below summarises the main reasons for these approvals, with a detailed analysis at Appendix A.

Table 1.

Reasons for exemption	Cumulative value of exemptions
Contract award beyond original scope	£162,400
Direct award (no reasonable alternatives available)	£814,065
New works or services which are a repetition under an original contract	£10,932
Other	£46,009
Partial replacement or addition to existing goods or installation	£10,303
Proprietary or patented goods	£0

9. An analysis of the data identifies which areas of the business had exemption requests approved in the period (Table 2 refers).

Table 2

Department	Number of approved exemptions
0026 : Training & Development Academy	2
0060 : Operational Preparedness	3
0061 : Ops Appliances & Equipment Stores	4
0063 : Ops Planning	1
0076 : Estates	3
0085 : Information Technology	1
0086 : Workshops	7
0110 : Finance Department	1
0111 : People & Organisational Development	1
0117 : Strategy & Performance	3
0121 : Operational Response	1
0128 : Organisational Development	8
0131 : Insurance	1
0209 : Legal	1
0232 : TDA Commercial	1
0237 : Major Exercises	1
0259 : Merseyside Resilience Forum	3
0281: Merseyside Road Safety Partnership	1
2008 : National Resilience ISAR	3
2013 : National Resilience Training	9

10. The number of exemptions approved in 2016/17 was 101 and in 2017/18 the number of approved exemptions was 125 so it is pleasing to note a significant reduction in 2018/19. In part this can be attributed to a number of contracts which have been put in place to address 'off contract' expenditure in areas such as Workshops.
11. It should also be noted that the 6 of the 9 exemption requests submitted by National Resilience Training were for other Fire & Rescue Authorities to deliver training for the sector. This is part of the NFCC National Resilience Training Strategy and the sector only operates on a cost recovery basis, so there are few commercial considerations.

### **Equality and Diversity Implications**

12. No equality and diversity implications have been identified.

### **Staff Implications**

13. There are no direct staff implications arising from this report.

### **Legal Implications**

14. Exemption requests may only be considered by Officers where it is allowed within the framework of the Authority's Constitution, the Public Contract Regulations (2015) and European law (Public Contracts Directive 2014/24/EU).

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**Financial Implications & Value for Money**

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15. Officers scrutinise each exemption request before approval is given by the Head of Procurement, the Director of Legal, Procurement, Democratic Services and Estates and finally a Principal Officer.
16. Section 3 of Contract Standing Orders state this approval must be provided prior to any commitment being given by any Officer of the Authority to any supplier, thereby safeguarding the Authority's monies.

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**Risk Management, Health & Safety, and Environmental Implications**

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17. No risk management, health and safety or environmental implications have been identified.

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**Contribution to Our Mission: *Safer Stronger Communities – Safe Effective Firefighters***

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18. Effective financial and commercial processes, including the exemptions procedure support our mission by ensuring that funds are spent compliantly and appropriately.

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**BACKGROUND PAPERS**

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None

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**GLOSSARY OF TERMS**

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None