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Committee Stage: Thursday 12 January 2023

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## Procurement Bill [Lords] (Amendment Paper)

This document lists all amendments tabled to the Procurement Bill [Lords]. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

New Amendments: 1 to 7 and NC1 to NC3

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Florence Eshalomi

1

★ Clause 12, page 9, line 36, after “enterprises” insert “and co-operative societies”

**Member’s explanatory statement**

This amendment, together with Amendments 2 and 3, would ensure that the barriers to cooperative societies are considered by contracting authorities during the procurement process.

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Florence Eshalomi

7

★ Clause 13, page 10, line 12, after “environmental” insert “, cyber security”

**Member’s explanatory statement**

This amendment would make cyber security one of the strategic national priorities for procurement.

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Florence Eshalomi

6

★ Clause 41, page 28, line 33, at end insert—

“(2A) Subsection (2) does not apply where the supplier has been excluded on the discretionary exclusion ground in paragraph 14 of Schedule 7 (threat to national security).”

**Member's explanatory statement**

This amendment would prevent the award of direct contracts to excluded suppliers when the supplier was excluded as a threat to national security.

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Florence Eshalomi

5

## ★ Clause 44, page 30, line 26, at end insert—

“(4) Any Minister, peer or senior civil servant involved in recommending a supplier for a contract under section 41 or 43 must make a public declaration to the Cabinet Office of any private interest in that supplier.”

**Member's explanatory statement**

This amendment would implement the recommendation of the National Audit Office that any contracts awarded under emergency provisions or direct awards should include transparency declarations.

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Florence Eshalomi

4

## ★ Clause 52, page 35, line 24, leave out “£5 million” and insert “£2 million”

**Member's explanatory statement**

This amendment would reinstate the threshold for publishing the contracts in major projects at £2m.

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Florence Eshalomi

2

## ★ Clause 85, page 57, line 27, after “enterprises” insert “and co-operative societies”

**Member's explanatory statement**

See explanatory statement to Amendment 1.

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Florence Eshalomi

3

★ Clause 119, page 77, line 24, at end insert—

““co-operative society” means—

- (a) a society registered as a co-operative society under the Co-operative and Community Benefit Societies Act 2014, or
- (b) a pre-commencement society (within the meaning of that Act) that meets the condition in section 2(2)(a)(i) of that Act;”

**Member’s explanatory statement**

See explanatory statement to Amendment 1.

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Florence Eshalomi

NC1

★ To move the following Clause—

**“National Security Procurement Committee**

- (1) The Secretary of State must establish a committee, chaired by the Minister for Resilience, to consider (a) national security and (b) cyber security within the Government’s supply chain.
- (2) The committee must consider whether suppliers should be excluded on the basis of the discretionary exclusion ground in paragraph 14 of Schedule 7 (threat to national security).
- (3) The committee must review ongoing major government contracts, with focus on threats to national and cyber security.
- (4) The committee must meet no less than once every three months.”

**Member’s explanatory statement**

This new clause will mandate that a new committee must be set up with a view to proactively identifying potential security threats within the Government’s supply chain.

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Florence Eshalomi

NC2

★ To move the following Clause—

**“Procurement principles**

- (1) In carrying out a procurement, a contracting authority must pursue the following principles—
  - (a) promoting the public good, by having regard to the delivery of strategic national priorities including economic, social, environmental and public safety priorities,

- (b) value for money, by having regard to the optimal whole-life blend of economy, efficiency and effectiveness that achieves the intended outcome of the business case,
  - (c) transparency, by acting openly to underpin accountability for public money, anti-corruption and the effectiveness of procurements,
  - (d) integrity, by providing good management, preventing misconduct, and control in order to prevent fraud and corruption,
  - (e) fair treatment of suppliers, by ensuring that decision-making is impartial and without conflict of interest, and
  - (f) non-discrimination, by ensuring that decision-making is not discriminatory.
- (2) If a contracting authority considers that it is unable to act in accordance with any of these principles in a particular case, it must—
- (a) take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage, and
  - (b) publish a report within 90 days setting out the principles with which it could not act in accordance and its reasons.”

**Member’s explanatory statement**

This new clause would require contracting authorities to pursue a series of principles when carrying out procurements

Florence Eshalomi

NC3

★ To move the following Clause—

**“Public interest**

- (1) Where a contracting authority is considering outsourcing public services that are at the time of consideration delivered in-house or where contracts are due for renewal, the contracting authority must ensure that outsourcing or recontracting passes a public interest test and provides greater public value than direct service provision.
- (2) As part of the duty in subsection (1), the contracting authority must demonstrate to the public, service users and its employees that it has thoroughly assessed the potential benefits and impact of outsourcing the service in question against a public sector comparator with assessments being based on criteria to be set by the Secretary of State from time to time, including taking a five year consideration of—
  - (a) service quality and accessibility;
  - (b) value for money of the expenditure;
  - (c) implications for other public services and public sector budgets;
  - (d) resilience of the service being provided;
  - (e) implications for the local economy and availability of good work in relevant sub-national labour markets;
  - (f) implications for public accountability and transparency;

- (g) effect on employment conditions, terms and standards within the provision of the service to be outsourced and when outsourced;
  - (h) implications for public sector contributions to climate change targets;
  - (i) implications for the equalities policies of the contracting authority and compliance with the public sector equality duty.
- (3) The contracting authority and the supplier of the outsourced service must monitor the performance of any contracted service against the public interest test and the stated objectives set by the contracting authority pre-procurement to demonstrate that outsourcing the service in question has not resulted in a negative impact on any of the matters mentioned in subsection (2)(a) to (i).
- (4) The Secretary of State must from time to time set budget thresholds for when a public interest test would be required."

**Member's explanatory statement**

The new clause would create a process to ensure that contracting authorities safeguard the public interest when considering whether or not to outsource or recontract services.

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## Order of the House

**[9 January 2023]**

That the following provisions shall apply to the Procurement Bill [Lords]:

**Committal**

1. The Bill shall be committed to a Public Bill Committee.

**Proceedings in Committee**

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 23 February 2023.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

**Proceedings on Consideration and on Third Reading**

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

**Programming committee**

6. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

**Other proceedings**

7. Any other proceedings on the Bill may be programmed.
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