

## ACCOUNTABILITY AND TRANSPARENCY; PREVENTING CORRUPTION IN PUBLIC PROCUREMENT: ORAL DEBRIEFING CONCEPT

Muhimbise Andrew\*

**ABSTRACT.** Transparency and Accountability are the cornerstones of public procurement the world over, even if a procurement process that undergoes: advertisement, public bid opening is viewed as Transparent it cannot be said to be accountable to bidders. Transparency and Accountability have to be entwined, whereas Transparency deals with issues of clarity which are mostly internal, Accountability deals with answerability to parties who partake in the process hence external. In practice one of them used in isolation is vulnerable to manipulation, and that has been the practice allowing corruption to thrive in public procurement. Oral debriefing informs bidders of their strengths and weaknesses with their individual bid which provides an excellent tool of accountability to the party that actually bids in hope of winning the tender and as a spin-off it helps improve Public Procurement understanding of how to do business with the government by providing valuable knowledge that can be used to improve on past performance. In this article, Oral debriefing is demonstrated as a preventive tool against corruption and procurement malpractices, using examples from real procurement processes.

---

\* Muhimbise Andrew, Bachelors of Purchasing and Supplies Management, is the Managing Consultant of Octopus Procurement a Consultancy firm whose slogan is creating and sharing knowledge based in Kampala- Uganda. His research interests are in public procurement specifically on corruption prevention.

## INTRODUCTION

In my Country Uganda and other LDCs in Africa and Asia as well as Europe and America; corruption is embedded in the Public Procurement system: we lose colossal sums of tax payers' money through this avoidable cancer, The World Bank (2005) estimates that Uganda loses about \$300m (shs600 billion) per year through corruption and procurement malpractices. This figure now could be as high as \$468m (shs936 billion) now considering that in 2005 corruption and procurement malpractices accounted for 16% of total government procurement expenditure as in table below:

Table1: Table showing Uganda government procurement expenditure from 2003-2009

| Financial year                             | 2004/2005  | 2005/2006    | 2006/2007  | 2007/2008   | 2008/2009    | 2009/2010    |
|--|------------|--------------|------------|-------------|--------------|--------------|
| Amount in Billions (Uganda Shillings-UShs) | UShs 3,162 | UShs 3,454.4 | UShs 3,708 | UShs 4319.2 | UShs 5,057.6 | UShs 5,848.5 |

Source: Ministry of Finance Planning and Economic Development (MFPED, Uganda).

1\$ (US) = 2,000 Ushs

It is indisputable that Corruption thrives in the dark. The Oral debriefing concept therefore comes in to "illuminate" the Public Procurement process whereas delivering on responsibility to the most neglected participant in any given procurement process- the Losing Bidder. "Corruption in Uganda is the most serious unethical practice undermining trust and confidence in most public institutions. The corruption scourge not only undermines good governance but also retards the economic development of a given country," notes the Third National Integrity Survey (NIS) Report 2008 produced by the Inspectorate of Government. According to the report, the most prevalent form of corruption is bribery at 66 percent. The survey found that demands for and payment of bribes were no longer secret

in society and many treated corruption as "a useful means of doing business".

But nevertheless lack of accountability to bidders' enables this bribery to continue unabated since the participant who is most interested is kept in the dark. Throughout this paper, therefore, Oral debriefing as a disincentive to corruption and procurement malpractices is explored in entirety. From a brief on Public Procurement in Uganda, the Oral debriefing concept is explained together with how best it can implemented in procedure, the benefits and challenges of this concept are demonstrated using examples from real procurements based on author's experience handling Distress Procurements<sup>1</sup>.

### **BRIEF ON PUBLIC PROCUREMENT IN UGANDA**

The government of Uganda initiated reforms in the public procurement and disposal sector in 1997, following the enactment of the 1995 constitution and the introduction of several reforms and structural adjustment programmes. Prior to this, public procurement was governed by the 1977 Public Finance (Tender Board) Regulations under the Public Finance Act of 1964. The system was centralized and had been in operation for over thirty years. The size of government had grown considerably and the centralized procurement system was characterized by several shortcomings, which included:

- Heavy clogging of tender requests and attendant bureaucratic delays;
- Inefficiency;
- Corruption; and
- Lack of accountability and transparency.

The reforms were initiated against the backdrop of lack of accountability and transparency and absence of a culture of value for money procurements and disposals. The development partners also recommended to Government to put in place appropriate public procurement practices based on international standards which are fair, transparent, competitive and non-discriminatory to all potential providers of goods, services and works.

The Public Procurement and Disposal of Public Assets Act 1 of 2003 led to the birth of the Independent Public Procurement and Disposal of Public Assets (PPDA) Authority as the principal regulatory body for public procurement and disposal.

The law is now in operation and all Government departments and other Government-owned bodies are obliged to follow the law. The law emphasizes best practices including procurement and disposal principles, rules, administrative review systems, Codes of Conduct, as well as suspension of providers for offences and disciplinary measures against public officers who commit malpractices.

The law is also complimented by Regulations, Guidelines, Forms and Standard Bidding Documentation. These serve to assist the procuring and disposing entities and providers of services, supplies and works in carrying out procurement and disposal processes. Public procurement is a business process where a lot of money is spent within a political system (Wittig, 2003).

All the above mentioned reforms have introduced organization in the systems on the way public procurement is managed however they have not necessarily blocked corruption and procurement malpractice reason being that; from Wittig, 2003 definition of public procurement as a business process where lots of money are spent within a political system, are vulnerable to manipulation or bypass by mainly politicians whose intentions are usually to selfishly benefit themselves with the easy public purse.

Systems and laws are as good as the intentions of the people running them, this leads us to how politicians unknowingly attract the Practitioners evidenced by the Classical President Mobutu of Zaire corruption tentacles story from Michela Wrong's book *In the Footsteps of Mr. Kurtz: Living on the Brink of Disaster in the Congo*: When Mobutu wanted \$100m and sent an aide to pick it from the central bank, the aide would inform the governor that Mobutu asked for \$150. The governor would withdraw \$200m and retain \$50m for himself. The aide would do the same.

Contrary to belief that politicians are the only ones who partake in corruption, procurement practitioners' many times join in to take their 'share' after doing all the dirty work and besides the burden of accountability squarely falls on them. The politicians' predictability therefore creates opportunities for the practitioners' to join them in corrupt acts in public procurement.

Oral debriefing once fully instituted will exert positive pressure to maintain and deepen on both politicians' and practitioners' best intentions that tend towards accountability and transparency by crippling manipulation tactics because you-the Practitioner is

answerable to bidders especially those who have lost out and not just to the government auditor.

### **WHAT IS ORAL DEBRIEFING IN PUBLIC PROCUREMENT?**

#### **Oral Debriefing, the concept**

This is where the PDU (Procurement and Disposal Unit) shall inform the bidders who partake in any given procurement and disposal process whether successful or unsuccessful, orally, at the issuance of the Best Evaluated Bidder notice of the factors that affected their bids positively or negatively in order to enable them do business with government better and competitively in the future.

#### **Oral Debriefing, the practice**

Oral debriefing applies to all Competitive Procurement and Disposal methods. Oral debriefing is also a multi-target concept which alongside transparency (internal) and more importantly accountability (external) would deliver among others benefits as: Building the much needed confidence in Public procurement systems, Eliminating the snobbish relationship between Public Purchasers and bidders, Bidders learn how to do business with government and in the long-term reduce the need for administrative reviews in the Tendering process.

The Oral debriefing meeting should be conducted at the time of issuance of the Best Evaluated Bidder Notice to the bidders which is tied to a display on the Procurement Notice Board for a period ranging from five to fifteen working days. The notice and display period is intended to give bidders a chance to appeal before a contract is formed, if they believe the regulations have been breached.

It shall be done by members of the Procurement and Disposal Unit since they are the custodians' of the Evaluation Report and also since it is their responsibility to issue on a one on one basis the Best Evaluated Bidder Notice as required by law thereby debriefing the bidders as they issue the Notice. Whereas in practice losing bidders while receiving this Best Evaluated Bidder Notice mostly demand to know why they were knocked out and since the PDU is not mandated to give them any other information other than the Notice, the bidders are usually branded as 'stubborn' when actually all they want is accountability. The Public Procurement law in Uganda stipulates that public entities to issue notice to all bidders on the winning bidder details; name and evaluated price.

Oral dissemination of information to bidders is most suitable reason being Uganda is primarily an oral society; though this confirms the controversial cliché that “If you want to hide something from an African put it in writing or insert it in a book.” We need something that fits perfectly with cultural norms; otherwise we shall add to an already existing mountain of paperwork, in public procurement, with zero impact.

Oral Debriefing would range from complimenting the winning bidder but nevertheless pointing out this bidder’s shortcoming since fulfilling all requirements one hundred percent is a rare occurrence as well as informing the other bidders on their shortcomings of their bids such as; missing documents: lack of tax compliance documentation, trading license, proper audited books of accounts, concealment of shareholder details especially for potential conflict of interest, compliance to contract terms: improper delivery/completion time, inadequate team presented for consultancy, unsatisfactory methodology proposed, to less competitive pricing on standardised supplies.

#### **WHERE ORAL DEBRIEFING IS INCORPORATED**

##### **Where shall it be integrated in the Law?**

According to Regulation 224, of the PPDA regulations, a notice of Best Evaluated Bidder shall be displayed within 5 (five) working days of the Contracts Committee's approval of the Evaluation report recommendations. It also adds that this notice shall be sent to all bidders who participated in the bidding process.

The competitive Procurement methods have a stipulated display period for the Best Evaluated Bidder Notice ranging from 5-15 working days, this display period is the time allowance given to bidders, as implied in the law, to bring forward their complaints if any as regards the bidding process (Administrative Review) up to this stage.

It fits here in the procurement process as illustrate in the Public Procurement Practitioners’ model below, as this notice is not binding as regards who is awarded the Tender and also the bidders’ eagerness to know the progress of the procurement- enabling learning on their side by pointing out any shortcomings that affected their chance in the process.

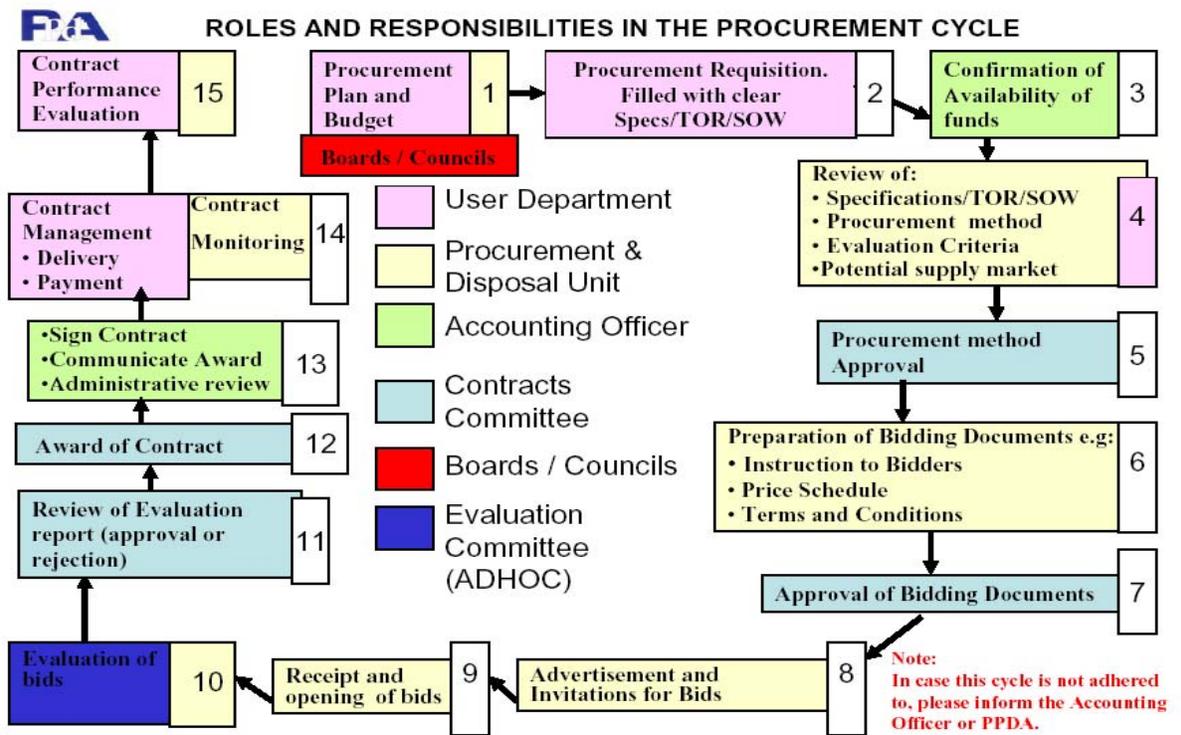
In Uganda’s case it would be appropriately captured as an additional subsection to Regulation 224 (?), reading A notice of the

Best Evaluated Bidder shall indicate the date, time and place of the Oral debriefing meeting and signed by the bidder being debriefed.

**Procurement methods where it would be appropriate**

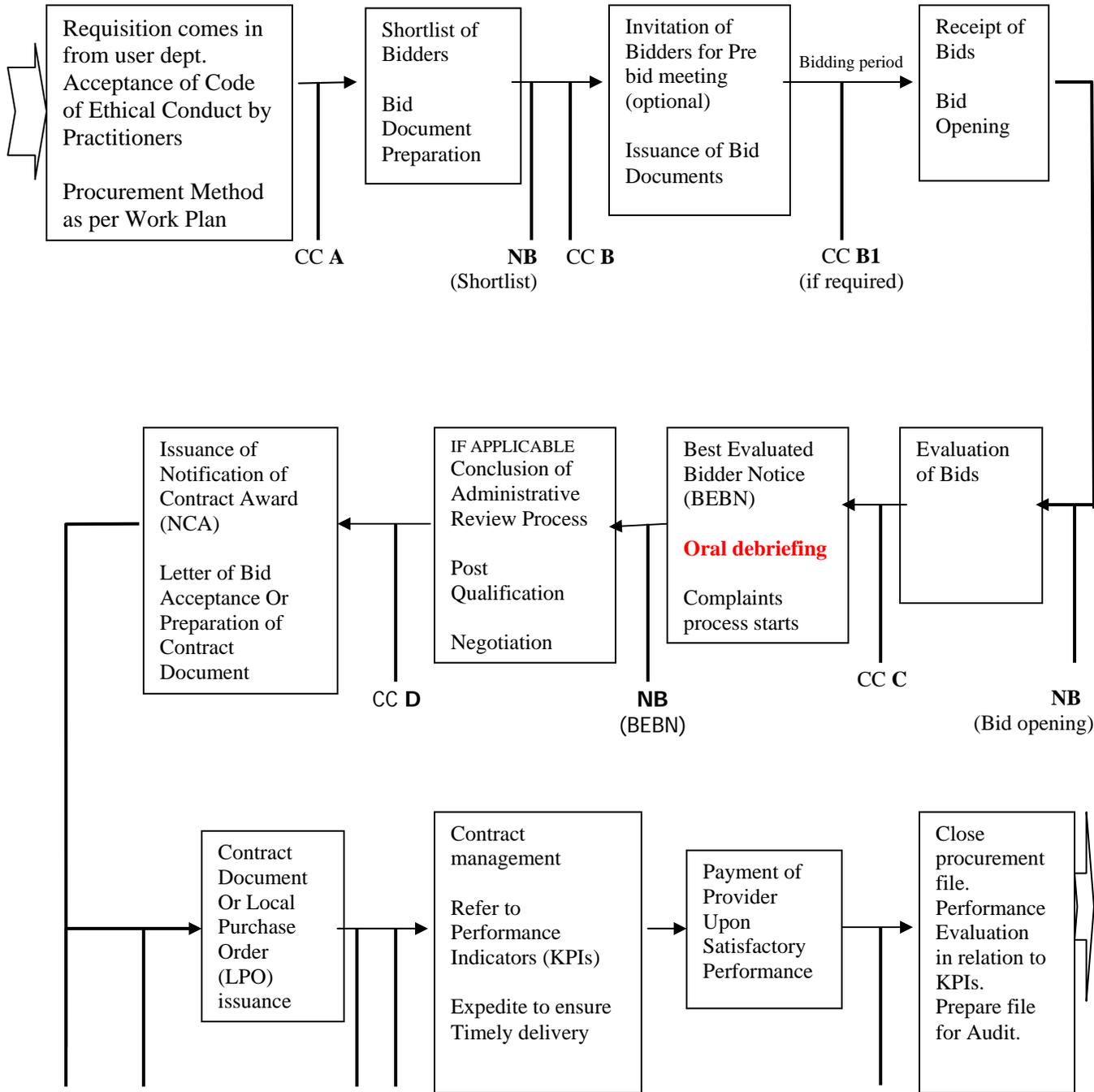
Oral Debriefing meetings would be necessary under all competitive procurement methods used in both Central and Local government, therefore this would exclude the non-competitive methods of Micro and Direct procurement. Oral debriefing does not amount to Negotiation since it's not about coming to common ground, but providing public procurement information to better bidders' response the next time round. Further more Oral debriefing is compliant with the universal Public Procurement confidentiality laws.

**PUBLIC PROCUREMENT PROCESS**



The above chart shows responsibilities and roles in the procurement cycle, below I capture the Public Procurement Practitioners' cycle for the procurement methods of; Restricted, Quotations and Proposals illustrating clearly where Oral debriefing perfectly fits in.

**Public Procurement Model-Restricted, Proposal & Quotation methods:  
Procurement Practitioner**



**CC E**   **MR**                      **NB**   **CC E1**  
         placed                      (NCA)   (if required)

**MR** complete

Octopus Procurement

P.O.Box 7264 Kampala, Uganda, Email: muantus@gmail.com, Tel: +256 702 431064.

**Abbreviations**

CC- Contracts Committee

NB- Notice Board

MR Monthly Report

**Guidance notes on Public Procurement Practitioners' Model.**

CC: **A-E**- Contracts Committee decision stages: No Objection/Objection

NB displays- display notices on the Procurement Notice Board for all to see

MR-mandatory submissions on procurement and disposal activities to the Procurement Regulator they provide a basis for audit.

CC **A**- Request for approval for procurement method

NB (Shortlist) - list of chosen suppliers

CC **B**- Request for approval of bidding document and providers' Shortlist

CC **B1** (if required) - Request for approval of addendum to bidding document

NB (bid opening) - List of those who attend bid opening exercise

CC **C**- Request for approval of Evaluation report and Recommendations

NB (BENB) - display Best evaluated bidder name and price offered.

CC **D**- Request for approval of Contract Award Recommendation

CC E- Request for approval of Contract Award Document

CC E1- Request for approval of Contract Amendment

### **BENEFITS OF ORAL DEBRIEFING**

#### **Instills Confidence in Public Procurement**

Procurement as a profession, department or unit shall establish a reputation as: Fair, honest, open, reliable and ethical; this is a terrific cost effective Public Relations tool for government in general and specifically the Procurement function. Having interacted with various Procurement systems both local and international, the reality is that issues like transparency and accountability hinge a lot on Perception within that particular environment and unfortunately Uganda's corruption perception is highly unfavourable even the best of intentions may be misunderstood, therefore Oral Debriefing comes in to prove beyond reasonable doubt that indeed the principles of; transparency, accountability and equity have been observed in the Procurement process: ensuring that they are experienced in tangible form like having the courtesy to inform bidders who do not make the grade of their shortcomings. The excerpt below tells of the general suppliers' outlook in closed-in procurement systems which are perceived unfair.

"I and my company can not continue to bid in an organisation that, never: gets back to bidders, offers a clear bid evaluation criteria and communicates who has won which bid. The sad thing is that they advertise, we spend our time and resources applying and they do the work by themselves or their friends. very unfair". (Peter Alicwamu 2009, complaining about a USAID funded project operating in Uganda)

This benefit was clearly demonstrated in supplier feedback given to the author in the Distress Procurement process of sourcing for a Management Company that had dragged on for close to three years; after the oral debriefing exercise all the losing bidders were keen on when next this same periodic tender would be advertised again so they could bid again after realizing their shortcoming and rubbing away the commonly held perception with Ugandan suppliers, that the public bidding process is usually just a formality, those in charge already know who they are awarding to.

#### **Private Sector Providers learn how to do Business with Government**

Provides continuous benefit to especially unsuccessful bidders for the time and money spent on preparing bids and also makes the

successful bidders more competitive than ever in doing business with government This shall be invaluable to especially smaller and newer suppliers to government. This creates a wide, deep, knowledgeable and assertive base of suppliers who do not have to seek for unnecessary favors (inform of bribe) that actually increase the cost of the supply, service or works offering to the government.

### **Reduce need for Administrative Review**

In the long-term it shall reduce incidence of complaints and need for Administrative Review from bidders due to foul play in the bidding process. Ironically once instituted bidders with already strongly held perceptions of unfair processes once orally debriefed want to and most times do actually use that same information given to forward their complaints on the bidding process sometimes out of disappointment and this should be an alert to the Practitioners' implementing it that it should be done with the right intentions from the beginning, otherwise it backfires. As bidders get to trust in it the dust settles.

The weight of this benefit is better appreciated devastating effect of avoidable complaints in Public procurement which delay major projects as captured in the extract below:

amidst the acute power shortage in the US\$ 300 million electricity acquisition for thermal generators to top the meager hydro electric power where two of the eligible bidders were locked in a murky tendering process (*Monitor* 15 April, 2006)

To put that in perspective Uganda's cost of power has increased by a massive 60% making the country very uncompetitive in terms of output, hike in the cost of living for the citizens. The administrative review process dragged on as the political players and technocrats on either side tussled, probably Oral debriefing would have avoided this expensive standoff.

### **Opens Communication lines**

Eliminates the snobbish relationship between procurement practitioners and bidders that is currently the trend. Because public practitioners are viewed in the same light as small gods since they can impact on if you win or lose tender and in extreme instances informally blacklist providers for future business there has developed a kind of relationship between the practitioners and the suppliers that provides fertile ground for bribery to flourish; Suppliers feel they are being favoured whenever they win tenders. Oral debriefing shall

expose and remove façade therefore making it harder for officers to demand for bribes while at the same time making it easier for Suppliers to demand for answers.

#### **Provide the linkage between transparency and accountability**

Ensures transparency and accountability as the Procurement and Disposal Unit is compelled to inform the losing bidders where they went wrong or were non-responsive to the tender. In practice this puts a strain on corrupt tendencies and most importantly necessitates a practical linkage between transparency and accountability.

### **CHALLENGES TO ORAL DEBRIEFING**

#### **Increase Complaints**

May in the short-term increase complaints from bidders, due to new found awareness, but these are reduced tremendously as the bidders gain confidence in the concept.

#### **Cost implication**

Costly in terms of time spent, however the private sector ought to learn to do business with government and this trickles in and further entrenches the benefits of level ground competition coupled with a knowledgeable and assertive supply base in the long run. An assertive supply base is an excellent deterrent to corrupt tendencies which invariably increase and sustain exorbitant costs of transacting business on government's side.

#### **Compliance monitoring**

Difficult to monitor compliance since it's oral, however if the suppliers/bidders learn to demand for it accruing from its benefits, and a massive campaign by the Public Procurement Regulator to educate bidders/suppliers/providers about this concept.

Oral vis a vis compliance: Uganda is still largely an oral society, since it is about getting answers you want, this 'burden' is welcome to the losing bidders as evidenced in practice from losing bidders' positive reception on even sloppy bidding submissions feedback. Most importantly the bidders have to demand for this information which shall be enshrined in the law otherwise there is a risk of it amounting to nothing once participating bidders especially those who lose out do not demand for it.

To further fill this gap the Best Evaluated Bidder shall indicate the date, time and place of the Oral debriefing meeting and shall be signed by the bidder being debriefed.

## **WILL ORAL DEBRIEFING BE ADOPTED?**

In a submission made by the author to the Public Procurement and Disposal of Public Assets (PPDA) Authority of Uganda titled 'Enhancing transparency in Public Procurement with respect to Oral Debriefing Meetings' (April, 2007), this Oral debriefing concept note has been included in the Draft Update of the 2009 PPDA Act and Regulations as part of reforms in Public Sector Procurement awaiting legislative approval. Once its benefits are practically experienced it shall be adopted universally as one of Public Procurement Best practice.

## **CONCLUSION**

The fight against corruption more than ever needs to be preemptive, it is more efficient and does not allow it to be politicized hence the most serious corruption scandals in Uganda have turned into tools for politicians to fight one another hence losing the plot altogether.

Oral debriefing by its very nature is intended to trim and eventually uproots the vice. The reality in Uganda and I believe many LDCs strained under the vice of corruption is that such an initiative will be welcomed albeit some suspicion as perception of corrupt tendencies real and imagined is very high with most bidders and yet very unpopular but with a resigned attitude amongst these same bidders. This is a massive shot in the arm for Public Procurement that is honestly ready to put into practice Oral debriefing in the prevention of the Corruption Cancer.

## **NOTES**

- <sup>1</sup> Distress Procurements- are procurement processes with very high risk incidence of corrupt tendencies ranging from bribery to high level influence peddling. And in many cases times are static for a number of months as parties with vested interest wrestle amongst themselves.

## **REFERENCES**

- Lysons, K. and Gillingham (2003). *Purchasing and Supply Chain Management* (6<sup>th</sup> ed.). London: Pearson Education Limited.
- The PPDA Act No. 1 of 2003 and PPDA Regulations No. 70 of 2003, Kampala: Prime Concepts Investments Limited.
- Inspectorate of government, The 3<sup>rd</sup> National Integrity Survey Report (NIS III) October 2008, [www.igg.go.ug](http://www.igg.go.ug).

The Public Procurement and Disposal of Public Assets Authority of  
Uganda, [www.ppda.go.ug](http://www.ppda.go.ug).