

# Public Procurement in Developing Countries: Objectives, Principles and Required Professional Skills

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## Abstract

Over the last fifteen (15) years, developing countries have continued to reform their public procurement in an attempt to increase competition, transparency, accountability and value for money. However, the significance of these reforms is not fully appreciated and compliance appears to be inconsistent since the reforms are treated as guidance for optimal implementation rather than a requirement tied to the provision of funding. Therefore, this paper is based on the literature review and the author experience in public sector procurement. The paper is organized in the following manner; it begins with detailed description of public procurement then discusses the procurement objectives and principles. The author also shares very pertinent professional skills required from the procurement stakeholders so as to impact the procurement process. The author concludes that, achieving best procurement practice depends widely on leadership and competence of the procurement stakeholders in the organization. As a result, procurement officers should understand all the procurement objectives and principles since it all encompasses the concepts of efficiency and effective procurement, transparency, accountability, competitiveness, confidentiality, non-discrimination and fairness.

**Keywords:** Public Procurement, Procurement Systems, Procurement Objectives, Principles and Professionalism

## 1.0 Introduction

Public procurement is one of the many functions of the government that presents good potential for assisting government attain its numerous goals. Coggburn, (2003) emphasized that if the procurement function fails to deliver quality goods and services in a timely fashion and at an economical price, then performance of government obviously suffer. Basheka & Kabatereine, (2013) adds that, a good procurement is one devoid of corruption and based on well known procurement practices that promote efficiency and effectiveness, is the vehicle for better service delivery. Therefore, the citizen-centred government should use at least 70 per cent of its budget to provide timely, efficient and effective public goods and services such as; health, education, defense and infrastructures since the greatest portion of this funds is obtained from the tax payers. Well spent public funds will benefit the majority of the citizens through good services.

Public procurement refers to the purchasing, hiring or obtaining by means of a contractual arrangement after public competition of goods, services, works and other supplies by the public sector/service, Odhiambo & Kamau, (2003). Public procurement is alternatively defined as the purchase of commodities and contracting of construction works and services if such acquisition is effected with resources from state budgets, local authority budgets, state foundation funds, domestic loans or foreign loans guaranteed by the state, foreign aid as well as revenue received from the economic activity of state. Writing from Uganda context, Public Procurement and Disposal of Public Assets Authority defines procurement as, “the acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or any other contractual means of any type of works, services, goods/supplies or any combination.” On the other hand public procurement is defined as; “an overall process of acquiring goods, civil works and services which includes all functions from the identification of needs, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration through the end of a services’ contract or the useful life of an asset,” United Nations Development Programme, (2007). In simple, public procurement is one of the governments most appropriate means to respond to the population needs in a way of not only to deliver public goods or services but also ensures value for money so as to improve their lives and living conditions.

Public procurements may be often influenced by a range of secondary objectives which are not related to, or might even conflict with, the principles of best value for money in obtaining products or services under procurement, Mbabazi et al., (2009). Examples of secondary objectives are; the promotion of national industries by shutting out foreign competition; favoring foreign currencies; or discriminating against certain foreign products or services for other reasons; rewarding political supporters, recognizing and favoring well placed firms (those that can afford kick-backs), and those whose owners can intimidate the procuring officials. However, the practices vary across many dimensions like countries legal system and cultures, organizations’ and management levels and strategies.

For the last decades, developing countries are struggling to reform their public procurement systems to comply with 2004 Johannesburg Declaration by the multilateral and bilateral development institutions and other

participants in the Organization for Economic Cooperation and Development (OECD) or Development Assistance Committee (DAC) and World Bank joint round table initiative on strengthening procurement capacities in developing countries. The initiative considered three main urgent areas for action that is; accord public procurement reform a higher strategic priority, improve the effectiveness of the approaches and techniques used to develop procurement system capacity, and for aid-funded procurement, move towards greater reliance on national systems that conform to internationally recognized standards, or are moving successfully in this direction. Since then, compliance with the relevant European Union member states, World Trade Organization and national requirements and obligations are not achieved. According to Mbabazi et al., (2009), assert that Uganda channels about US\$ 700 million a year from domestic revenue resources and donor funds through the public procurement processes. The World Bank estimates that 10-15% of this amount (US\$100 million) is wasted due to weak procurement structures, policies and procedures, as well as failure to impose sanctions for violations of the procurement units. Basheka & Kabatereine, (2013) studies found that, the reforms have also created a new set of challenges in service delivery. The procurement practices have not matched the expectations of many stakeholders in ensuring value for money and timely budget execution. Too much focus is often placed on procedural compliance and less emphasis is put on performance to achieve value for money. Procurement is believed to have become a bottleneck to service delivery, with government agencies ending up with unspent balances due to procurement delays. It is no longer sufficient to appear to achieve 100% compliance with the law and yet prices are substantially above the market price. Nevertheless, governments all over the world are increasingly recognizing public procurement as the only innovative approach to ensure zero tolerance to corruption. Countries have devoted efforts to ensure that procurement officials and bidders/suppliers comply with the procurement principles.

## 2.0 Public Procurement Objectives (PPO)

The public procurement has a number of objectives that range from social, economic, and then financial objectives. These objectives are set as a core foundation of the procurement regulations and organizations to remove barriers to trade in goods and services. These core objectives include:

**To promote transparency and openness in public procurement:** This objective ensures that the function of procurement in public organizations is done in an open and transparent manner. It is the basis of the policy which ensures that all qualified and interested parties are included in the procurement procedures. The objective is achieved by ensuring that all procurement is duly communicated to members of the public, with clear guidelines on how the process will be conducted. According to Evernett, (2005), the author emphasized that; transparent procurement procedures can contribute to a more efficient allocation of resources through increased competition, higher quality procurement and budgetary savings for governments and thus for taxpayers. They can also help attract more investment by lowering risk. Objective and transparent procedures can in addition help enhance the efficiency of local suppliers as they compete for public contracts, thereby improving trade prospects by making the suppliers more competitive exporters.

**To promote economic efficiency:** This objective ensures that procurement and purchasing is done at the lowest cost possible. Most public organizations are wasteful in their spending. The objective seeks to ensure that the organization acquires the products in a transparent manner. It is achieved by buying from the lowest qualified supplier possible. This supplier is arrived at after they have passed the technical qualifications, and is able to provide the highest quality goods/services.

**To promote efficiency in public procurement:** This objective differs from the previous one since it sets the timelines that each procedure in the procurement process should take to complete. Most of the time, the procurement personnel do not seem to satisfy the customer, and in donor funded projects; the funds sometimes remain unused for a period of time because of the inefficiencies of the personnel. Procurement is given timelines for each process to ensure that it is achieved.

**To promote public confidence in procurement procedure:** Members of the public have at times lost confidence in the procurement process, terming it "a thing for the selected few". A proper public procurement process should restore this confidence by delivering positive results as is required and expected.

**To promote equality and fairness in the public procurement process:** This objective seeks to give all an equal chance to participate in the procurement process. The procedures are spelt out clearly in each organization in a manner that seeks to ensure that every participant gets equal chance. This objective ensures that public funds are not used to provide favours to specific individuals or companies.

**Elimination of corruption in public procurement:** The main problem in procurement is corruption and fraud. The aim of this objective is to ensure that all are given a chance to participate fairly without having to be locked out unfairly. According to Uganda, Kenya and Rwanda public procurement regulations, the three countries all agree that a bidder shall not be excluded from participating in public procurement and disposal on the basis of nationality, race, religion, gender or any other criterion not related to qualification, except to the extent provided for in act. In addition, their regulations encourage the use of all procurement methods except micro-procurements. It is against this background that, governments in World Bank, United Nations and European Union member states

requires that all public officers and individuals engaged in the procurement process, including bidders and contractors to observe the highest standard of ethics during the procurement process and in the execution of contracts.

### 3.0 The Core Principles of Public Procurement (PPP)

The overall objective of the public procurement system is to provide value for money to the ministries and lower local governments by ensuring that public funds are spent in a transparent, efficient and fair manner. The basic principles for the procurement of goods, services and works, within the public sector are:

#### Transparency

Transparency refers to the principle that is central to a modern public procurement system, that gives to the public generally, and to the bidders community in particular, information concerning and access to the law, regulation, policies and practice of procurement by government Procuring Entities, (Rwanda Public Procurement Authority, 2012). Here, procurement process should be conducted in such a way that there is openness and clarity on procurement policy and all interested parties know and understand the actual procedures and processes by which contracts are awarded and managed. A transparent procurement system is the one that has clear regulations and procedures, standardized tender documents, standardized tender contracts and a fair process. There should be total transparency in connection with procurement decisions. All awards should be formally notified to the successful bidder and then publicly displayed in procurement notice boards or websites. All unsuccessful bidders should have access to the decision principles and be able to understand why they were unsuccessful on this occasion (oral debriefing). Greater use of electronic procurement; and public monitoring of the implementation of contracts should also be employed as measures to increase transparency in the procurement process. In addition, suppliers or contractors need to have a single point of enquiry within the entity to which they can address concerns and obtain clarification of decisions and procedure related to public procurement. There should be a designated point of appeal with total independence in the grievances handling. For Uganda's situation, the Public Procurement and Disposal of Public Assets Authority (PPDA), has sets the standards to be followed, build the capacity of the different stakeholders and monitors compliance to the set standards. However, the Authority reserve the right to intervene in the procurement or disposal process where there are complaints and may halt the process while giving a chance to accounting officer to address the issue raised since they have the overall responsibility for the procurement and disposal functions although suppliers are allowed to appeal to the authority after confirmation of administrative fee payment to the respective entity. Although transparency represents a key precondition to promote wide participation in procurement procedures, its level in Uganda varies in practice according to:

- i. **The sensitivity of information:** There is also a limited number of restrictions on the information provided outside the government in order to protect commercially sensitive information in tenders for instance the content of open tender such as commercial secrets, individual prices or security sensitive information for governments such as defense, national security that could harm interest of the tenders.
- ii. **The specificity and value of the procurement:** There is a balance to be found between the need for transparency and other considerations such as; efficiency depending on the type of the contract at stake. Therefore, the information made available and the means for its dissemination vary proportionally to the size of the contract and the specificity of the object to be procured.
- iii. **The stage of the public procurement process:** Although the tender process is strictly regulated, the phases prior to and after the tender are less subjective to transparency and accountability requirements.

However, Arrowsmith, (2010) emphasized that, while transparency is a very important value in public procurement, it is essential also to realize that it can also have costs and can in certain ways detract from, as well as support, public procurement objectives. An example of a way in which transparency principles may hinder the attainment of procurement objectives have been highlighted by Arrowsmith in the context of the European Union (EU) procurement system; "...*Transparency can also affect commercial objectives by increasing costs. An example is the greater preparation and evaluation costs of using open procedures. Requiring complete tenders that can be accepted or rejected without discussion also adds greatly to participation and assessment costs, especially in complex projects. (A recent United Kingdom study found that bidding costs on public projects were typically 10-50% higher than on comparable private sector projects). The bureaucracy of transparency rules can also deter competitive firms...*"

#### Accountability

The public officials who are dealing with procurement activities have responsibilities and obligations for performance and stewardship. A good procurement system should have clear lines of responsibility in decision making and public officials responsible for procurement should be made accountable for their decisions. Therefore, accountability is defined as: "the quality or state of being accountable, especially an obligation or willingness to accept responsibility or to account for one's actions". In accordance with this definition, the public officials should have the obligation and must be willing to accept responsibility for their actions. As a result, the government officials, community and the civil society representatives need to demonstrate good governance, enforcement the

procurement laws or regulations, be free from corrupt practices and be accountable for their actions.

Some measures in current best practice to incorporate the principle of accountability in procurement are: arbitration in the event of disputes, all interested parties should sign a joint undertaking guaranteeing the integrity of the process and accepting sanctions in the event there is a lapse, and monitoring by a third party such as a civil society body; keeping of proper auditable records, which can be scrutinized at any point of the process and; instituting and enforcing heavy penalties for parties in transgression as well as adverse publicity and debarment from future consideration both in their corporate and individual personas.

### **Equal Treatment/Fairness**

An efficient public procurement system should give all participants an equal chance to compete and by avoiding discrimination among potential bidders. Potential suppliers should be treated equally and with utmost fairness throughout the contract award process. The principle requires that identical situations be treated in the same way or that different situations not be treated in the same way. It does not depend on nationality as with the principle of non-discrimination but is based on the idea of fairness to individuals. For instance, treating two bidders from the same country differently could be unequal treatment but, since they are of the same nationality, there would be no discrimination on grounds of nationality.

### **Competition**

Competition refers to a situation where public bidders compete with one another for procurement contract under the same terms and conditions for the provision of goods, works or services. Procurement should be carried out by competition unless there are convincing reasons to the contrary. Public procurement system should be able to attract high quality national and international suppliers and contractors capable of meeting government needs through competitions. The key elements of competition in Uganda are: public procurement and disposal opportunities are accessible to all interested providers; sufficient time offered to the bidders or contractors or suppliers; all bidders or service providers are evaluated under the same criteria stipulated in the bidding documents; clear and non restrictive specifications, scope of works or terms of reference; and use of Standard Bidding Documents (SBDs). As a result, competitive procedures should be the standard method for conducting procurement as a means of driving efficiencies, fighting corruption and ensuring competitive outcomes. If exceptional circumstances justify limitations to competitive tendering and the use of single-source procurement such exceptions should be limited, pre-defined and should require appropriate justification when employed, subject to adequate oversight taking into account the increased risk of corruption, including by foreign suppliers.

### **Integrity**

The principle of “Integrity” is a cornerstone in public procurement. In this context, integrity refers to the use of funds, resources, assets and authority, according to the intended official purposes and in line with public interest. The public officials responsible for procurement activities should not involve themselves in corruption or collusion with suppliers or others. The principle comprises the personal inner sense of “wholeness” derived from honesty and consistent uprightness of character. This principle is very important in public procurement. It enhances good governance in public procurement contributing to an efficient and effective management of public resources (taxpayer’s money).

### **Appeal rights**

Potential suppliers should be provided with a mechanism for review of grievances and correct failures of the system. For the case of Uganda, under Public Procurement and Disposal Assets, 2006 Regulation No. 136-140; Act 2003 Section 89-91 states that; a bidder may seek administrative review for any omission or breach of the Act, these Regulations, the guidelines, the provisions of bid documents or best practices, by a procuring and disposing entity. Where a procurement requirement is subject to administrative review by a procuring and disposing entity or Authority a contract document, purchase order, letter of bid acceptance or other communication in any form conveying acceptance of a bid, that binds a procuring and disposing entity, shall not be issued prior to completion of the administrative review process. A bidder shall submit an application for administrative review within ten working days after the date of display of the award on a public notice. Any application for administrative review shall be submitted in writing to an accounting officer. The application for administrative review shall include:

- i. Details of the procurement or disposal requirement to which the complaint relates;
- ii. Details of the rule or provision which has been breached or omitted;
- iii. An explanation of how the rule or provision has been breached or omitted, including the dates and name of the responsible public officer, where known;
- iv. Documentary or other evidence supporting the complaint where available; and
- v. Any other information relevant to the complaint.

The application for administrative review shall be accompanied by payment of a prescribed fee in accordance with guidelines issued by the Authority. Upon receipt of an application for administrative review, an accounting officer shall immediately suspend the procurement or disposal proceedings where a continuation of the proceedings might result in an incorrect contract award decision or a worsening of any damage already done.

### **Economy and Efficiency**

Economy refers controlling and managing public resources in a way to save and achieve value for money while efficiency means achieving the desired outputs using the available and cheapest means or resources. In this regard, public procurement outcomes are considered in light of the costs incurred (human resources and time), the level of competitiveness achieved (number of bids, participation from cross-border bidders) and the perception of transparency. Therefore, every public-sector organization should have a formal programme of procurement internal efficiency measurement and management. The programme should also measure the effectiveness of procurement in terms of results achieved. In support of efficiency and effectiveness a standard set of Key Performance Indicators (KPIs) should be developed and regularly measured by all units within the public sector. The list of KPIs must include: Total Procurement Expenditure; Procurement Expenditure Analysed by Spending Department; Procurement Expenditure Analysed by Commodity or Service; Procurement Spend by Geographical Spread; Total Number of Procurement Transactions; Total Cost of Resources in Procurement Department; Total Cost of Resources in Procurement Process, including support departments; and Average Spend per Order placed among other measures.

### **Value for Money (VfM)**

Despite the fact that Value for Money should be based on the cost of procuring the core elements, procurement process should aim at acquiring the right items at the right time, and at the right price to support government actions. Mamiro, (2010) defines Value for Money is an essential test against which a procuring entity must justify a procurement outcome. From the user or the targeted public point of view, value for money is the value (output) attached to some defined cost (input). Value for money is narrowly defined as a concept associated with deployment of resources vis a vis realization of some expected output values. The user department or consumer attempts to attach value to products or services received and compares the same with resources expended. According to Arrowsmith, (2010) value for money has three aspects:

- i. Ensuring the goods, works or services acquired are suitable. This means both can meet the requirements for the task in question and they are not over specified (“Gold-plated”).
- ii. Concluding an arrangement to secure what is needed on the best possible terms (which do not necessarily mean the lowest price).
- iii. Ensuring the contracting partner is able to provide the goods, works or services on the agreed terms.

Therefore, it is essential that procurement attains the best quality of property and services for the price that is paid, or the lowest price for the acceptable quality of property and services. It does not necessarily result in the lowest priced goods available or the absolute highest quality available. It is the best combination of price and quality to meet the particular need in the shortest possible time. An assessment of Value for Money must take into account not only the immediate cost of property and services procured, but also: the performance of the suppliers/contractors in meeting their contractual obligations quantitatively and qualitatively; financial considerations including the source and cost of funds; the cost of maintenance support; and the anticipated price on disposal.

In other words, life cycle costing must be done as part of the evaluation process leading to the recommendation for award. Measures which might be employed to effect Value for Money include: undertaking of value analyses for contracts over a specified limit; public consultation on the rationale and elements of major projects during the design phase before the bidding documents are finalized; greater use of standard clauses in conditions of contract; a registration system of endorsed suppliers, contractors and consultants who get preferential consideration for contracts by virtue of that registration after a thorough prequalification or evaluation exercise; prompt payment of suppliers, contractors and consultants by the government agencies and the introduction of penalty interest in the event of late payment; monitoring of the execution of large contracts by civil society; coordinated purchasing by government departments to take advantage of volume discounts or bulk purchase; and finally using a measurable criteria to determine the best combination of price and quality.

### **Non-Discrimination**

The principle of discrimination that a bidder shall not be excluded from participating in public procurement and disposal on the basis of nationality, race, religion, gender or any other criteria not related to qualification, except the objective of discrimination is justified. The principle requires that public officers conducting public procurement should: handle suppliers or contractors fairly and honestly; clear separation of responsibility among players; public bodies should not impose unnecessary burdens or constraints on providers; non acceptance of gifts and hospitality by staff in the procurement; disclosure of personal interests by staff involved in the process; and a bidder should not be excluded from participating in the procurement and disposal on the basis of nationality, race, religion, gender and location.

### **E-Procurement**

Given advances in technology and demand for transparent in public sector procurement from various stakeholders including contractors; e-Procurement will provide access to a larger marketplace, minimize the opportunity for manipulation, while increasing public trust in the integrity of the government or and public procurement officials.

E-Procurement is more than just a system for making purchases online. E-Procurement refers to the use of the Internet (Information & Communications Technology) by governments to purchase goods, works and services they require at effective, efficient and transparent manner. According to Organization for Economic Cooperation and Development, (OECD) E-Procurement refers to the replacement of paper-based procedures with digital technology based communications and processing throughout the procurement process. E-Procurement is doubled sword principle because it combines the principles of transparency, value for money and fairness in public procurement increasing private practitioners' confidence in the procurement system. The key benefits of E-Procurement principles are illustrated in the table below:

**Table 1: Key Benefits of E-Procurement Principles to the Government, Bidder and Public**

Areas	Government	Bidder	Public
<b>Transparency</b>	<ul style="list-style-type: none"> <li>✓ Anti-corruption</li> <li>✓ Increased number of suppliers</li> <li>✓ Professional procurement monitoring</li> <li>✓ Higher quality of procurement decisions and statistics</li> <li>✓ Political return from the public whereby transparency increases government image</li> </ul>	<ul style="list-style-type: none"> <li>✓ Increased fairness and competition</li> <li>✓ Improved access to the government market</li> <li>✓ Open the government market to new suppliers</li> <li>✓ Stimulation of SME participation</li> <li>✓ Improved access to public procurement information</li> <li>✓ Government accountability</li> </ul>	<ul style="list-style-type: none"> <li>✓ Access to public procurement information made easy</li> <li>✓ Public expenditure information is monitored easily</li> <li>✓ Members of the public "Have a say"</li> <li>✓ Government accountability is enhanced</li> </ul>
<b>Efficiency for (Value Money)</b>	<ul style="list-style-type: none"> <li>✓ Lower prices</li> <li>✓ Lower transaction costs</li> <li>✓ Staff reduction</li> <li>✓ Reduction in fiscal expenditure</li> </ul>	<ul style="list-style-type: none"> <li>✓ Lower transaction costs</li> <li>Staff reduction</li> <li>Improved cash flow</li> </ul>	<ul style="list-style-type: none"> <li>✓ Redistribution of fiscal expenditure</li> </ul>
<b>Time</b>	<ul style="list-style-type: none"> <li>✓ Simplification/elimination of repetitive tasks</li> <li>✓ Communication anywhere/anytime</li> <li>✓ Shorter procurement cycle</li> </ul>	<ul style="list-style-type: none"> <li>✓ Simplification/elimination of repetitive tasks</li> <li>✓ Communication anywhere/anytime</li> <li>✓ Shorter procurement cycle</li> </ul>	<ul style="list-style-type: none"> <li>✓ Communication anywhere/anytime</li> </ul>

*Source: Rwanda Public Procurement Authority, (RPPA) 2012*

**Access to Information**

It is necessary as a matter of principle that all relevant information on public procurement and disposal is made public. Therefore, effective communication should be conducted to provide potential vendors with a better understanding of the country's needs, and government buyers with information to develop more realistic and effective tender documents by better understanding market capabilities. Such interactions should be subject to due fairness, transparency and integrity safeguards, which vary depending on whether an active procurement process is ongoing. Such interactions should also be adapted to ensure that foreign companies participating in tenders receive transparent and effective communications. Example of such information include; pre-qualification list, award decisions, procurement and disposal work plans, advertisement, and list of suspended/ black listed suppliers or providers. These information can be displayed on procurement notice board, website or print media.

**Confidentiality and Accuracy of Information**

Public Officers shall respect the confidentiality of information gained in the course of their duty and shall not use such information for personal gain or for the unfair benefit of any Bidder, contractor or consultant. Information given in the course of their duty shall be true, fair and not designed to mislead. The principle of confidentiality requires that what is not for the public should be kept confidential and information relating to evaluation should be kept confidential until the best evaluated bidder has been notified of the award.

### 3.0 Ethics in Public Procurement

Most people tend to define ethics as being primarily concerned with issues such as bribes and confidentiality. However, ethics is concerned with values which is a general term relating to those things which people regard as good, bad, right, desirable or justifiable. In summary, ethics is concerned with the moral principles and values which govern our beliefs, actions and decisions. Procurement ethics refers to the ability to differentiate between what is right from what is wrong when conducting public affairs (procurement). Ethics is particularly important because of the temptation public officials are exposed to during the process of acquiring goods, services and works for government. Ethics and integrity of public officials are critical components of successful public procurement reform strategy, successful public procurement reforms in Africa and their implementation depends on procurement staff and public officials who have a minimum code of moral behavior when conducting public affairs. A public procurement official with a high moral standard contributes to effectiveness of the procurement process thus service delivery.

In addition to having procurement qualifications and relevant training, procurement staffs are expected to exercise professionalism by adhering to a code of ethics. Professionalism which is generally defined by the status, methods or standards within a career area is a means to help control corruption. Being a professional, does not eliminate the possibility of individual members being corrupt, instead, it helps control improper behaviour by allowing actions to be judged against standards accepted by the profession. Dobler & Burt, (1996) define a profession as; “a calling requiring specialized knowledge and often long and intense preparation including instruction in skills and methods, maintaining by force of organization or concerted opinion high standards of achievement and conduct, and committing its members to continued study and to a kind of work to which has for its prime purpose the rendering of a public service”. Lyson (2000) defines a professional as; “a type of higher grade, non-manual occupation with both subjectivity and objectivity recognized occupation status, possessing a well defined area of study or concern and providing definite service after advanced training and education.” Therefore, the Government of Uganda, Public Procurement and Disposal of Public Assets Act, (2003) Section 93(1) and Regulations (2006) First Schedule Part B requires Procurement Officers to sign a code of ethical conduct. In addition, all suppliers, contractors or consultants are required to sign a declaration of compliance with those Codes of Conduct. The main ethical principles are:

- i. An employee or member of the tender committee should not use his/her authority or office for personal gain;
- ii. Honesty among district staff, tender committee members and suppliers/contractors should be paramount and a pre-requisite;
- iii. Employees of a district and tender committee members shall reveal any personal interest that may impinge on their dealings in the procurement process;
- iv. Information gained in regard of procurement work has to be treated as confidential and not used for personal gain;
- v. Employees of a district and tender committee members shall avoid any business arrangement that might prevent the effective operation of fair competition;
- vi. Business gifts should not be accepted from current or potential suppliers and contractors of the district;
- vii. Employees of a district and tender committee members should refrain from any business hospitality (e.g. dinners) that may be viewed by others as having an influence in decision-making.

To enhance the ethical conduct and transparency of staff and tender committee members; the employees of the district/municipal/ministry should not be suppliers/contractors of the entity either directly or indirectly.

### 3.1 Examples of Unethical Conduct

The following are examples of the types of conduct that are unethical:

- i. Revealing confidential or “inside information” either directly or indirectly to any bidder or prospective bidder;
- ii. Discussing a procurement with any bidder or prospective bidder outside the official rules and procedures for conducting procurements;
- iii. Favoring or discriminating against any bidder or prospective bidder in the drafting of technical specifications or standards or the evaluation of bids;
- iv. Destroying, damaging, hiding, removing, or improperly changing any official procurement document;
- v. Accepting or requesting money, travel, meals, entertainment, gifts, favours, discounts or anything of material value from bidders or prospective bidders;
- vi. Discussing or accepting future employment with a bidder or prospective bidder;
- vii. Requesting any other public servant or government official representing the district in a procurement to violate the public procurement rules or procedures;
- viii. Ignoring evidence that the Code of Ethics has been violated by a member of the Evaluation Committee, Contracts Committee, public servant or other employee or representative of the district;

- ix. Ignoring illegal or unethical activity by bidders or prospective bidders, including any offer of personal inducements or rewards.

#### 4.0 Public Procurement Professional Skills

With the complexity and risks involved in the public procurement today, the procurement professionals should possess some unique qualities to enable them execute their duties effectively and efficiently so as to maximize value for money and reduce corruption. First, the procurement professional should have knowledge in both international and national public procurement regulations, standard bidding documents, contracts management skills, and be able to monitor the procurement and disposal processes to ensure compliance with the procurement and disposal law or regulations. Procurement planning is very central in public procurement without it, then there is no procurement because it involves the process of determining what is needed, how much is needed, where, how and when. It is a description of the goods and services that will be acquired by the entity, when and how they will be acquired, and from which source. Basheka, (2008) defines it as a process of determining the procurement needs of an entity and the timing of their acquisition and their funding such that the entities operations are met as required in an efficient way. Therefore, Procurement Planning involves the determination of the future procurement needs to either works, services or supplies or any combination that are required to meet the organizational needs in an efficient, cost effective and timely manner in accordance with agreed procedures. This skill is very important to all procurement stakeholders for the success of the procurement. In most cases, Auditors will want to see a clear procurement plan signed off by key stakeholders, as it represents a decision to proceed. In Uganda, Under Section 58 of the PPDA Act 2003, Procurement Planning (PP) is required of every Procuring and Disposing Entity/Organization to plan their procurements each year. The purpose of PP is to achieve value for money (value for public expenditure) and the other objectives set out in Part IV; Section 44 to 54 of the PPDA Act, 2003. The procurement plans are approved by the Contracts' Committee and the District Council/Board together with the budget estimates. However, the Procuring and Disposing Entities (PDEs) shall plan its procurement and disposal in relational manner and in particular shall:

- a) Avoid emergency procurement and disposal where possible
- b) Aggregate its requirements whenever possible, both within the procuring and disposing entity and between PDEs to obtain value for money and reduce procurement costs.
- c) Make use of framework contracts whenever appropriate to provide an efficient, cost effective and flexible means to procure works, services or supplies that are required continuously or repeatedly over a set period of time.
- d) Avoid splitting of procurements or disposal to defeat the use of appropriate procurement or disposal methods.
- e) Integrate its procurement budget with its expenditure programme. This is to ensure that;
  - i. The market structures for the items included
  - ii. Items which are of similar nature and which are likely to attract the same potential renderers are grouped together.
  - iii. Items which shall be subject to the same method of procurement and tendering conditions are together
  - iv. Items which shall be ready for tendering at the same time
  - v. Items which shall be subjected to the same conditions of contract
  - vi. Potential savings in time or transaction costs
- f) Integrate the disposal of assets both listed and un listed in its Asset Register as well as in its income and expenditure budget

The procurement practitioner should be keen on procurement specifications. During specifications, buyers must make sure they know what they want and thus, suppliers too are able to understand what they are to supply. Internally, the buyer must comprehensively compile such details and communicate them to the suppliers. At the international level, this is not very easy process as there are a number of factors that must be understood for any meaningful communication to be achieved between the buyers and the sellers. Such factors include; different standards, language, culture, units of measurements, and currency among others. In this context, specification is defined as, "a fact of statement which provides a description or list of characteristics required in an item." According to Thai (2007), a good specification contains the following elements: It identifies a minimum requirement, it allows for maximum competition (competitive bids), it identifies the test methods to be used to verify compliance with the requirement, and it contributes to obtaining best value at the lowest possible cost using a fair, equitable, and transparent (easy for the public to see and understand) contract award process.

Communication and analytical skills is equally very important to the procurement professionals across the globe. The person in charge of procurement should be able to demonstrate relevance when writing specifications, advertisements and should know how to communicate effectively to the suppliers and other stakeholders. Public officials should also be able to read between lines and also understand the needs of the



organization. Once you know the performance requirements of procurement, you will be able to tell if you will get the value for money or not. Value for money can be realized through measuring the cost savings that is measuring the performance of the suppliers in meeting the contractual obligation qualitatively or quantitatively. Furthermore, ability to monitor and evaluate can play a major role in enhancing the efficiency and effectiveness of public procurement. It is important to study the suppliers or service providers in order to identify a firm out of the many bids you have received on the one which can deliver quality goods or services. Under this stage, one must be careful because it has high potential for mistakes and corruption in procurement process. Therefore, it's the role of the key stakeholders in the process to ensure the right supplier is chosen in order to realize value for money.

Lack of procurement records undermines the principle of accountability, transparency and fairness. The public procurement manager should ensure that procurement records are kept well because they can be expected any time. A well kept and maintained record will provide information to support pursuit of improved performance; provide information for better decision making; and inform management of current performance against the targets. Therefore, the absence of consistent and reliable data will make it difficult to create an environment in which performance can be properly assessed. In addition, having financial management skills is very crucial since it can help one to interpret the budget, correlate with the specification to ensure value for money procurement.

Good management skills are very important since the procurement officer will oversee people and resources of the organizations in order to promote the overall value for money, as well as help prevent corruption. These people can be within the organization (user departments) or external (suppliers, civil society, press and donors). A procurement officer should be able to work confidently within a group, direct others, identify opportunities and should be very proactive in putting forward ideas & solutions. Finally, the possession of negotiation skills is necessary because sometimes disputes could arise between organization and suppliers due to price, quality, and delivery.

## Conclusion

Since 2000, least developed countries governments have formed public procurement forums with the aim of professionalizing and harmonizing their procurement to match with best international best practices. But this seems to be a challenge because of difference in policies, enforcement measures and powers given to the public procurement authorities for the case of East Africa Community Public Procurement Forum. Some of the authorities are independent while some play the oversight role making it hard to achieve best procurement practices among developing countries. The most challenge in Africa is lack of strong institutions to fight corruption. In 2013, Corruption Perceptions Index for 175 countries and territories by Transparency International ranked Burundi 157<sup>th</sup> with a score of 21%. Uganda 140<sup>th</sup> with a score of 26%, Kenya 136<sup>th</sup> with a score of 27%, Tanzania 111<sup>th</sup> with a score of 33%; as the top most corrupt countries in the world while Botswana, Cape Verde, Seychelles, Rwanda and Mauritius were the least corrupt countries in the world with the scores of 64%(30<sup>th</sup>), 58%(41<sup>th</sup>), 54%(47<sup>th</sup>), 53%(49<sup>th</sup>) and 52%(52<sup>th</sup>) respectively and beating seven countries from European Union and Western Europe that is Croatia 57<sup>th</sup>(48%), Czech Republic 57<sup>th</sup>(48%), Slovakia 61<sup>st</sup>(47%), Italy 49<sup>th</sup>(43%), Romania 57<sup>th</sup>(48%), Bulgaria 77<sup>th</sup>(41%) and Greece 80<sup>th</sup>(40%) making them top five in Africa. This statistics worries United Nations, World Bank, World Trade Organization, to increase their funding to LDCs since their governments have lost political will to fight corruption and the situation is getting worst and yet 34 of the 48 LDCs are located in Africa. Therefore, to bring the lost hope by donors and developed countries on least developing countries, there is need to bring the perpetrators of corruption to books instead of instead of plating "a blame game"; political head of states should also allow the law enforcement agencies and civil society organizations to operate independently without pressure or and intimidations. These will enable them hold public officials accountable for their results without fear or favour; will achieve the "zero tolerance to corruption" agenda; promote good governance, barred government from spending on wrong people, wrong goods and wrong services since there are increasing signs that developing countries have the political will to create the right environment for those fighting corruption.

It is also important to note that, achieving best procurement practice depends widely on leadership and competence of the procurement stakeholders in the organization. As a result, procurement officers should understand all the procurement objectives and principles since the all encompasses the concepts of efficiency and effective procurement, transparency, accountability, competitiveness, confidentiality, non-discrimination and fairness. The Government should develop a code of good customer practices which should be effectively enforced by an independent agency to bring in greater accountability in public procurement. There is also a best practice in some international public sector organizations to include guidelines on staff ethics and professional responsibility in the procurement manuals of the organization to ensure that the procuring officers are aware of the Government instructions and policy on acceptance of gifts, favours, enumeration, economic benefits, hospitality, entertainment, job promises, and sex among others. from any non - Governmental source including the suppliers. This will prevent least developing countries from public procurement abuse or mismanagement and the syndrome of "Path dependence" which according Kelman, (2012), it refers to a situation where a practice initially gets established for one set of reasons or even just coincidentally but where, once established, the practice takes root and becomes

difficult to change even if it is no longer appropriate under new circumstance. The concept was first discussed in the context of the persistence of the inefficient “QWERTY” configuration of typing systems; this was initially developed explicitly to slow down typing speed, because early typewriters would jam if people typed too fast; because of investments in learning the configuration, it persisted, despite its inefficiency, after the constraint of typewriter speed vanished. Thus to ensure the best value procurement, the government should develop a procurement workforce with the capacity to continually deliver value for money efficiently and effectively. There is need to ensure that procurement officials meet high professional standards for knowledge, practical implementation and integrity by providing a dedicated and regularly updated set of tools for instance sufficient staff in terms of numbers and skills, recognition of public procurement as a specific profession, certification and regular trainings, integrity standards for public procurement officials and the existence of a unit or team analyzing public procurement information and monitoring the performance of the public procurement system.

## References

- Arrowsmith, S., (2010). Public Procurement: Basic Concepts and the Coverage of Procurement Rules. In, Arrowsmith, S., (Ed). *Public Procurement Regulation: An Introduction*. The EU Asia Inter University Network for Teaching and Research in Public Procurement Regulation. Retrieved from <https://www.nottingham.ac.uk>
- Basheka, B.C. & Kabatereine, D., (2013). Public Procurement Reforms in Uganda. A Historical Trajectory. *Journal of Public Procurement and Contract Management*, Vol.2, No. 1:27-41.
- Basheka, B.C., (2008). Procurement Planning and Accountability in Local Government Procurement Systems in Developing Countries: Evidence from Uganda. *Journal of Public Procurement*, Vol.8 No.3: 379-406
- Burt, D.N., & Dobbler, D. W., (1996). *World Class Supply Management: The Key to Supply Chain Management*. Singapore: McGraw Hill.
- Coggburn, J.D., (2003). Exploring Differences in American States Procurement Practices. *Journal of Procurement Management*, Vol. 3, No. 1: 3-28. Retrieved from <http://www.ippa.org/jopp>
- Evenett, J.S. & Hoekman, B.M., (2005). *International Cooperation and the Reform of Public Procurement Policies*. World Bank Policy Research Working Paper No. 3720. Retrieved from <http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-3720> on September 13, 2014
- Kelman, S.,(2012). Goals, Constraints, and the Design of a Public Procurement System. *The Cost of Different Goals of Public Procurement*, Swedish Competition Authority. ISBN 978-91-88566 13-3 (print), 978-91-88566-15-7 (pdf)
- Lysons, K., (2000). *Purchasing and Supply Chain Management (5th ed.)*. Financial Times, Prentice Hall, Pearson Education Ltd, England.
- Mbabazi, T., Karuhanga, B. & Mukoma, M., (2009). Compliance and Service Delivery in Ugandan Local Government Procurement Units. Ntayi, J.M., Ssewanyana, J., & Eyaa, S.,(Eds).*Procurement Trends in Uganda*. Fountain Publishers, Kampala. ISBN 978-9970-02-971-6.
- McClelland, F.J.,(2006). *Review of Public Procurement in Scotland: Report and Recommendations*. Blackwell’s Bookshop. ISBN 0-7559-4999-4; Retrieved from <http://www.scotland.gov.uk>
- Odhiambo, W. & Kamau, p., (2003).Public Procurement: Lessons from Kenya, Tanzania and Uganda. *The Integration of Developing Countries into the World Trading System*. OECD Working Paper No. 208. Retrieved from <http://www.oecd.org/countries/uganda/2503452.pdf> on June 06, 2014
- Mamiro. R.G., (2010). Value For Money, The Limping Pillar in Public Procurement Experience from Tanzania. *4th International Public Procurement Conference (IPPC 2010)*; hosted by the Korean Public Procurement Service in Seoul, South Korea. Retrieved from <http://www.ippa.org/IPPC4/Proceedings/01ComparativeProcurement/Paper1-2.pdf>
- Thai, K.V. (2007). *Introduction to Public Procurement*. 2nd ed., Herndon, VA: National Institute of Governmental Purchasing, Inc. FL: PrAcademics Press.
- Thai, K.V., (2008). International Public Procurement: Concepts and Practices. Thai, V, (Ed). *International Handbook of Public Procurement*; ISBN 13: 978-1-4200-5457-6 Retrieved on March 03, 2014 from [http://sate.gr/nea/International Handbook of Public Procurement.pdf](http://sate.gr/nea/International%20Handbook%20of%20Public%20Procurement.pdf)
- The Republic of Uganda: *Public Procurement and Disposal of Public Assets Authority, (PPDA) Regulation 2006*
- The Republic of Kenya: *Public Procurement Oversight Authority (PPOA), 2009*
- The Republic of Kenya: *Public Procurement and Disposal Act (PPDA), 2005*
- The Republic of Rwanda: *Rwanda Public Procurement Authority, (RPPA) 2012*
- United Nations Development Programme (UNDP) 2007. *Contract, Asset and Procurement Management User Guide*. Retrieved from <http://www.content.undp.org/go/userguide/cap/procurement>