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COLLEGE OF ARCHITECTURAL AND PLANNING
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**BEST PRACTICES PROCUREMENT PRACTICES: LESSONS
FOR NEWMONT GHANA**

KNUST

BY

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MASTER OF SCIENCE IN PROCUREMENT MANAGEMENT**

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DECLARATION

I hereby declare that this thesis is the result of my own original research and that no part of it has submitted to any institution or organization anywhere for the award of a degree. All inclusive of the work of others has been fully acknowledged.

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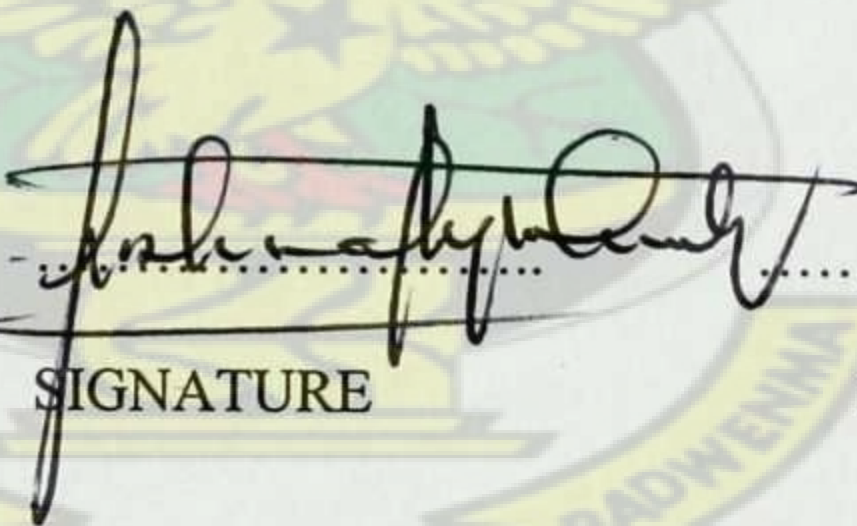
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DEDICATION

With sincere and heart felt gratitude, I humbly dedicate this research to my son,
Owusu Kofi Gyimah (Junior) whose patience and support made this project a reality.

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ACKNOWLEDGEMENT

For one to be able to execute research of this nature, it is obvious that, it cannot be done by only one person but with the help of other people.

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ABSTRACT

Every institution's procurement activities are very important as it affects the ability to maintain its infrastructure to attract business and improve the standard of living for its people. These activities often involve the acquisition of goods, works and services for both public and private. Purpose of procurement system is to secure acquisition of goods, works and services from other private contractors not necessary to provide services but also have value for money.

Comprehensive procurement guide and effective management will contribute immensely to future best procurement practices in every institution. The success will highly depend on the process and procedures established and the capability of the officials. The total magnitude of procurement expenditures has a great impact on every institution and needs to be well managed.

Given this background, the study sought find out best procurement practices using Newmont Ghana Gold Limited and Newmont Golden Ridge Limited (Newmont Ghana) as case study areas at Ahafo and Akyem respectively.

The research relied on both primary and secondary data. Data was collected from procurement officials and works contractors through interviews and questionnaires.

The findings of this study provide valuable information for improving the efficiency of the procurement practices in Newmont Ghana and world at large.

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LIST OF ACRONYMS

ADBG	AFRICAN DEVELOPMENT BANK GROUP
AIDS	ACQUIRED IMMUNODEFICIENCY SYNDROME AND HUMAN IMMUNODEFICIENCY VIRUS
CIDA	CANADIAN INTERNATIONAL DEVELOPMENT AGENCY
EBRD	EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT
EC	EUROPEAN COMMISSION
EIB	EUROPEAN INVESTMENT BANK
EU	EUROPEAN UNION
FIDIC	FÉDÉRATION INTERNATIONALE DES INGÉNIEURS-CONSEILS
GPN	GENERAL PROCUREMENT NOTICE
GSADD	GENERAL SERVICES ADMINISTRATION DEPARTMENT OF DEFENSE
HND	HIGHER NATIONAL DIPLOMA
ICB	INTERNATIONAL COMPETITIVE BIDDING
KM	KILOMETERS
NIB	NORDIC INVESTMENT BANK
NPPPU	NATIONAL PUBLIC PROCUREMENT POLICY UNIT
OECD	ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT
OGC	OFFICE OF GOVERNMENT COMMERCE
PFSD	PROCUREMENT AND FIDUCIARY SERVICES DEPARTMENT
PHD	PHILOSOPHY IN DOCTORATE
PPA	PUBLIC PROCUREMENT AUTHORITY
PPRB	PUBLIC PROCUREMENT REVIEW BOARD
PRAG	PRACTICAL GUIDE
R&D	RESEARCH AND DEVELOPMENT

RFP	REQUEST FOR PROPOSAL
RFQ	REQUEST FOR QUOTE
SCM	SUPPLY CHAIN MANAGEMENT
SLTO	SOCIAL LICENSE TO OPERATE
SOP	STANDARD OPERATING PROCEDURES
UNDB	UNITED NATIONSDEVELOPMENT BUSINESS
USA	UNITED STATES OF AMERICA
VAT	VALUE ADDED TAX

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CHAPTER ONE

INTRODUCTION TO THE STUDY

1.1 Introduction

Everyone makes decisions about purchases in their daily lives, which can lead to an unfortunate assumption that anyone can 'do' procurement. But specialist skills are needed to secure the best deal and tie down a sound contract with a supplier or a contractor.

To buttress the above statement, PPA (2011), mentioned that procurement appears to be one of the activities that are vulnerable to waste, fraud and corruption due to the complexity of the process and procedures, size of the financial flows it generates and the close interaction it brings between the public and private sector.

Public Procurement in Ghana utilizes about 80% of the national tax revenue. This represents about twenty four percent (24%) of the nation's total imports which represent between fifty to seventy percent (50-70%) of the national non-personnel budget; and accounts for about seventeen percent (17%) of the country's gross domestic product (GDP) according PPA (2011). Clients use a lot of resources in their institutions to procure goods and services. Institutions require best procurement practices to utilize the flow of the resources to the institutions effectively and efficiently.

1.1.1 Importance of Procurement Practices

The main objective of Procurement is to maximize economy and efficiency. Best procurement practices foster and encourage participation in procurement proceedings promote competition and provide fair and equitable treatment amongst suppliers and contractors (Ekpenkhio, 2003). It also promotes integrity in the procurement process and instills confidence in institutions. Best procurement practices will enhance accountability, probity and transparency in the financial and procurement systems according to Ekpenkhio (2003).

Best procurement practices are to achieve value for money having regard to probity and accountability. When making purchases of goods, works or services, consideration should be given to whether they are fit for the purpose for which they are intended. The works provided should be sufficient of quality and the level of service or support provided should meet the requirements desired. The whole-of-life and transaction costs associated with acquiring, using, holding, maintaining and disposing of goods or service should also be considered (NPPPU, 2005). The processes which includes planning, selection of contractors and managing contracts to purchase goods, works and services using the funds available must have a direct impact on the successful delivery of goods, works and services and reducing corruption (Addai-Donkoh, 2009).

According to Krasniqi (2012), the goal of procurement is to ensure the most efficient, transparent and fair use of allocated funds and resources. Procurement practices should create fair opportunities for all providers and should be designed in such a way to ensure good value for money and minimize the risk of corruption and favoritism. A sound policy and procurement

practices can reduce the level of public expenditure, provide timely results, promote private sector development, reduce lost time, delays, corruption and government inefficiency.

The main objective of the PPA (2003) enacted by the parliament of the Republic of Ghana is to harmonise the processes of public procurement in the public sectors. It is also to secure a judicious and efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and non-discriminatory manner. Institutions will achieve value for money for every pesewa spent if the entities remain focused when procurement activities are carried out in an efficient and effective manner (PPA-Electronic Bulletin, 2011).

1.1.2 General overview of Public and Private Procurement Practices

The objective in both public and private procurement is the same. However, the processes and procedures that must be journeyed to reach the goal are very different depending upon whether the client is a private one or a public entity (Worthington and Associates Ltd, 2011).

According to Moe (2011) the main distinction between public and private organizations is their ownership; whereas private businesses are owned by a limited group of entrepreneurs or shareholders, public agencies are owned collectively by members of political communities.

NPPPU (2005) defined Public Procurement as the acquisition, whether under formal contract or not, of works, supplies and services, by public bodies. Governments traditionally use their budgeting processes to decide if they will "make" something in house or "buy" it from others through their procurement system, just as a private company makes similar decisions in their enterprise resource plan (NPPU, 2005). However, unlike private sector procurement, public

procurement is a business process within a political system with distinct considerations of integrity, accountability, national interest and effectiveness (Wittig, 1999).

According to Brehmer et al (2010) Public Procurement is a large part of any country's economy, independently of its geographical location, political inclination or level of development. It can be considered as a special case of business transactions between organizations. The most important difference between public procurement and private companies' purchasing is a stricter jurisdiction and the main reasons for that are to protect tendering companies from unfair treatment and to avoid corruption, bribery and the misuse of power by public procurers in general.

However, the private sector normally satisfies the objectives of economy and efficiency by following established commercial practices. They follow the formal procurement procedures. Their main objective is that, less rigid, less costly and followed by negotiations often prove to be sufficient. Contracts awarded to a bidder must be negotiated impartially and accord with the project's best interests (NIB, 2011).

According to Strand et al (2011), private sector procurement in large corporations across Europe is subject to internal firm guidelines which regulate key aspects of purchasing but allow for much greater flexibility overall. Competition and price pressure are weaker than in public sector procurement. Though, private procurement is perceived to be faster and less costly than public procurement and this result in a more favorable perception of efficiency which should not be the case.

1.2 Background to Study

Procurement in general has been perceived as an area of waste and corruption. According to Thai (2006), the District of Columbia, USA government wasted hundreds of thousands of dollars in revenue by selling used emergency vehicles for “bargain basement prices” in auctions run by untrained staffers. Thai confirmed that, in a two and half (2 ½) year period study by the city’s Inspector General's Office, the city sold eleven (11) fire trucks for a total of three thousand and twenty five United States Dollars (\$3,125) while similar vehicles in make and model had been sold on the Internet for a total of three hundred and sixty thousand, eight hundred and seventy five (\$360,875).

Again, in Colombia in the late 1990s, the country faced a deep recession and unemployment levels at 20 percent (20%). At the time, the Colombian Confederation of Chambers of Commerce identified corruption in both the public and private sectors as one of the key issues to be addressed in order to improve the quality of democratic governance institutions and broader economic performance (Gómez and Arteaga, 2009). Gomez and Arteaga further mentioned that procurement is often one of the most corruption prone areas, especially in emerging markets where governance and enforcement mechanisms are weak. It can become so taxing on business that, bribes simply become an added cost that all bidders must take into consideration when bidding. Public procurement practices are particularly susceptible to corruption because of the large amounts of funds involved. It makes public procurement more attractive to corrupt officials than private procurement though they have good processes and procedures.

In a competitive tender, it is manipulated in such a way that a pre-selected bidder wins the tender. Bribes or kickbacks are common features of corruption schemes in procurement. Kickbacks typically consist of a percentage of a contract's value and they occur when companies that win public contracts "kick back" bribes to the procurement official(s) who influence the awarding of contracts to them (Gómez and Arteaga, 2009).

Sometimes, sub-standard procurement practices in any institution which Newmont Ghana is no exception can change the objectives of procurement and result in unfairness and cause chaos among the stakeholders.

1.2.1 Profile of Study Area

Newmont Ghana was chosen to be the case study company. This institution procures all kinds goods, works and services throughout their mining activities and deal with all sorts of contractors/suppliers/consultants locally and internationally which require best practices in their selection.

Newmont Mining Corporation (Head Quarters) based in Greenwood Village, Colorado, USA, is one of the world's largest Gold Mining Companies, with active mines in Nevada, Indonesia, Australia, New Zealand, Ghana and Peru. Holdings include Santa Fe Gold, Battle Mountain Gold, Normandy Mining, Franco-Nevada Corp and Fronteer Gold. Newmont also has many joint venture relationships. Newmont was founded in 1916 by William Boyce Thompson as a diversified holding company; today Newmont remains the only gold company of Standard. According to company lore, the name "Newmont" is a portmanteau "New York" and "Montana",

reflecting where Thompson made his fortune and where he grew up. As of December 31, 2010, Newmont produced approximately 5.4 million equity ounces of gold annually and held proven and probable reserves of about 93.5 million. Newmont employs approximately 34,000 employees and contractors worldwide. Other metals that the company mines include copper and silver.

In Ghana, Newmont operates from two (2) mine areas, namely; Newmont Ghana Gold Limited at Ahafo and Newmont Golden Ridge Limited at Akyim. The Ahafo operation (100% owned) is located in the Brong Ahafo Region of Ghana, approximately 180 miles (290km) northwest of Accra. Ahafo poured its first gold on July 18, 2006 and commenced commercial production in August 2006. Newmont operates four open pits at Ahafo with reserves contained in 11 pits. Commercial production in the fourth pit, Amoma, began in October 2010. Ahafo produced 545,000 ounces of gold in 2010 and at December 31, 2010, reported 10.0 million ounces of gold reserves.

Additionally, Newmont's Akyem project (100% owned) is located approximately 80 miles (125km) northwest of Accra. In January 2010, Newmont received the mining lease. Upon permit approval, production is slated to begin in late 2013 or early 2014. At December 31, 2010, Newmont reported 7.2 million ounces of gold reserves

(Newmont Mining Corporation Prospector, 2013). This shows that there are lots of projects to be executed in these two mine areas which demand a lot of contractor action.

1.3 Statement of the Problem

Delivery of quality project or contract works cannot be done properly if procurement practices are poorly handled. Since institutions rely on contractors and suppliers to work effectively and efficiently, at any point in time, there is the need to get the right quantity of logistics to produce their products.

Procurement must not only focus on acquisition of goods, works or services but it must also embrace the process and procedures to select suppliers, contractors or consultants to execute proposed projects. The main concern of best procurement practice is that the right goods, works or services must be procured at the right time, in right quantities and to fit for purposes intend to be used. Any shortage of essential items may create a situation where the laid down procedures outlined in the procurement guide may not be followed (Thai, 2007).

Weak processes, procedures and methods in procurement practices especially in the selection of suppliers and contractors may lead to wrong selection of suppliers or contractors which can affect the execution of the project. Procurement practices require high standard principles in order to select competitive supplier, contractor or consultant and prevent corrupt deals due to internal and external pressures from all stakeholders (Wittig, 2001).

Notwithstanding, lack of transparency in the procurement process, as well as little or no information of specific procurement transactions could affect the selection of contractor, supplier or consultant. A contract can be awarded on the basis of subjective or undisclosed criteria to an apparently specially favoured contractor or inadequate or irregular choice of the procedure,

favouring bidders from economically disadvantaged areas, using environmental-friendly materials. Lack of rules and regulations to guide procurement practices such as lack of procedures and processes to open bids publicly, regular negotiation of works contract, failure to publish works contract in widely circulating newspapers, etc. create are bad procurement practices according to Vian (2008).

All these problems mentioned above one way other may occur in many institutions which Newmont Ghana will be of no exception. These aforementioned complain from some stakeholders' generated concern to undertake this study.

1.4 Aims and Objectives of the study

To undertake an in-depth examination of the best practice procurement practices and recommends to Newmont Ghana if the institution is operating from sub-standard. Adapt these for use in Newmont Ghana.

The following are objectives outlined;

- To identify standard procurement practices for selection of contractors for works contracts.
- To identify differences and similarities in the selection of Newmont's works contractors against other standard procurement.
- To discuss unethical behavior in the processes of selecting contractors for works at Newmont Ghana.

1.5 Research Questions

Are there any differences and similarities in processes and procedures in the selection of contractors? Specifically, which of the processes, procedures in selection is the best to be adopted? The following questions also guided the study;

- What were the standard procurement practices available for the selection of contractors for works?
- What were the standard processes and procedures to conduct in the selection of works contractors?
- What were unethical behaviors of selecting contractors for works at Newmont Ghana?

1.6 Relevance of the Study

- To make suggestions and recommendations to adopt best practices.
- To propose improvements to the current situation of procurement practices in the selection of contractors.
- The study would also contribute to the literature on procurement practices in this country and the world at large.

1.7 Research Method

The study involved desktop research where relevant and related literature was reviewed. In addition, qualitative data was collected from targeted respondents within Newmont Ghana. The findings of the study discussed herein are the outcome of the related approaches. Data collected for the analysis were through questionnaires from procurement officials and works contractors within Newmont Ghana

1.8 Limitations of the Study

- Some of the respondents felt that the study was more of audit purpose than an academic study. Most of the respondents thought that the findings of the study would be going to the higher authorities which were short falls and might affect the response.
- The study excludes the selection of suppliers and consultant in order to have in depth study for selection of works contractors.

1.9 Organization of the study

This research is divided into five (5) chapters. The first chapter introduced the background of the study which touches the basis of the problem under study. The research questions to the study were reviewed and discussed. The research methodology was discussed as well.

The second chapter reviews literature on procurement standards, processes and procedures. The third chapter discusses the study's methodological approach and the strategies employed for collecting primary and secondary data. It also highlights the population identified, the sampling processes the instrument used and the defined selections.

The fourth chapter presents the study's findings from the primary and secondary data collected and addresses to the research questions. The findings made are presented in tabular forms and graphs. Finally, the fifth chapter presents the conclusions and recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

Despite the challenges around the procurement system, the major aim of a procurement system is to get the right items at the right time, at the right price, to support services and activities (Witting, 2004). But, just trying to define the “right” item, time, price and others leads into a variety of public and private functions and political decisions. Works are procured to ensure that the limited resources provided are utilized in a transparent, accountable and efficient manner. Unfortunately, the use of procurement process, procedures and methods to achieve the efficiency in public and private sectors are challenging (Ghana National Drug Policy, 2004).

Effective and efficient procurement practices by public and private sectors can have a significant impact on the accountability and value for money in the aspects of procuring of works by institutions. The prospective savings that can be regained from effective procurement practices and policies will be very significant. Achieving savings in every organization is very important as it frees up resources which can be redirected to the provision of services within organizations, (NPPPU, 2005).

2.2 Inefficiencies in Procurement Practices

According to Gómez and Arteaga (2009) correct understanding of procurement practices is a key to fighting corruption by helping to identify corruption schemes and vulnerabilities along the procurement chain and its processes. Procurement is a central area of spending, and is therefore highly exposed to mismanagement and potential corruption. They further mentioned that abuses can occur at any of those stages. There are cases where certain firms agree on “rigging” the prices that they submit to the procuring entity. Often, this involves each firm taking its turn to win a contract, especially when there is repeated tendering over time. In other cases, a firm or firms may attempt to bribe procurement officials so as to obtain favour.

According to Vian (2008), common corrupt practices in the procurement process especially in the selection of the bidder include the following:

- collusion among bidders resulting in higher prices for procuring,

- kickbacks from suppliers and contractors to reduce competition and influence the selection process,
- bribes to procurement officials monitoring the winning contractor's performance,
- Other forms of abuse, fraud, and mismanagement can occur due to insufficient management and monitoring capacity and
- In some cases, supplies do not meet the expected standards, or they are only partially delivered or not delivered at all and they may be cover-up. All of these practices lead to cost overruns and low quality.

Addai-Donkoh (2009), also identified weaknesses in procurement practices as follows;

- No comprehensive procurement policy,
- No central body with technical expertise,
- Absence of clearly defined roles, responsibilities and authority for procurement entities,
- No comprehensive legal regime to safeguard procurement,
- Lack of rules and regulations to guide, direct, train and monitor procurement,

According to Wittig (2001), there are many problems with procurement practices in developing and transition countries. In general, these problems include;

- Untrained or poorly inadequately trained workforces,
- Inadequate accountability for government decisions,
- Lack of transparency in the procurement process, as well as little or no information on the results of specific procurement transactions and
- Bureaucratic influence which causes a contract to be awarded on the basis of subjective or unannounced criteria to an apparently specially favored contractor.

He further stated that ~~there is also~~ a feeling among suppliers that corruption plays a part in contract decisions. The corrupt activities could be caused by a lack of understanding of best practices.

However, all these challenges could be eliminated. According to Telgen and Thai (2008) all the challenges in procurement practices could be eliminated when there is compliance with the

legislation. The important thing is to focus on getting what is required by users in the right quantity at the right time and at the right place.

In view of the inefficiencies, it clearly shows that there are lot issues with the procurement practices and all these happen in the process, procedures and methods used to conduct procurement activities. Competition and transparency are necessary to ensure efficient procurement. Therefore all the procurement practices need to be monitored and managed efficiently and should be governed by legal framework.

2.3 Legal Framework of Procurement Practices

When an organization or institution suddenly collapses, people ask question like, “what went wrong?” according to Thai (2007). One could say it is the breakdown of the internal control system which has caused it. The internal controls include operational efficiency and effectiveness, reliability, reporting and compliance with relevant laws and regulations that govern the internal system. Absence of these with the relevant laws and regulations often results in organizational or institutional failure (Thai, 2007).

The Treadway Commission Report in 1987 in the United States (USA) confirmed absence of /or weak internal controls as the primary cause of many cases of fraud in many institutions in the country (Amudo and Inanga 2009). However, a procurement legal framework should be an important function in every institution. The legal framework of procurement has to satisfy requirements for works in a timely manner. Moreover, it has to meet the basic principles of good governance (Sajeev and Callender, 2006).

Thai (2007) also supported Sajeev and Callender (2006). Apart from serving as the rules governing procurement practices, the legal environment also serves as the legal framework that governs all business activities not excluding research and development, manufacturing, finance, marketing, and contracts.

Schrouder (2010) is of the view that, most institutions are concerned with the efficient delivery of goods and or services but this cannot be achieved unless there is a proper legal framework and the principles of procurement are considered.

2.4 Procurement Policy and Principles

According to NPPPU (2005), the core principles of procurement policy and practice must conform to certain standards. Therefore there should be accountability, competitive, non-discriminatory and provide for equality of treatment, fair and transparent and conducted with probity and integrity. The aim of national policy on procurement is to achieve value for money and to have regard for probity and accountability. The works, goods or services provided must be of quality and meet the required standard. The life cycle of the works transaction costs associated with acquiring, using, holding, maintaining and disposing of the goods or service must also be included.

According to Thai (2007), procurement policy requirements include economic goals, environment protection or green procurement, social goals, and international trade agreements. Besides the difficulty for policy makers and procurement practitioners to make an optimal decision not to abuse the system but ensure efficiency, must still be maintained (Brouwer, 2008).

Addai-Donkoh (2009) also shared the same views of basic principles of procurement. The processes which include planning, selection of contractors or supplier or consultant and managing contracts to procure works using the funds available must have a direct impact on successful delivery of goods, works and services.

Brehmer (2010) also shared the same views of the other writers. Procurement practices must have to follow fundamental principles:

- Non-discrimination - all discrimination based on nationality or by giving preferences to local companies is prohibited,
- Equal treatment - all suppliers involved in a procurement procedure must be treated equally,

- Transparency - the procurement process must be characterized by predictability and openness, and
- Proportionality - the requirements and qualification requirements must have a natural relation to the supplies, services or works that are being procured.

2.5 Procurement Practices in Contractor Selection for Works

According to PRAG (2012), there are strict rules governing the way in which works contracts are awarded. These help to ensure that suitably qualified contractors are chosen without bias and that the best value for money is obtained, with full transparency appropriate to the use of available funds.

Procurement practices regarding the selection of works contractors require a several activities. According European Investment Bank (EIB) (2011), the various steps of the procurement procedure to be followed by the clients are usually as indicated below:

- Publication of a Procurement Notice inviting tenders (or pre-qualification of tenderers) media,
- Dispatch of tender documents to potential tenderers,
- Receipt, public opening evaluation of tenders, negotiation if possible, and

2.5.1 Risks in the selection of works contract

There are lots of risks in the selection of contractors for works. According to OECD (2007), the risks below should be considered in the selection processes.

1. The Pre-Bid Phase

In a pre-bid, the following risks could be identified;

- The lack of adequate needs assessment, planning and budgeting of public procurement,
- Requirements that are not adequately or objectively defined,
- An inadequate or irregular choice of the procedure,

- A timeframe for the preparation of the bid that is insufficient or not consistently applied across bidders,
- In the needs assessment phase, risks have been recognized as being particularly high, due to the potential influence of external factors such as politicians or consultants on officials' decisions;
- Works that are needed are overestimated to favour a particular provider.
- Old political favours or kickbacks are paid by including a "tagged" contract in the budget (budget for a contract with a "certain" prearranged contractor).
- Conflicts of interest are left unmanaged and decision makers decide on the need for contracts that have an impact on their former employees ("revolving doors") (OECD, 2007).

2. In the bidding phase

The risks below can be found in bidding phase:

- Inconsistent access to information for bidders in the invitation to bid,
- Lack of competition or in some cases collusive bidding resulting in inadequate prices,
- Conflict-of-interest situations that lead to bias and corruption in the evaluation and in the approval process,
- Lack of access to records on the procedure in the award that discourages unsuccessful bidders to challenge a procurement decision, and
- The bid evaluation has been considered a particularly vulnerable step. A key concern is the lack of transparency when using economic, social and environmental criteria to evaluate bidders (e.g. favouring bidders from economically disadvantaged areas, using environmental-friendly materials, etc. For countries that allow the use of these criteria, regulations do necessarily clarify how they may be used together with other evaluation criteria without harming the integrity of the procurement process (OECD, 2007).

2.5.2 Procurement Procedures to identify Contractors

According to NIB (2011), the procurement procedures applicable for Bank-financed projects/contracts comprise International Procurement Procedures and National Procurement Procedures. The following are described below:

International procurement procedures

- **Open procedures** (or International Competitive Bidding (ICB) without prequalification) allow all interested economic operators to submit tenders. There is the most common form of procurement for public contracts for works.
- **Restricted procedures** (or ICB with prequalification or Limited Competitive Bidding or Request for Proposals with international shortlist of firms) provide that only those candidates invited by the Borrower may submit tenders. The selection of candidates usually follows an international notification and a formal pre-qualification exercise.
- **Competitive dialogue** is a procedure which may be used for particularly complex contracts. It is published internationally. The Borrower opens a dialogue with selected candidates in order to define the means best suited to satisfy his needs. Competitive dialogue is also be used for particularly complex contracts.
- **Negotiated procedures** (including also International Shopping and Direct Contracting) allow Borrowers to consult candidates of their choice and negotiate the terms of the contract with one or more of them. It may be used in exceptional cases for works contract.
- **National procurement procedures** For small contracts and particular works, other procedures may be more appropriate:
- **National competitive bidding** (including also Request for Proposals with shortlist of national firms only) usually involves publication in the local press and follows the normal procedures of the country of the Borrower/project. National competitive bidding is appropriate for contracts, which, by their size, nature or scope, are unlikely to attract foreign competition that is below the threshold for international shortlist.

- **National Shopping** and direct contracting allow Borrowers to negotiate prices and other conditions with several local contractors. National shopping can also be appropriate for procuring small value standard works if only one contractor can fulfill a contract in a satisfactory manner and at the most advantageous cost.
- **Force account** (also called direct labour) may be the only practicable method for constructing some kinds of works, or providing the appropriate in-house services (NIB, 2011).

In the view of Practical Guide (PRAG) (2012), the rules for applying the standard procurement procedures or methods are explained below:

- **Open procedure** - Open procedures are done where all interested economic operators may submit a tender. The contract is given maximum publicity through the publication of a notice in the Official Journal (S-series) of the European Union, the official journals.
- **Restricted procedure** - Restricted procedure is where all economic operators may ask to take part but only candidates satisfying the selection criteria may submit a tender. Under the restricted procedure, the Contracting Authority invites a limited number of candidates to tender.
- **Competitive negotiated procedure** - Under the competitive negotiated procedure, the Contracting Authority invites candidates of its choice to submit tenders. At the end of the procedure, it selects the technically compliant tender which offers the best value for money in case of service tenders and the cheapest compliant offer in case of supplies or works tenders; and
- **Framework contracts** - A framework contract is an agreement between one or more contracting authorities and one or more economic operators the purpose of which is to establish the terms governing specific contracts which may be awarded during a given period, particularly as regards the duration, subject, price, implementation rules and the quantities envisaged.

According to Strand and et al (2011), the following are procurement procedures:

- **Open procedures** is the most commonly used procurement method, perform generally well. In particular, open procedures attract a high number of bidders and take relatively less time to complete. Time, however, is not a strong consideration, on average, for authorities that use open procedures. The guideline stated that “over the last five years, open procedures constitute a lion’s share of public procurement at about 73 percent of all tender announcements in the Official Journal.
- **Restricted procedures** present a more mixed picture. They are a successful form of attracting a good number of bids but they take a long time and impose relatively high costs on procuring authorities. Authorities that use restricted procedures report on average a higher weight on quality of the procurement outcomes than those using open procedures. Restricted procedures are also used in a fair share of the cases and it is 9 percent.
- **Negotiated procedures** do not perform well in almost any of the measures of efficiency. The number of competing tenderers in negotiated procedures is lower than in any other type of procedure, the time taken is among the longest, and the costs for firms are high.
- A similar situation underlies the use of **competitive dialogue**. This is a method of procurement that performs poorly in terms of the number of bids and, particularly, the time taken by the entire process. However, competitive dialogue may be an important option for authorities in particular circumstances.
- **Frameworks agreements** aggregate in one initial stage a large part of the administrative burden of a procurement process. This would be expected to lead to significant cost savings, particularly if the number of subsequent contracts within the framework is high. The study confirms this intuition. Framework contracts have lower costs than any other form of procurement and the savings are found both for authorities and for firms.

From Newmont’s SCM SOP (2005), the process of sourcing and selecting qualified contractors and other entities shall be conducted through a fair and open process that should be competitive in nature in order to provide best value to end-users and Newmont at large. Depending on the

size of the required services, estimated dollar value, degree of complexity, degree of risk and other factors associated with the services required will determine the identification of the contractor. The SOP further mentioned a long list of companies should be developed to identify potential bidders.

From above, it stated clearly that other institutions show the types of procedures to select contractors in any condition as compared with Newmont's SCM SOP. The Contract Administrator could adopt any method in any condition to select the contractor. The document encouraged to develop long list of companies to identify potential bidders which can be used for similar projects in future. This shows that those who are not in the list will not be invited for any tender.

2.5.3 Publication of Procurement Notices

According to PRAG (2012) every contract should be given maximum publicity through the publication of a notice in the Official Journal and Europe Aid website or any other appropriate media and must depend on the contract value.

In the view OGC (2008), contracts covered by the Regulations must be the subject of a call for competition by publishing a Contract Notice in the OJEU. A Standard Forms for OJEU notices (Contract Notice) is mandatory.

According to CIDA (2004), competitive contract is where reasonable and representative number of contractors are given public notice, using traditional bidding procedures (such as contractor's list) and in a manner that is consistent with generally accepted trade practices or given notice, using an open bidding methodology, supplemented by traditional bidding procedures.

According to PPA (2003), a procurement entity shall invite tenders through an invitation to prequalify and publish in the Procurement Bulletin. The Act further mentioned that, the invitation to tender or invitation to prequalify shall also be published in at least two newspapers of wide national circulation. The invitation may also be published in a newspaper of wide international circulation, in a relevant trade publication or technical or professional journal of wide international circulation.

The contents of the invitation to tender and invitation to prequalify should include the following:

- The name and address of the procurement entity,
- The nature, quantity and place of delivery of the goods to be supplied, the country of origin, the nature and location of the works to be effected or the nature of the technical services and the location where they are to be provided,
- The desired or required time for the supply of the goods or for the completion of the works, or the timetable for the provision of the services,
- The criteria and procedures to be used to evaluate the qualifications of suppliers or contractors, in conformity with prequalification proceedings,
- A declaration, which may not be subsequently altered that suppliers or contractors may participate in the procurement proceedings regardless of nationality, or a declaration that participation is limited on the basis of nationality,
- The means of obtaining the invitation documents and the place from they may be obtained,
- The price, if any, charged by the procurement entity for the invitation documents,
- The currency and means of payment for the invitation documents,
- The language in which the invitation documents are available,
- The place and deadline for the submission of tenders,
- The place, date and time for the opening of bids and
- Any other information considered relevant (PPA, 2003).

Whenever agencies are required to publicize notice of proposed contract, actions notice must be published or advertised at least 15 days before issuance of a solicitation except that, for acquisitions of commercial items. Publication is a placement of an advertisement in a newspaper, magazine, trade or professional journal, or any other printed medium or the broadcasting of an

advertisement over radio or television. The Contracting officers must publicize contract actions in order to increase competition, broaden industry participation in meeting Government requirements and assist small business concerns (GSADD, 2005).

EIB (2011) also emphasized on the same issues of publication of procurement notices. The institution recommended open procedures which allow all interested parties thus contractors as the case may be to submit tenders. It involves strict requirements for international notification including publication in the Official Journal. The notice must be clear and comprehensive.

ADBG (2008) mentioned that, timely notification of bidding opportunities is essential in competitive bidding. The Bank should arrange for its publication in the UN Development Business online (UNDB online) and on the Bank's Internet Website.

According to NIB (2011), notices shall be published on the Borrower's own website and the official government procurement portal, where practical, or in a newspaper with wide circulation in the Borrower's country or in official gazettes or international trade publications, as appropriate. The institution further mentioned that in early project cycle, the Borrower can issue a General Procurement Notice (GPN) that advises the business community about the coming business opportunities.

In the view of Newmont Ghana in terms of publication, according to Newmont's SCM SOP (2005), a transparent environment of fairness shall be openly displayed to interested bidders as part of the tendering process. A reasonable effort shall be made to introduce competition among bidders requiring a minimum of three responsive bids. The document could not spell out as whether the Company should publish the invitation or prequalification in international paper. This is lead to the judgment of the Contractor Administrator to decide whether to publish the proposed project or not.

From above discussion and the views from various institutions and writers, it very vital for any procurement entity to publish procurement of goods and works in local, national and international newspapers including international journals for competition, transparency and fairness. This builds the confident of the contractors in the country and the community the entity operates and enhances the reputation of the client.

2.5.4 Preparation of Tender Document

According to EBRD (2010), tender documents are the basis for informing potential tenderers of the requirements to construct works, so they must furnish all information necessary to permit tenderers to submit responsive tenders. Tender documents shall be drafted so as to permit and encourage international competition. The tender document should be clearly defined of the scope of works and the rights and obligations of contractors, and the conditions to be met in order for a tender to be declared responsive, and set out fair and nondiscriminatory criteria for selecting the winning tender.

According to EIB (2011), procurement entity may use the conditions of contracts originating from their country's legislation, but they are also encouraged to use internationally-recognized standard procurement documentation such as those prepared by the World Bank and the FIDIC documents.

However, tender documents must be drafted in such a way as to permit wide international competition. If any modifications to the tender documents are made during the tendering period, the procurement entity must send to all tenderers and provide adequate time to respond. Tender documents should include provisions dealing with the applicable law and the settlement of disputes. The time allowed for the preparation of tenders should depend on the magnitude and complexity of the contract. If tenderers raise specific questions on the tender documents, the procurement entity must answer them within a week. In any event, all tenderers must be treated equally and fairly (EIB, 2011).

GSADD (2005) also mentioned that the Procurement Entity should prepare the invitation for bids unless otherwise permitted by this regulation (GSADD).

According to PPA (2003), procurement entities shall use the appropriate standard tender documents and changes shall be introduced only through tender or contract data sheets, or through special conditions of contract and not by introducing changes in the standard tender documents. The invitation documents should include the following:

- Instructions for preparing tenders;

- The criteria and procedures in conformity with the provisions of qualifications of tenderers, for the evaluation of the qualifications of suppliers or contractors,
- The requirements on additional documentary evidence or other information that is to be submitted by suppliers or contractors to demonstrate their qualifications,

The nature and required technical and quality characteristics, in relation to the works or technical services to be procured including, but not limited to technical specifications, plans, drawings and designs, the quantity of the goods, any incidental services to be performed, the location where the works is to be effected or the services are to be provided and the desired or required time, if any when the goods are to be delivered, the construction is to be effected or the services are to be provided.

- the criteria to be used by the procurement entity to determine the successful tender, including any margin of preference and any criteria other than price; etc.

From ADBG (2008), the bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the works to be provided. The detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, they generally include: invitation to bid, instructions to bidders, form of bid, form of contract, conditions of contract, both general and special, specifications and drawings, relevant technical data.

According to NIB (2011), tender documents are the basis for informing potential tenderers of the requirements to supply specific goods and services or to construct works, so they must furnish all information necessary to permit tenderers to submit responsive tenders. Indeed tender documents shall be drafted so as to permit and encourage international competition. The document must be clearly defined the works required, the rights and obligations of the Borrower and of economic operators, the conditions to be met in order for a tender to be declared responsive, and the requirements of the capabilities and resources of the tenderer to be qualified for award of the contract. Usually the tender documents should include; Invitation to Tender, Instructions to Tenderers (including evaluation and qualification criteria), Forms of Tender and Tender Security, General Conditions of Contract, Special Conditions of Contract, Forms of Contract Agreement, Advance Payment Guarantee, Performance Security and Schedule of Requirements

including, as applicable, Technical Specifications, Schedule of Activities, Bills of Quantities, Drawings, Scope of Services, Terms of Reference, etc.;

In the view of Newmont's SCM SOP (2005), a contractor should never be verbally requested to submit a bid or proposal. In addition, for large, complicated contracts it is recommended to hold a site visit and pre-bid conference for bidders. The following listed below are the details of the preparation of bid documents;

- The Supply Chain Management (SCM) Department shall develop the Request For Proposal (RFP) documents always using at a minimum: Instruction to Bidder, a Form of Proposal for bidders to insert prices, a scope of work and a standard Newmont form of contract.
- Newmont approved standard tendering forms and contract documents shall be used when engaging in contracted services or for services (including works).
- The SCM Department is responsible for ensuring the entire RFP document including the scope of work and the payment/compensation tables are consistent to one another.
- The SCM Department shall issue the RFP giving the bidders a reasonable time frame to respond. If the bidding period is to be short then send an advance notice to each of the bidders letting them know that an RFP is forthcoming.
- Ensure that information given to bidders is equally and fairly disseminated. Instruct Newmont stakeholders to respect the tendering process in terms of confidentiality and professionalism.
- The SCM Department shall be the focal point for all communications between bidders and staff during the tendering process.

From the above discussion of the preparation of tender document, Newmont's SCM SOP was able to spell out what bidding document should entail; Newmont's SCM SOP is similar to other institutions especially, the PPA (2003). For example, both institutions stated document like instruction to bidders, specification, scope of work to be included, bill of quantities or

compensation section etc. were considered by both institutions but the document to carry out are different.

Tender document contains a lot of information which every procurement entity has to make sure is comprehensively prepared. All necessary requirements included must be clearly spelt out in the document in order to let the Contractor to provide comprehensive and competitive proposal. Though the standard document may differ from entity to entity but the best process and procedures should be utilized.

2.5.5 Language to specify in Tender Document

According to NIB (2011), for international procurement procedures, the procurement notice, pre-qualification documents (if any), tender documents, the tender evaluation report and the contract documents should be prepared in English or another major international language. Again, in national procurement procedures, the documents may be prepared in the national language(s) of the Borrower's country or a language used nation-wide in the Borrower's country for commercial transactions

According to ADBG (2008), prequalification and bidding documents and the bids shall be prepared in one of the following languages, selected by the Borrower thus English or French. Tender documentation, including all published procurement notices, shall be prepared by the client in one of the Bank's working languages. In the interest of open competition as well as economy and efficiency, the Bank may require that tender documentation also be provided in another working language of the Bank which shall be specified in the tender documents as the governing language. In addition, the client may prepare further sets of the tender documentation in the local language, in order to assist local firms in tendering (EBRD, 2010).

The procurement notice, pre-qualification documents (if any), tender documents, and the tender evaluation report should be prepared in one of the official languages preferably in English or French. However, in specific cases, the original tender documents may be drawn up in the language of the country which may also be adopted as the legally binding version in the event of litigation, with the proviso that the procurement entity prepares and makes it available to the various stakeholders. Again, the client may prepare the tender documentation and all procedural

documentation in the local language or other commercially accepted language in order to assist local firms in tendering (EIB, 2011).

According to Act 663 (2003), the prequalification documents, invitation documents and other documents for invitation of proposals, offers or quotations shall be in English.

Newmont's SCM SOP (2005) was silent about the language the bid should be. Other institution clearly stated the language of the bid shall be in their procurement guidelines. Such provision in their procurement guidelines will assist the procurement officers to make provision in their publications of the project. This also will not waist any contractor's time and resources to bid if the contractor to bid in different language. The procurement entity should be guided with such provision in the procurement guides governing the institution.

2.5.6 Technical Specification of works contract

According EIB (2011), procurement entities must use international standards and specifications. These standards and specifications must be issued by the International Standard Organization. Wherever these standards are applicable the procurement entity must use and apply them consistently across the tender documents. The institution stated that, if particular standards, national or other, are adopted, the tender documents must state that standards guaranteeing a level of quality or performance equivalent or superior to those indicated will also be accepted.

From NIB (2011), borrowers shall use international standards and specifications wherever these are available and appropriate. If particular national or other standards are used, the tender documents shall state that other standards that ensure equivalent or higher quality or performance than the specified standard would also be accepted. The institution also stated that "the use of brand names or other designations that would discriminate among suppliers should be avoided. If they are necessary to clarify the nature of the product requirements, the tender documents shall state that products of equal or higher quality would be acceptable".

From EBRD (2010), specifications shall be based on relevant quality characteristics and/or performance requirements. Clients shall use international standards and specifications wherever

these are available and appropriate. If particular national or other standards are used, the tender documents shall state that other standards that ensure equivalent or higher quality or performance than the specified standard would also be accepted. The use of brand names or other designations that would discriminate among suppliers should be avoided. If they are necessary to clarify the nature of the product requirements, the tender documents shall state that products of equal or higher quality would be acceptable.

In the view of PPA (Act 663, 2003), specifications, plans, drawings and designs that provide the technical or quality characteristics of works to be procured should be provided. In addition, requirements on testing and test methods, packaging, marketing, labeling or conformity certifications should also be available. Again, standardized features, requirements, symbols and terminology relating to the technical and quality characteristics of the goods, works or services to be procured shall be used, where available, to formulate any specifications, plans, drawings and designs to be included in the prequalification documents, invitation documents or other documents for invitation of proposals, offers or quotations.

However, the reference to the trademarks or other specific designations that would lead to discrimination between contractors must be avoided and must also be stated in the tender document. If the reference is necessary to explain the nature of the products required, the tender documents must specify that any other product of equal or superior quality or performance is acceptable (EIB, 2011).

PPA (2003) confirms the above discussions. Symbols and terminology description of services that create obstacles to participation including obstacles based on nationality tenderers should not be included or used in prequalification documents, invitation documents or other documents for invitation of proposals, offers or quotations. Again, based on objective technical and quality characteristics of the goods, works or services to be procured, there should be no requirement of or reference to a particular trade mark, name, patent, design, type, specific origin or producer, unless a precise or intelligible way of describing the characteristics of the goods, works or services to be procured does not exist, in which case, the words "or equivalent" shall be included.

OGC (2008) also mentioned that during specification stage all the requirements must be specified, avoiding brand names and other references which would have the effect of favouring or eliminating particular providers, products or services and the requirement to accept equivalence.

According to GSADD (2005), preparation of invitations for bids must describe the requirements of the Government clearly, accurately, and completely. Indeed, unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders should be prohibited. The invitation should include all documents whether attached or incorporated by reference. This must be furnished to the prospective bidders for the purpose of bidding.

From Newmont's SCM SOP (2005) perspective of technical specification, the SCM Department is responsible for ensuring the scope of work identifies deliverables, performance requirements, quality requirements, schedule and other relevant information. The scope of work with drawing, specifications and other data must be provided by the end-user with over site from the SCM representative to ensure that it is commercially acceptable for bidders to be able to respond.

In addition, the procurement officials from Newmont to incorporate into the RFP site specific attachments including health and safety requirements, environmental requirements, Social License to Operate (SLTO) requirements and other relevant rules and responsibilities that bidder/contractor must agree to comply with including drug & alcohol requirements, AIDS awareness, site rules, camp rules, insurance requirements, hazard training and other issues that conform to Site requirements as well as Newmont's Management System (Newmont's SCM SOP, 2005).

The SOP for Newmont's SCM guide equally mentioned the scope of work, deliverables, performance requirements, quality requirements, schedule and other relevant information such health and safety requirements, environmental requirements, social license to operate (SLTO) requirements and other relevant rules. The institution went further to mention the responsibilities that bidder/contractor must agree to comply with including drug and alcohol requirements, AIDS awareness, site rules, camp rules, insurance requirements, hazard training etc. whilst other institutions also fail to mention most of the requirements which should be included.

However, Newmont's SCM SOP also was silent to mention that no requirement of or reference to a particular trade mark, name, patent, design, type, specific origin or producer, unless a precise or intelligible way of describing the characteristics of the goods, works or services to be procured does not exist, in which case, the words "or equivalent" shall be included. Though other institutions hammered on them which will prevent contractor not to feel that the scope work was purposely geared towards a certain contractor and it will prevent agitations among the bidders.

2.5.7 Currency to specify in Tender Document

According to PPA (2003), the procurement entity may stipulate in the tender documents that tenderers must quote only in the local currency and payments must be made wholly in the local currency.

From NIB (2011), borrowers may wish to restrict the tender currency to a specific, internationally tradable currency or allow tendering in the currency or currencies selected by the tenderer. Borrowers may also require tenderers to state the local cost portion of a tender in the local currency.

According to EBRD (2010), the Clients shall determine the currency or currencies in which the tender prices must be quoted. Clients may also require tenderers to state the local cost portion of a tender in the local currency. Where multiple currencies are permitted, for the purpose of tender evaluation and comparison, tender prices shall be converted to a single currency, selected by the client, using the selling (exchange) rates for the currencies of the tender price quoted by an official source (such as the central bank) for similar transactions on a date selected in advance and specified in the tender documents.

Bidding documents shall state the currency or currencies in which bidders are to state their prices, the procedure for conversion of prices expressed in different currencies into a single currency for the purpose of comparing bids, and the currencies in which the contract price will be paid (ADBG, 2008).

There should be guidelines of every procurement entity to know the kind of currency to deal with and currency to be paid. This will prevent the bidders in varied currencies. Newmont's SCM SOP (2005) was silent on the currency.

2.5.8 Local Preference in the selection of works contractor

Except for operations in bidder Countries, Clients may grant a 15% margin of preference for goods manufactured or produced in the country. The bidding documents must also clearly indicate such preference. The institution concluded that a preference would not be given to works originating in the beneficiary country (EIB, 2011).

From ADBG (2008), at the request of the Borrower and under conditions to be agreed under the Financing Agreement and set forth in the bidding documents, a margin of preference may be provided in the evaluation of bids for:

- goods manufactured either in the country of the Borrower (domestic), or in a country which has joined the borrowing country in a regional economic institutional arrangement (regional), when comparing bids offering such goods with those offering goods manufactured abroad; and
- contractors either from the country of the Borrower (domestic), or from Member Countries which have joined the borrowing country in a regional economic institutional arrangement (regional), when comparing bids from eligible domestic/regional contractors with those from foreign firms.

The maximum domestic preference margin, which the Borrower may grant to bidders for construction works, is 10%.

PPA (2003) also shared the same view with EIB. A procurement entity may grant a margin of preference for the benefit of tenders for work by domestic contractors. Indeed, the margin of preference shall be calculated in accordance with the procurement regulations and reflected in the record of the procurement proceedings. Surprisingly, as a general rule, NIB does not allow preference to be given to tenders for works originating from the beneficiary country (NIB, 2011).

It is good to grant margin or preference to domestic contractors. This will promote and improve the standard of the local and national contractors. Again, Newmont SCM SOP considered the

national and local contractors to compete on the same platform because no provision was provided in their SCM SOP.

2.5.9 Pre-Bid Meeting of works contract

According to GSADD (2005) pre-bid conference may be used, generally in a complex acquisition, as a means of briefing prospective bidders and explaining complicated specifications and requirements to them as early as possible after the invitation has been issued and before the bids are opened. It shall never be used as a substitute for amending a defective or ambiguous invitation. The conference shall be conducted in accordance with the procedure prescribed in the tender document.

Pre-bid enhances the process of tender. It gives the platform of the bidders to meet the client to understand the RFP to assist the bidders to submit comprehensive and competitive proposals. Newmont is of the same view and stated that for large, complicated contracts it is recommended to hold a site visit and pre-bid conference for bidders. However the process and purpose to conduct the pre-bid meeting were not provided in the SCM SOP (2005) as compared to others institutions.

2.5.10 Submission and Opening of Tenders

According to NIB (2011), in projects, tenders and associated documents are to be opened in public, in the presence of representatives of tenderers who wish to attend, as soon as practicable after the deadline for submission of tenders. The guideline stated that tenders arriving after the deadline are not to be opened but are rejected and returned unopened to the tenderers.

The guideline further mentioned that, at the opening of tenders for works at least the following must be read out aloud and recorded in the minutes of the tender opening:

- The names of the tenderers,
- The amount of each tender including special conditions, rebates and variants if any and
- Withdrawals, alterations and substitutions of tenders received before the deadline.

From GSADD (2005), to be considered for award, a bid must comply in all material respects with the invitation for bids. Such compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding system. All bids (including modifications) received before the time set for the opening of bids should be kept secure. The bids shall not be opened or viewed, and shall remain in a locked bid box, a safe, or in a secured, restricted-access electronic bid box. If an invitation for bids is cancelled, bids shall be returned to the bidders. Necessary precautions shall be taken to ensure the security of the bid box or safe.

Tenders solicited under open and selective procedures shall be received and opened under procedures and conditions guaranteeing the regularity of the opening as well as the availability of information from the opening. The time specified for tender opening must be the same as for the latest delivery of tenders or promptly thereafter. On the date and at the time and place described in the tender documents, the client will open all tenders that have been received before the latest time stipulated for the delivery of tenders. Tenders must be opened in the presence of tenderers or their representatives who wish to attend. The name of the tenderer and the total amount of each tender, including alternative tenders if permitted, shall be read aloud and recorded when opened (EBRD, 2010).

According to ADBG (2008) the time for the bid opening shall be the same as for the deadline for receipt of bids or promptly thereafter, and shall be announced, together with the place for bid opening, in the invitation to bid. The Borrower shall open all bids at the stipulated time and place. Bids shall be opened in public. Bidders or their representatives shall be allowed to be present (in person or online, when electronic bidding is used). The name of the bidder and total amount of each bid, and of any alternative bids if they have been requested or permitted, shall be read aloud (and posted online when electronic bidding is used) and recorded when opened and a copy of this record shall be promptly sent to the Bank and to all bidders who submitted bids in time. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered.

According to CIDA (2004), opening of bids can be public or non-public. Bids must not be opened prior to the date and time specified. When they are opened, it should be in the presence

of at least one witness with the procedures stipulated in the tender documents. In further, the name, address and the total amount of each bid is to be accurately declared and recorded, whether opened publicly or privately. In the public openings, all firms who have submitted a bid may send a representative.

According to PPA (2003), the procurement entity should consider the following before the tender is opened:

- Fix the place for, and a specific date and time as the deadline for the submission of tenders,
- Allow tenderers at least six weeks to prepare their tenders for international competitive tendering,
- The time for preparation of tenders under national competitive tendering procedures shall not exceed four (4) weeks,
- The procurement entity may, prior to the expiry of deadline for the submission of tenders, extend the deadline,
- A tender shall be in writing, signed and be submitted in a sealed envelope,
- A tender may alternatively be submitted in any other form specified in the tender documents that provides a record of the contents of the tender and a similar degree of authenticity, security and confidentiality,
- The procurement entity shall provide the tenderer with a receipt showing the date and time when its tender was received and
- A tender received by the procurement entity after the deadline for the submission of tenders shall not be opened and shall be returned to the supplier or contractor which submitted it.

PPA (2003) further mentioned that, tenders shall be opened as described below:

- At the time specified in the tender documents as the deadline for the submission of tenders or at the deadline specified in any extension of the deadline and
- At the place and in accordance with the procedures specified in the tender documents.

In view of EIB (2011) on the same issue, tenders and associated documents must be opened in public, in the presence of representatives of the tenderers if they wish to attend. The opening of the tender must be on a date and at a place indicated in the Procurement Notice or tender documents. Tenders arriving after the deadline for receipt are not to be opened. Moreover, at the opening of tenders, the name of the tenderers and the amount of each tender, including special conditions, rebates and variants if permitted, must be read out aloud and recorded in the minutes of the tender opening. A copy of these minutes must be appended to the tender evaluation report.

According to Newmont's SCM SOP (2005), the SCM Department shall conduct a formal bid opening, record appropriate information with participants signing bid opening form confirming the correctness of information recorded. The document further mentioned that, requesting proposals and receiving bids via e-mail is an acceptable practice provided documents are prepared in a PDF format. If the tender is greater than \$250,000 a duly signed hard copy of the bid shall follow e-mailed bid.

In comparing with the various process and procedures provided by the institutions, though Newmont made the provision but fail to elaborate on the place and time of opening the bids, exact information to be recorded, process and punishment of late bids whilst the other institution elaborated on them. Newmont SCM SOP also mentioned electronic submission of the tender and how is secured was not really defined in their guides. Submission of bid in electronic accelerate the process and the institution will have electronic records of the bids document but the bid should be secured.

2.5.11 Process of Tender evaluation

The purpose of performing bid evaluations is to determine which contractor(s) should be awarded contracts in accordance with the criteria specified in the bid document. The bid evaluation must provide a clear and concise method of ranking each bid and the evaluation criteria must be written so that they can be clearly understood and objectively rated (CIDA, 2004).

From the view of EBRD (2010), when competitive procedures are used, the client shall evaluate all tenders and compare them only on the basis of the evaluation criteria set out in the tender documents. The tender evaluation process up to the award of the contract must be confidential. Furthermore, contracts must be awarded within the period of tender validity to the tenderer whose tender has been determined as being substantially responsive.

The evaluation criteria selected must be indicated in the Procurement Notice and quantified in the tender documents. The evaluation criteria specified in the tender documents must be applied in whole, without omission or addition, in the evaluation of tenders. In case no criterion is indicated, the lowest price only will apply. Exceptionally, the tender documents may specifically request the tenderers to submit financing proposals. In such case, the documents should include a clear methodology to evaluate them (EIB, 2011).

The regulations set out criteria designed to ensure all contractors established in countries covered by the rules are treated on equal terms, to avoid discrimination on the grounds of origin. The rejection or selection of bidders should be based on evidence that they are not unsuitable on grounds, e.g. of bankruptcy, criminal conviction or failure to pay taxes. Certain offences now require, in normal circumstances, a mandatory exclusion. Economic and financial standing thus they should be judged to be financially sound on the basis of their annual accounts and their technical capacity and ability. Evaluation of bids shall be evaluated without discussions (GSADD, 2005).

In the view of OGC (2008), in the selection of contractor, the rejection or selection of candidates can be based on the evidence that they are unsuitable on grounds, e.g. of bankruptcy, criminal conviction or failure to pay taxes. Certain offences now require, in normal circumstances, a mandatory exclusion. In addition their economic and financial standing that they are judged to be financially sound on the basis of their annual accounts. Notwithstanding, their technical capacity and ability should be considered that they will be adequately equipped to do the job and that their track record is satisfactory.

Procurement entity must scrutinize the tenders for compliance and responsiveness, and correct all arithmetical errors. The procurement entity must ask the tenderers for any clarification needed to assess the tenders, but no amendment to the substance of the tender or to the price can be

accepted after the tender opening. However, in complex contracts, it is advisable for the evaluation to proceed in two steps (technical then financial) called the two-envelope system EIB (2011).

From PPA (Act 663, 2003), a procurement entity shall regard a tender as responsive if it conforms to the requirements set out in the tender invitation documents. The procurement entity may, however, regard a tender as responsive if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirements set out in the invitation documents or if it contains errors or oversights that are capable of being corrected without touching on the substance of the tender. However, a procurement entity shall not accept a tender if the contractor that submitted the tender is not qualified and if the tenderer that submitted the tender does not accept a correction of an arithmetical error.

The procurement entity shall evaluate and compare the tenders that have been accepted in order to ascertain the successful tender in accordance with the procedures and criteria set out in the invitation documents. Again, no criterion shall be used that has not been set out in the invitation documents. The successful tender shall be (PPA Act 663, 2003):

- The tender with the lowest evaluated tender price; and
- The lowest evaluated tender ascertained on the basis of criteria specified in the invitation documents.

NIB (2011) supports the evaluation and comparison or selection criteria which must be indicated in the tender notice and quantified in the tender documents. The institution continued to say that the evaluation criteria specified in the tender documents must be applied in the evaluation of tenders in whole, without omission or addition. In case no criteria are indicated in the tender documents, the lowest price criteria only will apply.

According to Newmont's SCM SOP (2005), the procurement officers will follow the following process and procedures for tender evaluation;

- The procurement will establish prior to receipt of bids an evaluation criteria for commercial and technical evaluation. Determine the team of technical and commercial evaluators;

- The bids will be distributed to key project evaluators (commercial and technical). It is the duty of the procurement entity to establish the need for control of the bids, bid information and maintaining confidentiality;
- Coordinate the bid clarification process. Have one individual responsible for communications between Newmont and bidders during the tender evaluation period;
- Conduct a commercial and technical evaluation. Based on the award criteria appropriately adjudicate bids. For large dollar contracts consider an "Evaluation Point System";
- Summarize the bids in conjunction with project team (end user) for the award recommendation. Prepare a formal award recommendation for manager/management to approve; and
- The award decision, selection of contractor and terms of the contract shall be a cooperative process with the Authorized Manager with final negotiations and award to be performed by the SCM Department.

In comparing with various process of the tender evaluation, Newmont SCM SOP provided who should constitute the bid evaluation team (Commercial team -Procurement Officers and Technical Team – End Users). The Commercial team and Technical team will conduct the commercial and technical evaluations respectively. Other process and procedures are almost the same as compared except that the Newmont SOP was silent on the basis the bids could not be evaluated or rejected at the point of evaluation. Other institutions mentioned that bids are not unsuitable on grounds, e.g. of bankruptcy, criminal conviction or failure to pay taxes.

In addition, correction of arithmetic errors was not stated in Newmont SCM SOP and what basis one has won the bid. Is it the tender with the lowest evaluated tender price? According to Newmont SCM SOP, the criteria of the evaluation are established prior to receipt of bids for commercial and technical evaluation whilst other institutions specified the criteria in the invitation documents.

2.5.12 Negotiation with Contractors

According to PPA (Act 663, 2003), no negotiations shall take place between the procurement entity and a contractor with respect to a tender submitted by the contractor. If the lowest evaluated responsive tender exceeds the budget for the contract by a substantial margin, the procurement entity shall investigate the causes for the excessive cost and may

- Consider requesting new tenders or
- Subject to approval by the relevant Tender Review Board and guidelines issued by that Board, negotiate a contract with the lowest evaluated tenderer to try to obtain a satisfactory contract.

From OGC (2008), there are restrictions on the use of post tender negotiation especially under the open and restricted procedures. The European Commission has issued a statement on post tender negotiations in which it specifically ruled out any negotiation on price “in open and restricted procedures. Negotiations with candidates or tenderers on fundamental aspects of contracts, variations in which are likely to distort competition particular on prices, should be ruled out.

From Newmont’s SCM SOP (2005), the following activities shall encompass the standard for contract negotiation:

- Negotiations shall be conducted based on a pre-planned strategy and pre-determined criteria for award. There may be a benefit to be negotiating with two bidders under certain circumstances and
- Any deviation or apparent deviation from contract terms and conditions being imposed by a bidder during negotiations that is substantive in nature will require Newmont Legal approval.
- The SCM Department should be preparing the contract documents in parallel with negotiations in order to present a contract to the selected bidder in a timely manner.

This clearly shows that, execution of works in Newmont will go through negotiation as compared to other institutions that are against the idea. Newmont can re-consider requesting

new tenders if the lowest evaluated exceeds the budget but it could be waste of resources and time to re-organize another bid.

2.5.13 Award and Signature of the Contract

From GSADD (2005), contracting officers shall sign contracts on behalf of the United States. The contracting officer's name and official title shall be typed, stamped, or printed on the contract. The contracting officer normally signs the contract after it has been signed by the contractor. The contracting officer shall ensure that the signer(s) have authority to bind the contractor.

The institution should inform all tenderers of the contract award decision, including a summary of the relevant reasons for that decision. To ensure that review procedures for effective remedies are available to any concerned tenderer, the contract should not be signed until the expiry of a reasonable time period from the date on which the contract award decision was sent to tenderers (EIB, 2011).

From PPA (Act 663, 2003), where the tender documents require the contractor whose tender has been accepted to sign a written procurement contract conforming to the tender, the procurement entity and the supplier or contractor shall sign the procurement contract within 30 days after the notice and dispatched to the contractor.

However, if the contractor whose tender has been accepted fails to sign a written procurement contract within 30 working days of receipt of the notice of acceptance or fails to provide the required security for the performance of the contract, the procurement entity shall select a successful tender from among the remaining tenders that are in force, subject to the right of the procurement entity to reject the remaining tenders (PPA Act 663, 2003).

In the view of Contract award, from GSADD (2005), after bids are publicly opened, an award will be made with reasonable promptness to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, considering only price and the price-related factors included in the invitation.

According to Newmont's SCM SOP (2005), the SCM Department or the responsible Newmont Officer shall be the sole authority to enter into formal contract award with a contractor. The document further mentioned that, under no circumstances will a letter of intent be issued to a selected contractor as a precursor to award without prior approval from Newmont Legal. Again, under no circumstances should a verbal award be given to a contractor. Authorized SCM representatives shall not execute contracts or make awards without approval and prior written authorization from Newmont's Authorized Manager, typically the General Manager, the Technical Services Project Manager, AFE Manager, budget manager or authorized end-user.

The process and procedure for award of contract follow the same steps as per other institutions. Newmont's SCM SOP mentioned against verbal award of contract but one thing never mentioned in Newmont's SCM SOP is how long a contractor has to sign the contract.

2.5.14 Award Notice

A procurement entity shall promptly publish notice of procurement contract awards. Indeed, a procurement entity shall give notice of the procurement contract in writing to unsuccessful contractors and the notice shall be addressed to the address specified in the tender document (PPA, 2003).

According to PRAG (2012) regardless of the type of procedure, the Contracting Authority should inform tenderers of decisions reached concerning the award of the contract as soon as possible, including the grounds for any decision not to award a contract. However, once the contract has been signed, the Contracting Authority must prepare contract award notice and send it to the European Commission, which publishes the results of the tender procedure in the Official Journal, where applicable, and on the Europe Aid website and in any other appropriate media. This means that the award of the contract must be published.

From NIB (2011), having concluded the evaluation, the Borrower shall notify the winning tenderer and other tenderers and shall proceed to finalization of contract documents and signing of the contract. Immediately after the signature of the contract, the Borrower is encouraged to publish an award notice in the same media where the tender notice was published.

According to EIB (2011), immediately after the signature of the contract, the firm must publish an Award Notice. From ADBG (2008), within two weeks of receiving the Bank's "no objection" to the recommendation of contract award, the Borrower shall publish in UNDB online and on the Bank's Internet Website the results identifying the bid and lot numbers and the following information: Name of each bidder who submitted a bid, Bid prices as read out at bid opening, Name and evaluated prices of each bid that was evaluated, Name of bidders whose bids were rejected and the reasons for their rejection and Name of the winning bidder, and the price it offered, as well as the duration and summary scope of the contract awarded.

Any procurement entity should publish notice of procurement contract awards. A procurement entity should give a notice of the procurement contract in writing to both successful and unsuccessful bidders. However, Newmont SCM SOP was not captured this provision in their procurement guidelines.

2.7 Conclusion

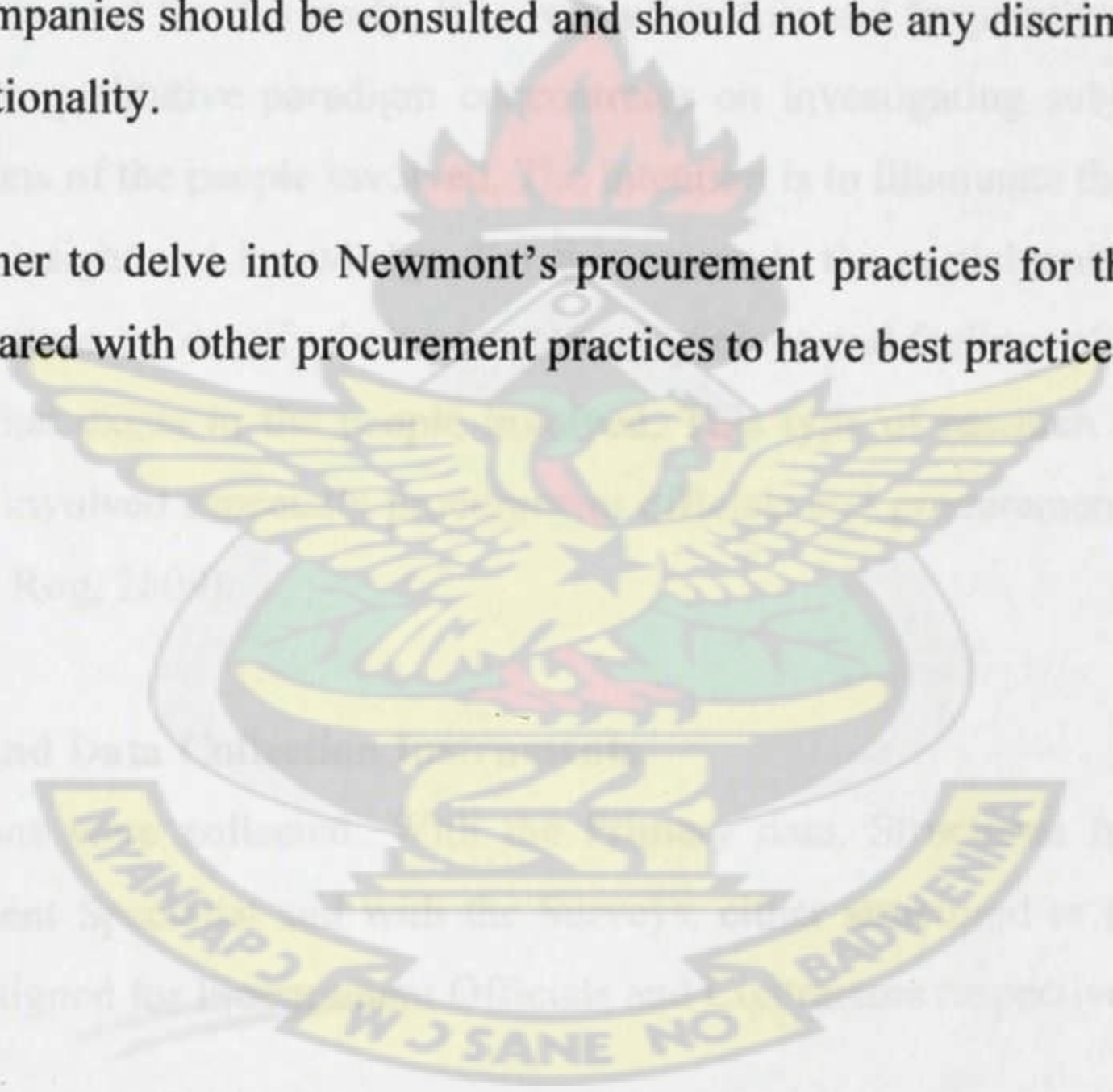
A procurement practice is a multi-faceted field. Clients are affected by inefficiencies of procurement practices. Though there are challenges and varied in social, economic, cultural and political environments and have different levels from country to country but a legal framework exist in both local and international to be used in execution of all procurement activities. Upon the existence of the legal framework, the procurement system is still being abused by procurement personnel for their personal gains due to poor process and procedures in the selection of contractors. At the end, the client in both the public and private sectors loses if the selection is poor.

EIB (2011) stated that, institutions operating in private normally satisfy the objectives of economy and efficiency by following established commercial practices. The European Investment Bank does not require that private institutions should follow the above public procurement practices. Indeed, the private sectors are in the view that the less rigid, less costly and faster negotiated procedures often prove to be more effective. Nevertheless, wherever appropriate, most of institutions such as European Investment Bank encourage private

institutions to publish their tender notice nationally and internally and adopt open or restricted procedures, particularly for large contracts. In such cases it may be necessary to introduce appropriate safeguards to ensure that the legitimate confidentiality interests of the institution and other commercial contracting parties are fully respected in the procurement process.

In any event, the private institutions could adopt or follow effective procurement practice in their prospective countries to have fair and transparent procurement procedures to ensure that an appropriate selection of works offered with an appropriate quality at competitive prices and in a timely manner. The offer selected must be economical and most advantageous. Contracts awarded by private institutions must be evaluated impartially and accord with the project's best interests. In this case, as GSADD as possible and depending on the magnitude of the contract, at least three qualified companies should be consulted and should not be any discrimination on the basis of contractor's nationality.

This edges the researcher to delve into Newmont's procurement practices for the selection of work contracts as compared with other procurement practices to have best practices.



CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter describes the method of data collection, questionnaire design, conducting interviews, population and sampling and data collection instruments. The research was conducted at Newmont Ghana Gold Limited at Ahafo and Newmont Golden Ridge Limited at Akyem. Views were sought from procurement officials and contractors. In order to collect accurate data on the topic, questionnaires and interviews were prepared for procurement personnel and contractors.

3.2 Research Method Design

Qualitative Research was used for this study. It is very subjective and frequently uses interviews and focus groups. The qualitative paradigm concentrates on investigating subjective data, in particular, the perceptions of the people involved. The intention is to illuminate these perceptions and, thus, gain greater insight and knowledge. For this research, the participants were asked to respond to general questions to identify their perception, opinions and feelings about the topic to determine the degree that exists in the people involved. This type of research is also seek to opinions of the people involved especially procurement officials and procurement specialist and contactors (Bickman & Rog, 2009).

3.3 Data Sources and Data Collection Instruments

Data in both institutions were collected. With the Primary data, Structured Interviews were designed for Procurement Specialist and with the Surveys, either structured or semi structured questionnaires were designed for Procurement Officials and Contractors respectively.

3.3.1 Surveys

Surveys can be descriptive or an explanatory involves entire populations or samples of populations captured at a moment which can be administered in a number of ways. Surveying involves gathering information from individuals using a questionnaire. Surveys can reach a large number of respondents generate standardized, quantifiable, empirical data as well as some

qualitative data and offer confidentiality/anonymity. Designing survey instruments is capable of generating credible data; however, it can be difficult (Saldana, 2009).

Survey questionnaire involves formulating questions and the responses are categorised in writing up background information are provided. Dichotomous variables and Likert Scale structured questionnaires were used. The Likert scale questionnaires was used since the participants will be asked to respond to general questions to identify their perception, opinions and feelings about the topic to determine the degree that exists in the people involved. Structured questionnaires and semi structured questionnaires were used for Contractors and Procurement Officials. Structured questionnaire is used where the sample and population is literate and this research is of no exception. It is also easier to compare the results and easily to do the analysis (Bickman & Rog, 2009).

3.4 Study Population and Sampling

The study targeted Procurement Officials in Newmont and Works Contractors working for Newmont. The Procurement Officials refer to Contracts Administrators and Contract Managers who are engaged in procurement activities for consulting services and works contracts in Newmont Ghana. The Works Contractors are contractors who perform Building and Civil Engineering construction, maintenance, rental of equipment, hiring of labour, drilling services and are currently working on site and participate in national and international contract works bids. Contractors' responses will help the researcher to be able to confirm the process and procedures used by the procurement officials.

3.5 Sampling Size

The following formula was used by Israel (2009) in determining the sample size for similar research. This is therefore adopted for this research.

$$n = \frac{N}{1 + N(e)^2}$$

Where;

n - Sample size

N – Population Size

e – Desired level of precision (0.05)

Determining the sample size of procurement officials

Population Size (N) = 15

Desired level of Precision (e) = 0.05

$$\text{Therefore: } n = \frac{15}{1 + 15 (0.05)^2} = \frac{15}{1.0375} = 14.457, \text{ approx. } 15 \text{ (Officials)}$$

Determining the sample Size of Contractors

Population Size – Works Contractors (N) = 36

Desired level of Precision (e) = 0.05

$$\text{Therefore: } n = \frac{36}{1 + 36 (0.05)^2} = \frac{36}{1.09} = 33.03, \text{ approx. } 33 \text{ (Contractors)}$$

3.6 Description of Demographic Data (Responses to Survey Questions and Interview)

The data from response given by personnel are now shown below.

3.6.1 Procurement Officials

Thirteen (13) Procurement Officials responded to the 15 questionnaires sent out. This number represents 87% response rate. Newmont Ghana has two (2) procurement teams. One team at Newmont Golden Ridge Limited (Akyem) and the other group is at Newmont Ghana Gold

Limited (Ahafo). Those at Akyem received the questionnaires in hardcopies and other team at Ahafo received the questionnaires through emails. Both teams answered the questionnaires as expected except two officials who were out of office at the time of conducting the survey.

3.6.2 Works Contractors

Thirty three (33) Contractors were selected as directly involved with procurement of works contracts. Out of thirty three (33) questionnaires sent out, twenty eight (28) were received which represents eighty five percent (85%). Some Contractors received questionnaires in hard copies and others through emails and responded in same manner. Some Contractors were assisted to complete the questionnaires. Data collected from the questionnaires and some interviews from the various sections were based on the following;

3.7 Ethical Consideration

To minimize the fears of releasing information and in order to have access to the sites and distribute the questionnaires and have face to face interviews, consent was sought from the Director of Global Supply Chain Management (Africa) and Senior Commercial Director (Africa). In the questionnaire, the procurement officers and contractors were made to understand that the study was meant for academic purpose. They were assured that their identities will be kept strictly confidential.

3.8 Conclusion

The study was descriptive. It was conducted at Newmont Ghana as study area and the Data was collected from Procurement Officials and Works Contractors. The reason was to find out how procurement personnel in Newmont Ghana conduct their procurement activities and how works contractors to response to the activities perform by the Procurement Officials.

Total of Fifteen (15) and thirty three (33) out of thirty six (36) were selected as sample size for Procurement Officials and Works Contractors respectively. The study used both structured and semi structured questionnaires. The respondents were assured that the study will be kept confidential and strictly for academic purposes.

CHAPTER FOUR

PRESENTATION AND ANALYSIS OF DATA

4.1 Introduction

This chapter deals with the presentation and discussion of the data collected from Procurement Officials and Works Contractors. The results are presented in the form of tables and charts.

4.2 General Information of the Respondents

General questionnaires were designed for both procurement officials and Works Contractors to know their background. Responses given by both Procurement Officials and Works Contractors are as presented and discussed below.

4.2.1 Procurement Officials

Table 4.1: General Information (Experience)

Item	Experience	Frequency	Percentage
1	0 to 4 Years	6	46
2	5 to 10 Years	3	23
3	11 to 20 Years	3	23
4	Exceed 20 Years	1	8
	Total	13	100

Source: Field Data, 2013

Table 4.1 indicates that forty six percent (46%) of the respondents had up to 4 years' experience and twenty three percent (23%) of the respondents had 5 to 10 and 11 to 20 years' experience each. Eight percent (8%) also had beyond 20 years' experience. From table above, fifty four percent (54%) of the respondents had 5 years' experience and beyond and this shows that the respondents are experience in procurement field and provide information for which this study could rely on.

Table 4.2: Education Background

Item	Education	Frequency	Percentage
1	HND	3	23
2	Degree	5	38
3	MSc	4	31
4	PHD		0
5	Other	1	8
	Total	13	100

Source: Field Data, 2013

Table 4.2 represents the educational level of the respondents. Majority of the respondents are degree holders and had thirty eight percent (38%) followed by MSc holders which formed thirty one percent (31%) of the respondents. Twenty three percent (23%) had obtained HND and eight percent (8%) respondents also had obtained Associate Diploma. The information provided above indicated that the respondents were well educated and their responses were reliable.

4.2.2 Works Contractors

Table 4.3: General Information (Experience

Item	Experience	Frequency	Percentage
1	0 to 4 Years		0
2	5 to 10 Years	14	50
3	11 to 20 Years	9	32
4	Exceed 20 Years	5	18
	Total	28	100

Source: Field Data, 2013

Experience of the Contractors was also surveyed to know if their experience in the field could be relied on for this study. From the table 4.3 it shows that fifty percent (50%) of the respondents had 5 to 10 years' experience and thirty two percent (32%) had 11 to 20 years' experience. Eighteen percent (18%) of the respondents had more than 20 years' experience.

Their educational background was also checked. Table 4.4 indicates that, eighty nine percent (89%) had completed tertiary and only eleven percent (11%) had completed both O’Level and Secondary School. This clearly shows that the Contractors are more educated and that they have much experience to give necessary information this research requires.

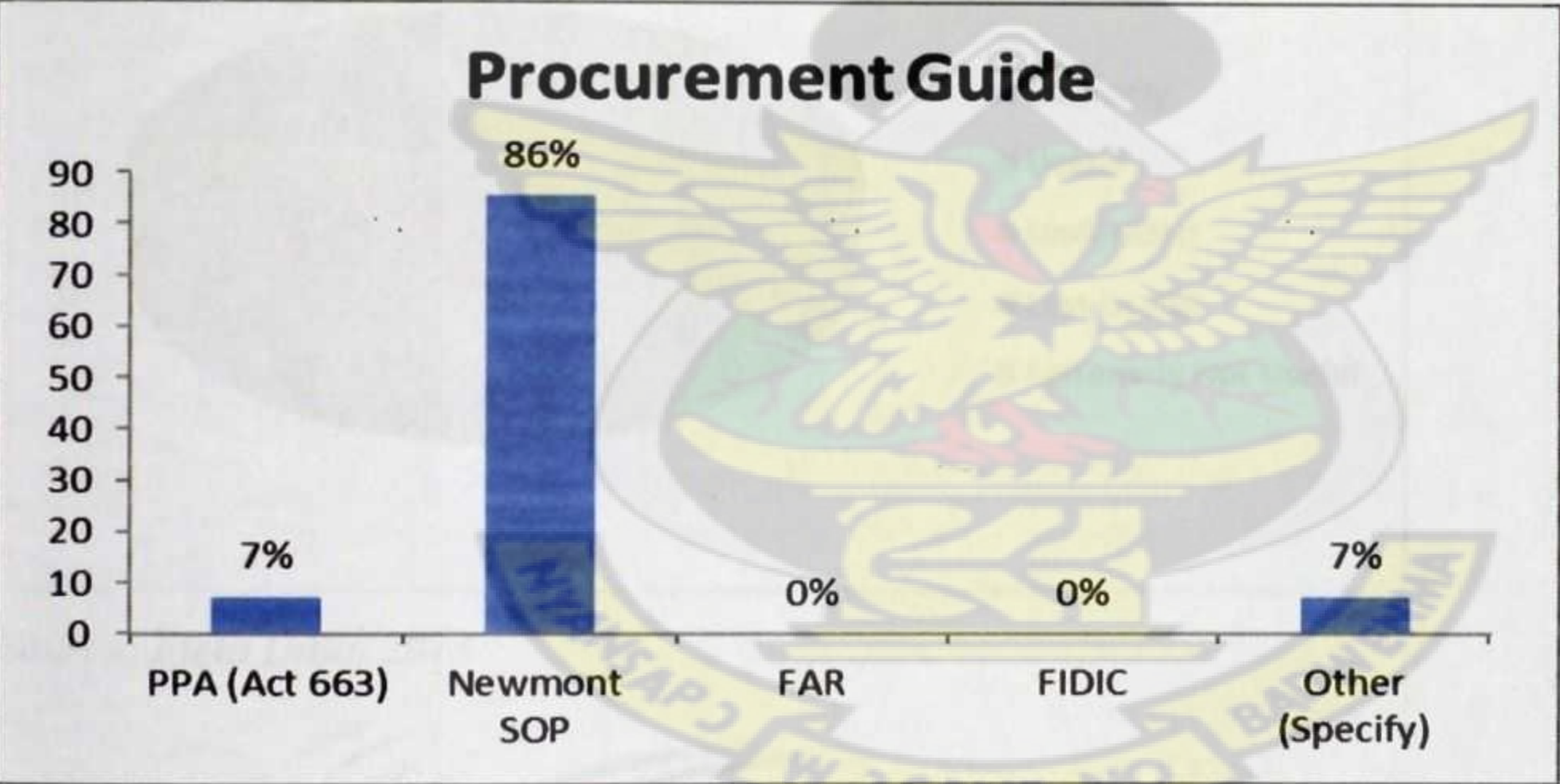
Table 4.4: Educational Background

Item	Education	Frequency	Percentage
1	Tertiary	25	89
2	O'Level & Secondary	3	11
3	Other		0
	Total	28	100

Source: Field Data, 2013

4.3 Procurement Guides

Chart 4.1: Procurement Guide Newmont Ghana uses



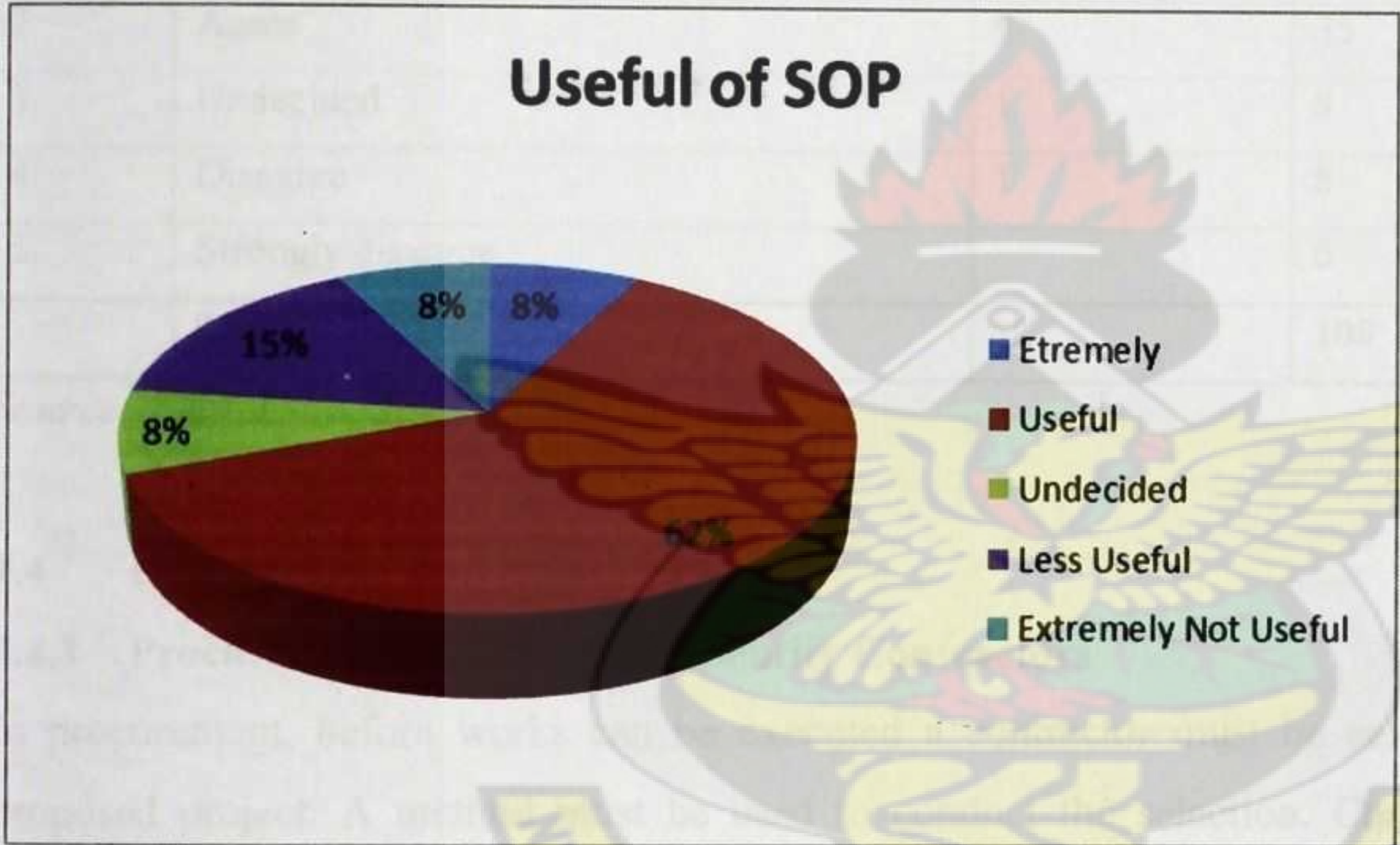
Source: Field Data, 2013

To analyse best practices procurement practices, the researcher intended to know the kind of procurement guide the institution uses. The respondents were asked about the type of procurement guides the institution is using to conduct their works contracts from inception to completion. Chart 4.1 indicates that, eighty six percent (86%) of the respondents use Newmont’s

SCM SOP and seven percent (7%) uses PPA (Act 663). Another seven percent (7%) uses other unspecified procurement guides.

A follow up question was asked if Newmont's SCM SOP is useful. Table 4.5 shows that, sixty two percent (62%) of respondents agreed that it are useful and fifteen percent (15%) said it is less useful. Eight percent (8%) each stated it is extremely useful, undecided and extremely not useful. Undecided, less useful and not extremely useful specified by some of the respondents which formed thirty one percent (31%) might not use or less use Newmont's SCM SOP to conduct the selection of contractors to award of the contract.

Chart 4.2: Useful of Newmont SCM SOP



Source: Field Data, 2013

The respondents were further asked to list other procurement guides they know and refer to when they are at work. The following are the list;

- Public Procurement Act (Act 663);
- FIDIC Standard Form of Agreement;
- PINK Form;
- European Union Procurement Rules and
- World Bank Procurement guide.

A follow up question was asked whether Procurement Officials will agree to use other procurement guides when a chance is given. Table 4.5 below indicates that, Seventy five percent (75%) of the respondents agreed that the other procurement guides listed above could be adopted by the institution. Eight percent (8%) of the respondents disagreed to use and other eight percent (8%) undecided. Other eight percent (8%) strongly agreed that Newmont should adopt the other procurement guides. This shows that the Procurement Officials support the idea of Newmont adoption of other procurement guidelines.

Table 4.5: Other Procurement Guides

Item	Usage of other Procurement Guides	Frequency	Percentage
1	Strongly Agree	1	8
2	Agree	9	75
3	Undecided	1	8
4	Disagree	1	8
5	Strongly disagree		0
	Total	12	100

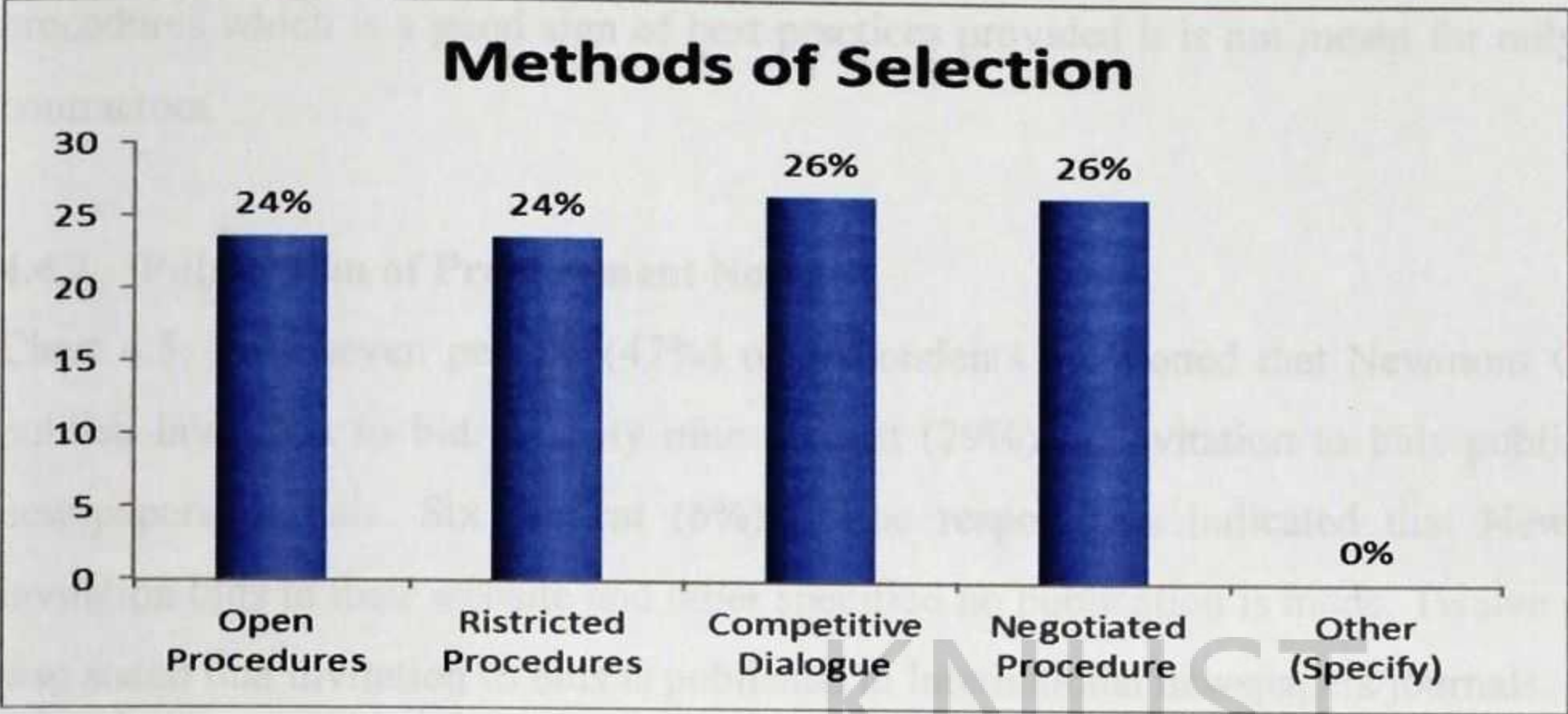
Source: Field Data, 2013

4.4 Procurement Practices

4.4.1 Procurement Procedures to identify Contractors

In procurement, before works can be executed a contractor must be selected to perform the proposed project. A method must be used to conduct the selection. Chart 4.3 indicates that, Newmont Ghana uses almost all the methods stated. Open procedures and restricted procedures had twenty four percent (24%) each of the response and twenty six percent (26%) for specified competitive and negotiated procedures each.

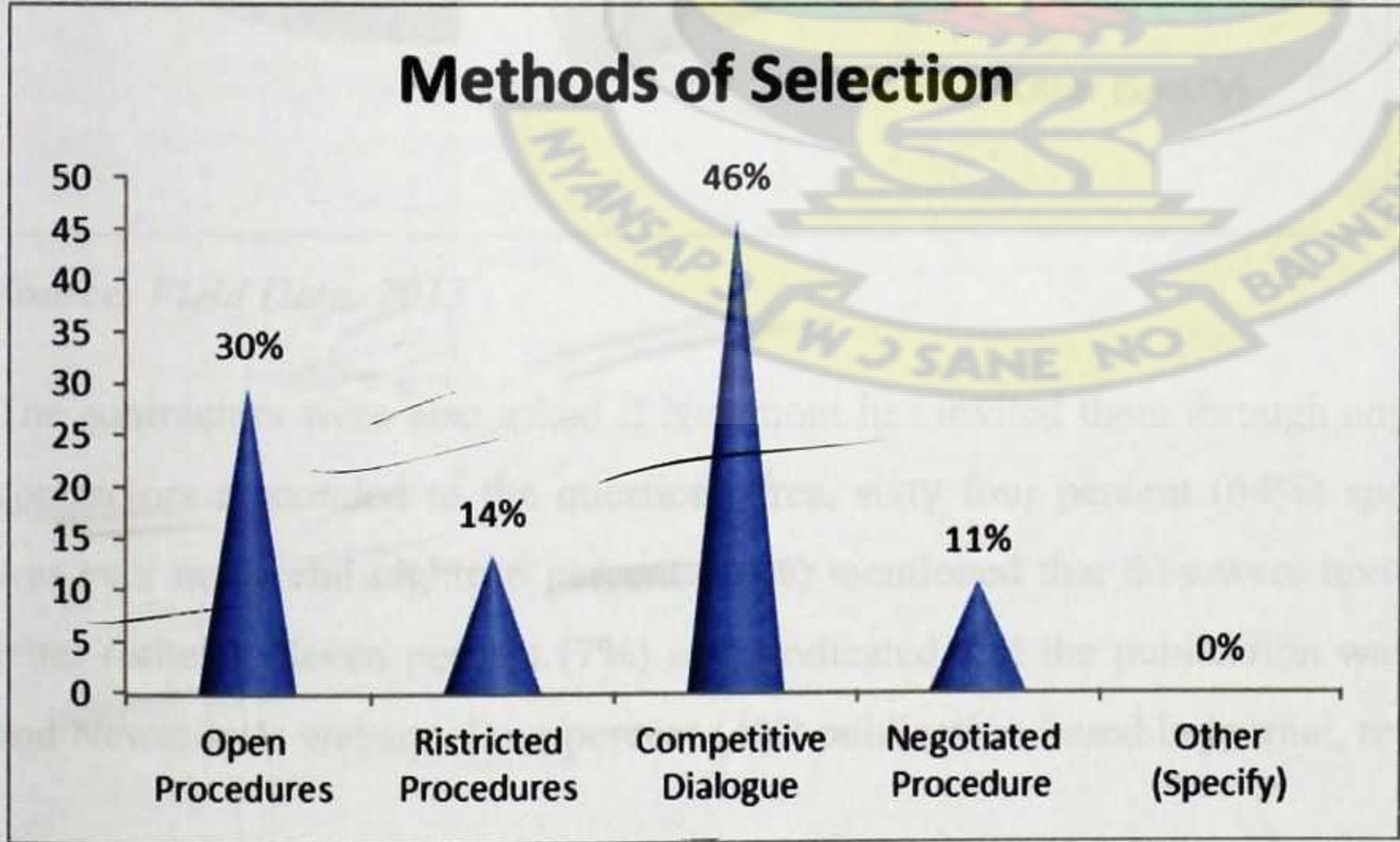
Chart 4.3: Methods of Selection (Procurement Officials)



Source: Field Data, 2013

However, the contractors were also asked to confirm the methods Newmont Ghana uses to select them for works contracts. From Contractor's point of view, forty six percent (46%) of the respondent's specified competitive dialogue, thirty percent (30) specified open procedures and fourteen percent (14%) and eleven percent (11%) percent specified restricted procedures and negotiated procedures respectively.

Chart 4.4: Methods of Selection (Contractors)



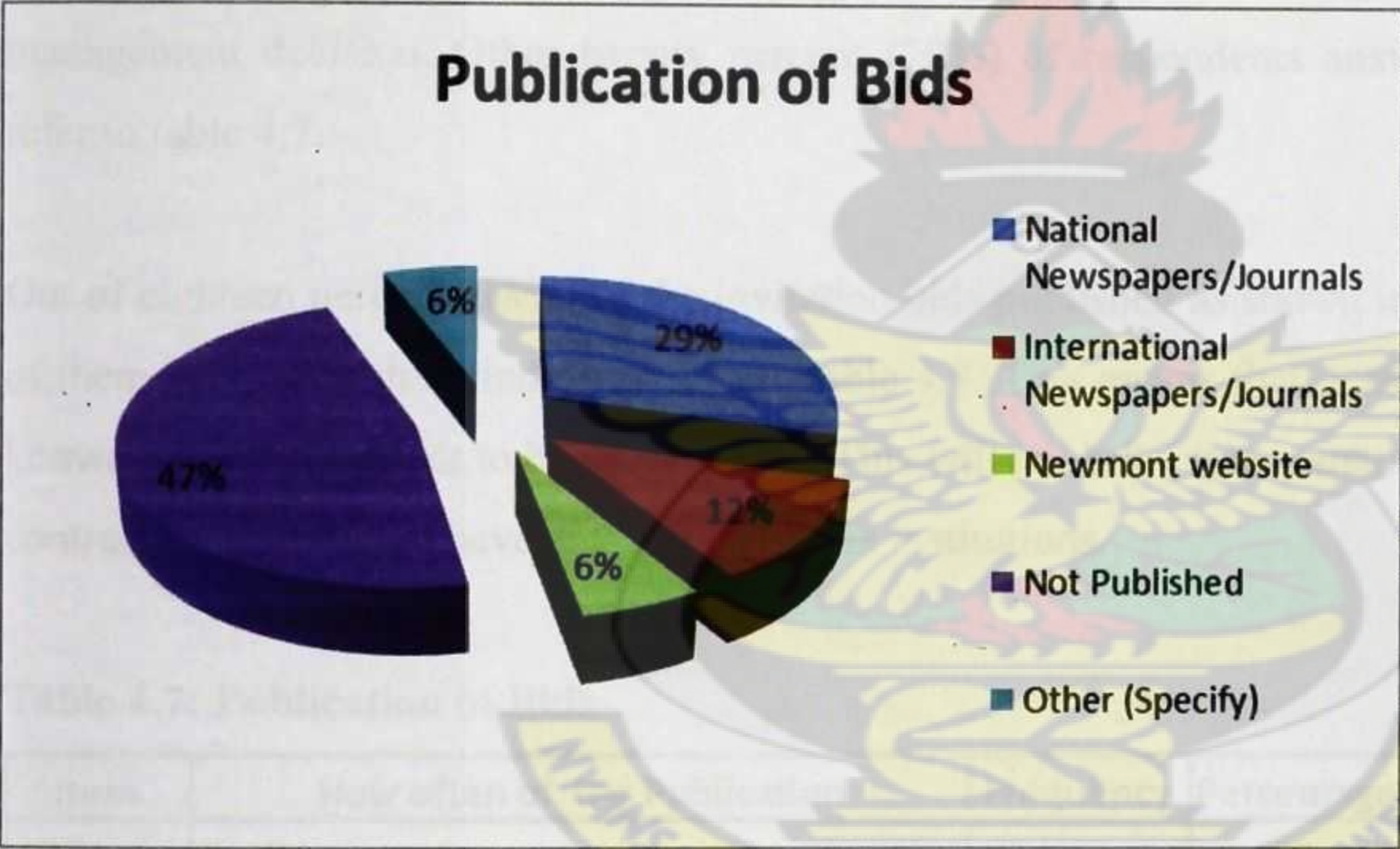
Source: Field Data, 2013

Chart 4.3 and 4.4 indicates that, the institution uses more competitive dialogue followed by open procedures which is a good sign of best practices provided it is not meant for only few selected contractors.

4.4.2 Publication of Procurement Notices

Chart 4.5, forty seven percent (47%) of respondents mentioned that Newmont Ghana did not publish invitation to bid. Twenty nine percent (29%) of invitation to bids publish in national newspapers/journals. Six percent (6%) of the respondents indicated that Newmont publish invitation bids in their website and other specified no publication is made. Twelve percent (12%) also stated that invitation to bids is published in International newspapers/journals.

Chart 4.5: Publication of Bids (Procurement Officials)



Source: Field Data, 2013

The contractors were also asked if Newmont has invited them through any publications. Out of contractors responded to the questionnaires, sixty four percent (64%) specified no publication was ever made and eighteen percent (18%) mentioned that they were invited through invitation letter (other). Seven percent (7%) each indicated that the publication was done in newspapers and Newmont’s website. Four percent (4%) publication found in journal, refer to Table 4.6.

Table 4.6: Publication of Bids (Contractor)

Item	Where do you Publish	Frequency	Percentage
1	Newspapers	2	7
2	Journals	1	4
3	Newmont website	2	7
4	Never Published	18	64
5	Other (Specify)	5	18
	Total	28	100

Source: Field Data, 2013

To establish the fact of publication, a further question was asked as how often the publication is done. Forty seven percent (47%) of the respondents indicated that the publications were done based as and when it is necessary as it determines by the procurement officials. Thirty three percent (33%) of respondents also specified that, the publication would be done based on management decision. Other twenty percent (20%) of respondents answered no idea (other), refer to table 4.7.

Out of eighteen percent (18%) of the invitation bids published as shown in Chart 4.5, it is not all of them even publish as indicated in the Table 4.7. This means that, less of contractors will be known if there is project to be tendered for. This will not bring transparency and fairness to other contractors who do not have any linkage in the institutions.

Table 4.7: Publication of Bids

Item	How often of the Publication	Frequency	Percentage
1	In all acquisition		0
2	As determined by Management	5	33
3	As when it is necessary	7	47
4	As determined by Procurement Officer		0
5	Other (Specify)	3	20
	Total	15	100

Source: Field Data, 2013

4.4.3 Preparation of Tender Document

Tender document are the basis for informing potential tenderers of the requirements of the construction contract. However, they must be furnished with all information necessary to permit tenderers to submit responsive tenders. See below responses from respondents regarding preparation of tender document.

Table 4.8: Evaluation of Criteria in Tender Document (Procurement Officials)

Item	Inclusion of criteria in tender document	Frequency	Percentage
1	In all acquisition	5	36
2	None		0
3	Depend the complexity or scope	4	29
4	As when it is necessary	5	36
5	Other (Specify)		0
	Total	14	100

Source: Field Data, 2013

Table 4.8 indicates that, thirty six percent (36%) of respondents included the criteria in all acquisitions and other thirty six percent (36%) also said it is included as when it is necessary and is only determine by the Procurement Officials. Twenty nine percent (29%) also indicated that the inclusion of criteria depended on the complexity of the project or the scope of services. Contractors also confirmed the inclusion of the evaluation criteria in tender documents as shown in Table 4.9 below. Fifty six percent (56%) confirmed that, they have never seen evaluation criteria in their tender documents whilst forty four percent (44%) found it in their tender document. The earliest response from Procurement Officials; the complexity of the project or scope and as when it is necessary confirmed that Newmont Ghana did not all the time include the criteria in their tender document. This should not be the case; all tender documents must contain the evaluation criteria as suggested by other procurement guides.

Table 4.9: Evaluation of Criteria in Tender Document (Contractors)

Item	Inclusion of criteria in tender document	Frequency	Percentage
1	Yes	11	44
2	No	14	56
	Total	25	100

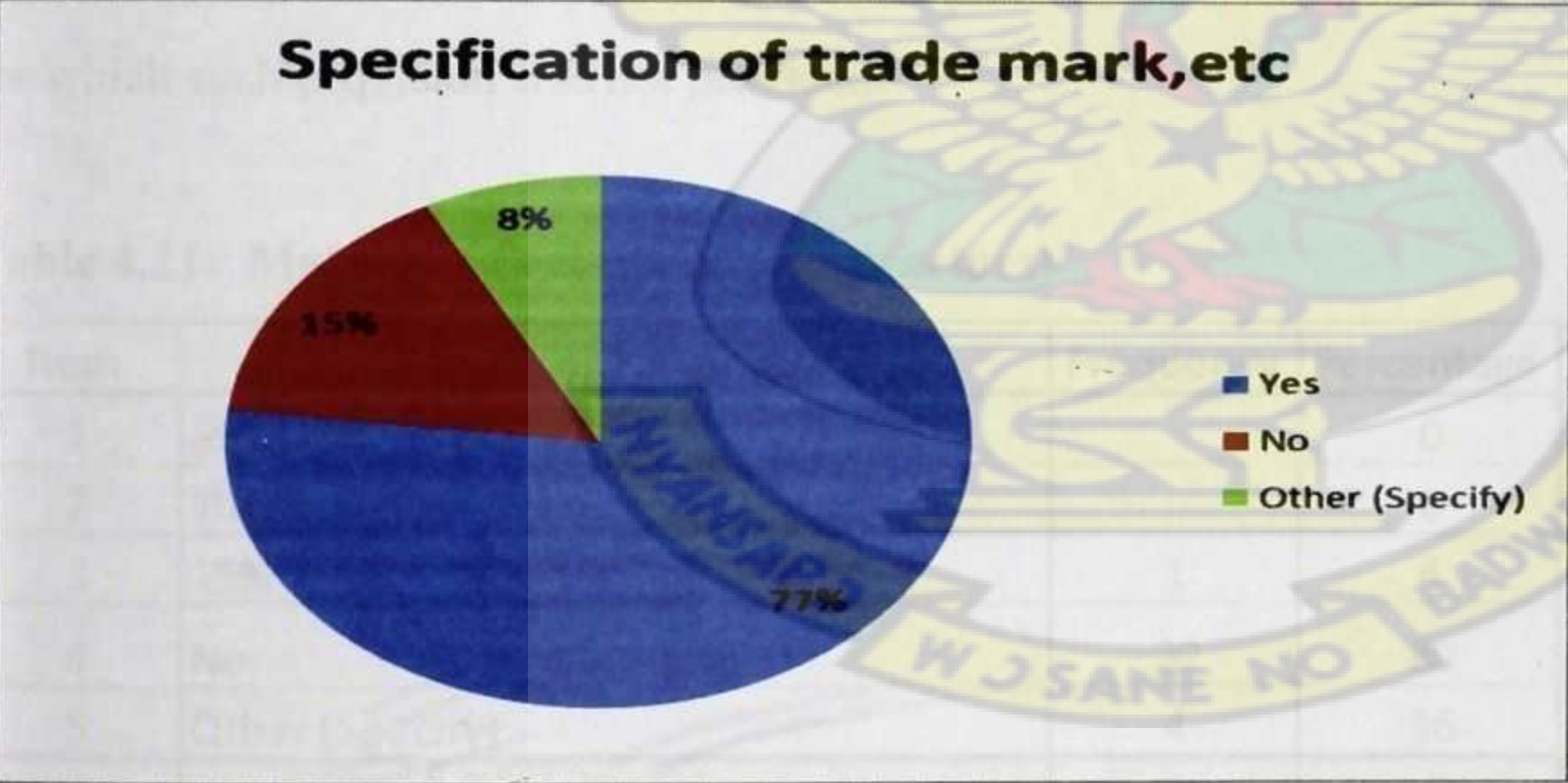
Source: Field Data, 2013

4.4.4 Technical Specifications

Procurement entities should use international standards and specifications and wherever these are applicable and appropriate; the procurement entity should use and apply them consistently across the tender documents. Chart 4.6 as shown below, seventy seven percent (77%) of respondents claimed that, the Procurement Officials make reference to a particular trade mark, name, patent, design, type, specific origin or producer whilst only fifteen percent (15%) of the respondents do not. The remaining respondents specified as when it is necessary which can only determine by the Procurement Officials.

To compare with other procurement guides, they mentioned that, there should be no requirement or reference to a particular trade mark, name, patent, design, type, specific origin or producer, unless a precise or intelligible way of describing the characteristics of the goods, works or services to be procured does not exist, in which case, the words “or equivalent” shall be included. This means that, Newmont Ghana Procurement Officials should take note of this.

Chart 4.6: Specification of Trade Mark, name, etc.



Source: Field Data, 2013

4.4.5 Local Preference

A procurement entity may grant a margin of preference for the benefit of tenders for domestic contractors. Table 4.10 below, fifty eight percent (58%) of respondents specified that, they have never provided margin of preference in tender documents whilst forty two percent (42%) of the

respondent stated that, it depends on the complexity of the work at hand, though they could not specified any margin.

Table 4.10: Margin of Preference (Procurement Officials)

Item	Margin of preference	Frequency	Percentage
1	5%		0
2	10%		0
3	15%		0
4	None	7	58
5	Other (Specify)	5	42
	Total	12	100

Source: Field Data, 2013

From Contractors' point of view on the same issue, Table 4.11, eighty percent (80%) said that, they have never included margin of performance whilst four percent (4%) of the respondents said they have included 15% margin. Sixteen percent (16%) of the respondents did not have any idea. The data provided above clearly shows that, Newmont Ghana considered the international and national contractors to compete on the same platform and this confirms Newmont's SCM SOP for which such provision was not provided.

Table 4.11: Margin of Preference (Contractors)

Item	Margin of Preference	Frequency	Percentage
1	5%		0
2	10%		0
3	15%	1	4
4	None	20	80
5	Other (Specify)	4	16
	Total	25	100

Source: Field Data, 2013

4.4.6 Pre-Bid Meeting

Table 4.12: Procedure to conduct Pre-Bid Meeting (Procurement Officials)

Item	To conduct pre-bid in TD	Frequency	Percentage
1	All the time	6	46
2	None	2	15
3	It depends on the complexity or scope	2	15
4	As when it is necessary	3	23
5	Other (Specify)		0
	Total	13	100

Source: Field Data, 2013

Pre-bid meetings enhance the process of tender. It gives the platform of the bidders to meet the client to understand the RFP to assist the bidders to submit comprehensive and competitive proposals. Does this happen in Newmont Ghana? Table 4.12 shows that forty six percent (46%) of bids are conducted in pre-bid meeting and twenty three percent (23%) are being conducted as when it is necessary. Fifteen percent (15%) depends on the complexity or scope of the project and other fifteen percent (15%) never conducted pre-bid meeting. Newmont needs to try to conduct pre-bid meeting at all the time.

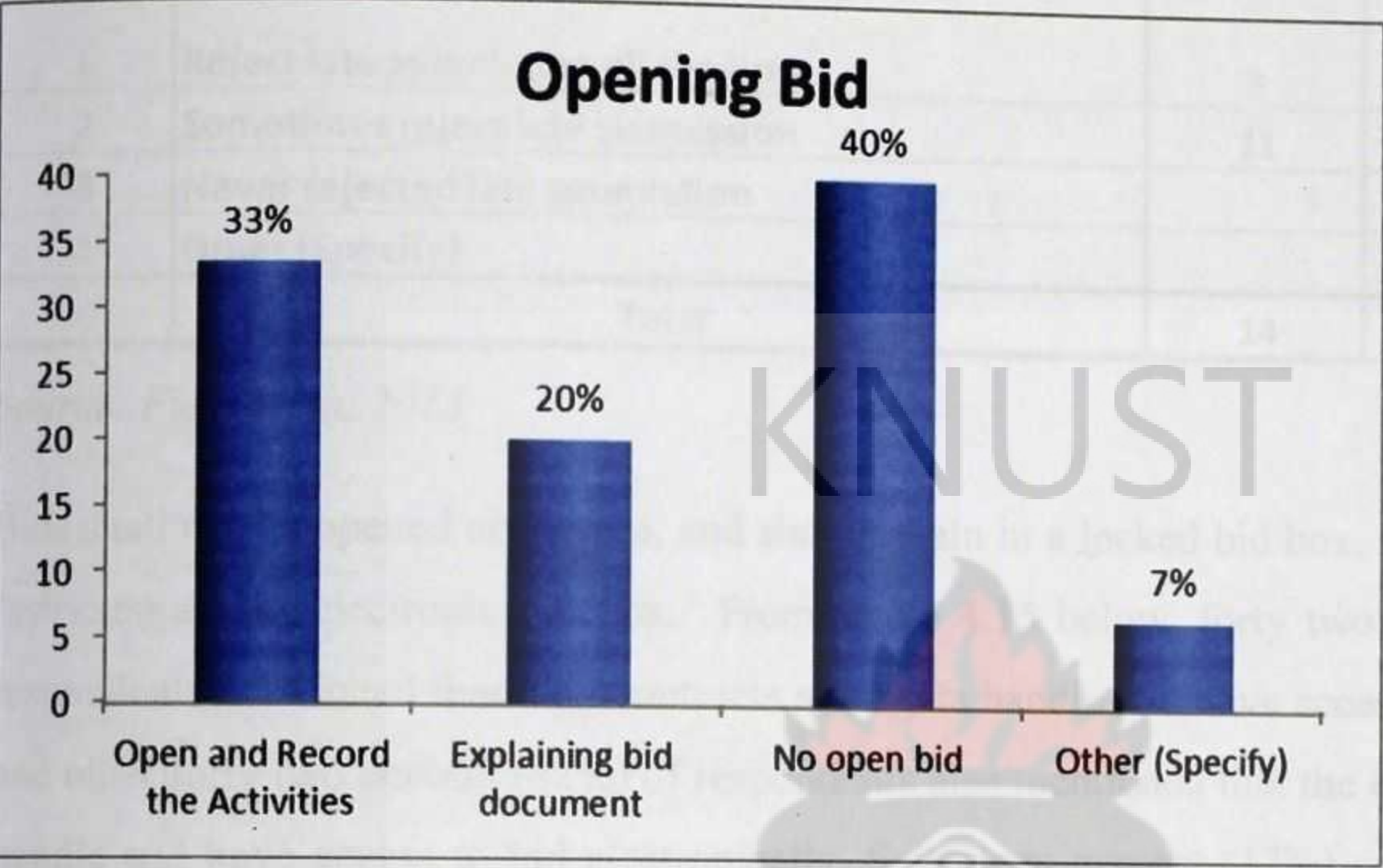
4.4.7 Submission and Opening of Tender

Tenders and associated documents are to be opened in public, in the presence of representatives of tenderers who wish to attend, as soon as practicable after the deadline for submission of tenders. From Newmont Ghana as shown in Chart 4.7, a question was asked as how they treat open bid publicly. Forty percent (40%) of the respondents specified tenders are not open and thirty three percent (33%) claimed that the tenders are opened and recorded the activities. Surprisingly, twenty percent (20%) of the respondents mentioned that, they explained the tender document to the bidders and seven percent (7%) said that they open the bid publicly depending the scope of services.

To confirm the process and procedures, the Contractors were also asked if they have been witnessed open bid publicly before. From Table 4.13 as shown below, eighty two percent (82%) of the respondents said no and eighteen percent (18%) said yes. This confirms that Newmont

Ghana does not interested in open their bids publicly which can affect the transparent and fairness in the competition.

Chart 4.7: Opening and submission of bids (Procurement Officials)



Source: Field Data, 2013

Table 4.13: Opening and submission of bids (Contractors)

Item	Submission and openingof bid	Frequency	Percentage
1	Yes	5	18
2	No	23	82
	Total	28	100

Source: Field Data, 2013

A follow up question was asked if the institution rejects late submission. From table 4.14 below, seventy nine percent (79%) of the respondents indicated that they sometimes reject late submission and twenty one percent (21%) of the respondents reject late submission all the time. From other authors, a tender received by the procurement entity after the deadline for the submission of tenders shall not be opened and shall be returned to the contractor. This clearly shows that late submission should not be entertained. When any institution entertains that, it takes the beauty of the competition away and the institution process and procedures may be compromised.

Table 4.14: Late submission of bid (Procurement Officials)

Item	Late submission of bids	Frequency	Percentage
1	Reject late submission all the time	3	21
2	Sometimes reject late submission	11	79
3	Never rejected late submission		0
4	Other (Specify)		0
	Total	14	100

Source: Field Data, 2013

Bids shall not be opened or viewed, and shall remain in a locked bid box, a safe, or in a secured, restricted-access electronic bid box. From Table 4.15 below, forty two percent (42%) of the respondents mentioned that only contracts managers handle and have access to bid electronically and other forty two percent (42%) of respondents also mentioned that the contract administrators handle and have access to bid electronically. Seventeen percent (17%) of the respondents also said that, no procurement personnel including managers have access to bids electronically. It means that only seventeen percent (17%) of electronic bids are secured which should not be the case. There should inbox no one should have access until it is ready to be opened.

Table 4.15: Electronic Bids (Procurement Officials)

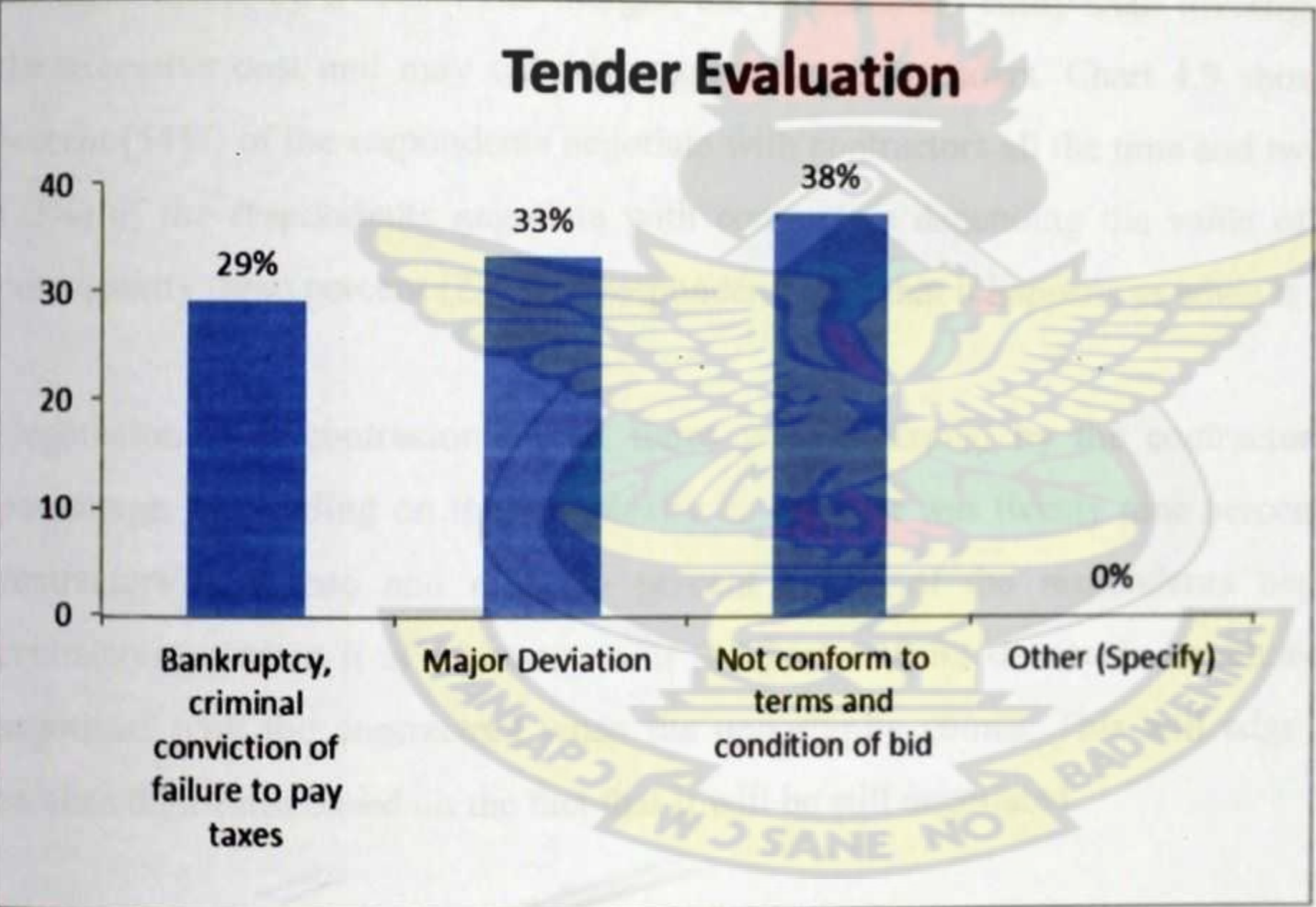
Item	How do you handle electronic bids	Frequency	Percentage
1	Only contracts Manager handles and have access to	5	42
2	Contract Administrator handles and have access to	5	42
3	No procurement personnel have access to until is ready for opening	2	17
4	Other (Specify)		0
	Total	12	100

Source: Field Data, 2013

4.4.8 Process of Tender Evaluation

The purpose of performing bid evaluations is to determine which contractor(s) should be awarded contracts in accordance with the criteria specified in the bid document. The bid evaluation must provide a clear and concise method of ranking each bid and the evaluation criteria must be written so that they can be clearly understood and objectively rated. From Chart 4.8, thirty eight percent (38%) of the respondents rejects bids during the evaluation period based not to conform to terms and conditions and thirty three percent (33%) of the respondents went for major deviations. Twenty nine percent (29%) of the respondents rejected bid during evaluation due to bankruptcy, criminal conviction of failure to pay taxes. This is a good process for the institution to reject bids of the said options.

Chart 4.8: Basis to reject bid during evaluation (Procurement Officials)



Source: Field Data, 2013

Further question was asked, if the procurement officials check arithmetical errors. Ideally hundred percent of the respondents checked arithmetic errors and advised the contractor involved either to accept or reject as shown in Table 4.16. This is a good practice the institution should continue as most of the procurement guides recommend to institutions to practice.

Table 4.16: Computation of errors handling (Procurement Officials)

Item	Computation of errors handling	Frequency	Percentage
1	Inform bidder to accept or reject	12	100
2	Only inform when favour Newmont		0
3	Never informed bidders		0
4	Other (Specify)		0
	Total	12	100

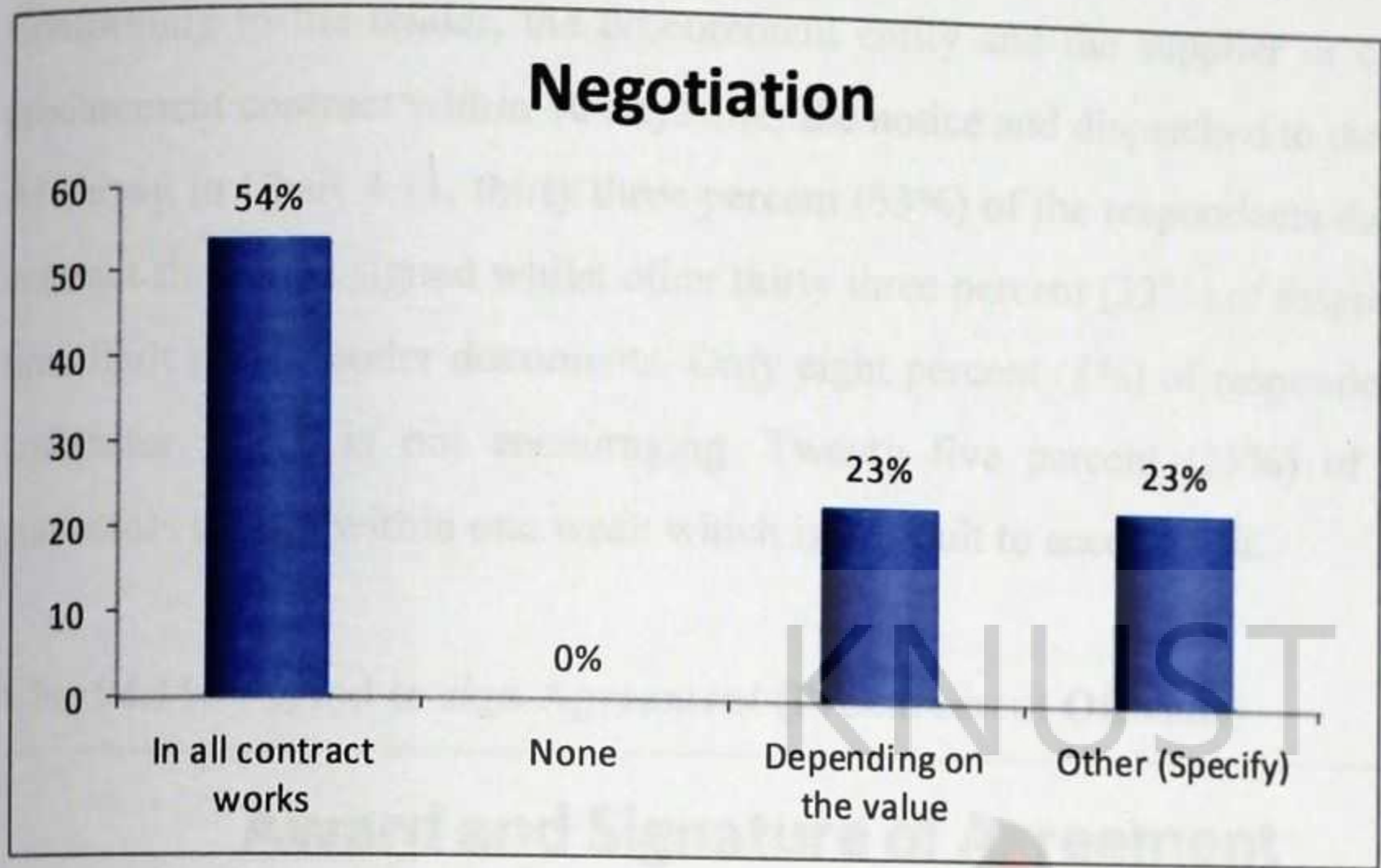
Source: Field Data, 2013

4.4.9 Negotiation with Contractors

No negotiations shall take place between the procurement entity and contractor with respect to a tender submitted by a contractor. If the lowest evaluated responsive tender exceeds the budget for the contract by a substantial margin, the procurement entity shall investigate the causes for the excessive cost and may consider requesting new tenders. Chart 4.9 shows that, fifty four percent (54%) of the respondents negotiate with contractors all the time and twenty three percent (23%) of the respondents negotiate with contractors depending the value of the contract and other twenty three percent (23%) of respondents said that it happens as when it is necessary.

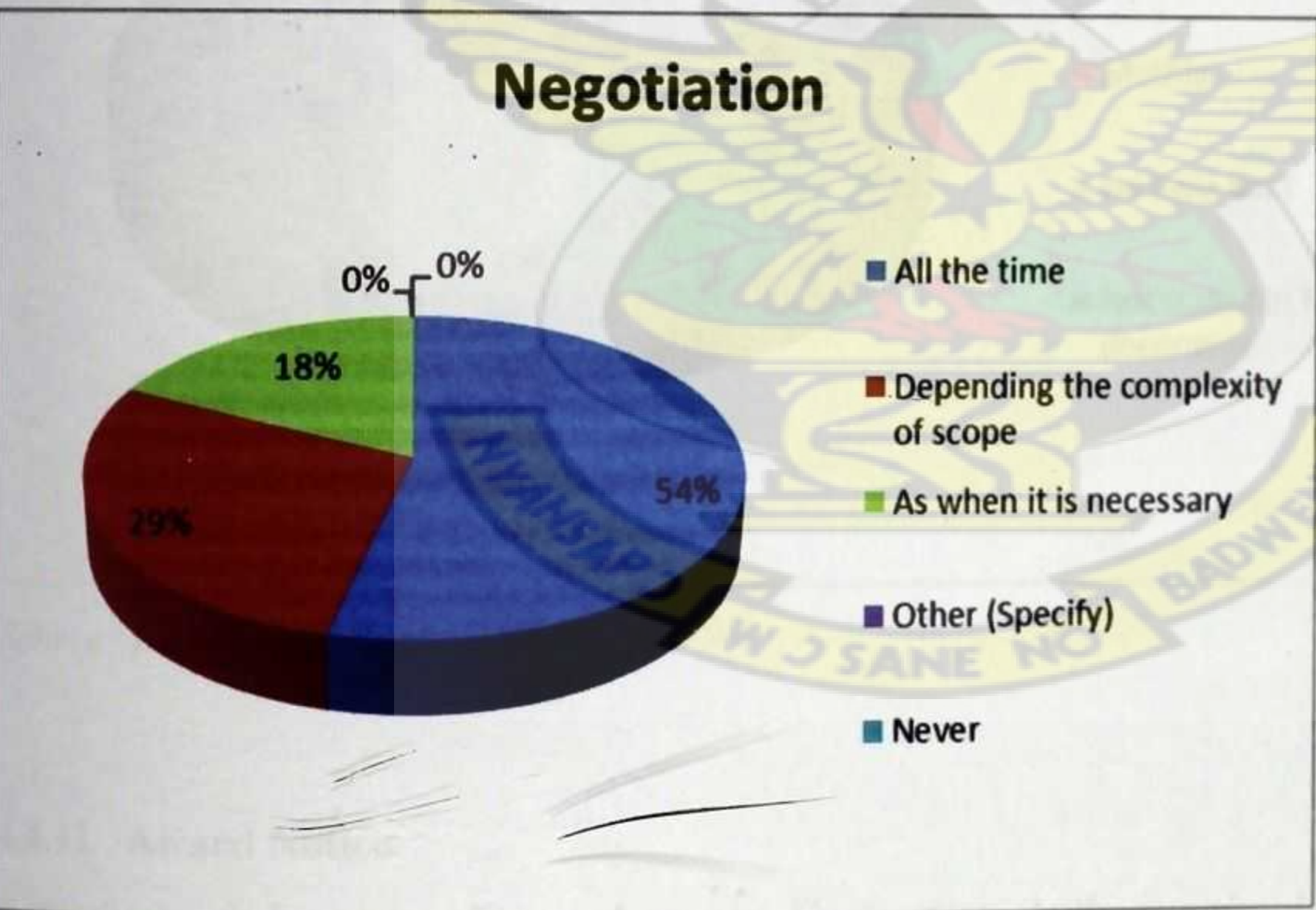
Negotiation with contractors at all times was confirmed by the contractors with the same percentage. Depending on the complexity or value, it was twenty nine percent (29%) from the contractors' response and eighteen percent (18%) of the respondents negotiated with the contractors as when it is necessary refer to Chart 4.10 for details. In conclusion, the institution negotiates with the contractors when the opportunity comes. This will edge the contractor to escalate their rates based on the fact that it will be still negotiated.

Chart 4.9: Negotiation with Contractors (Procurement Officials)



Source: Field Data, 2013

Chart 4.10: Negotiation with Contractors (Contractors)

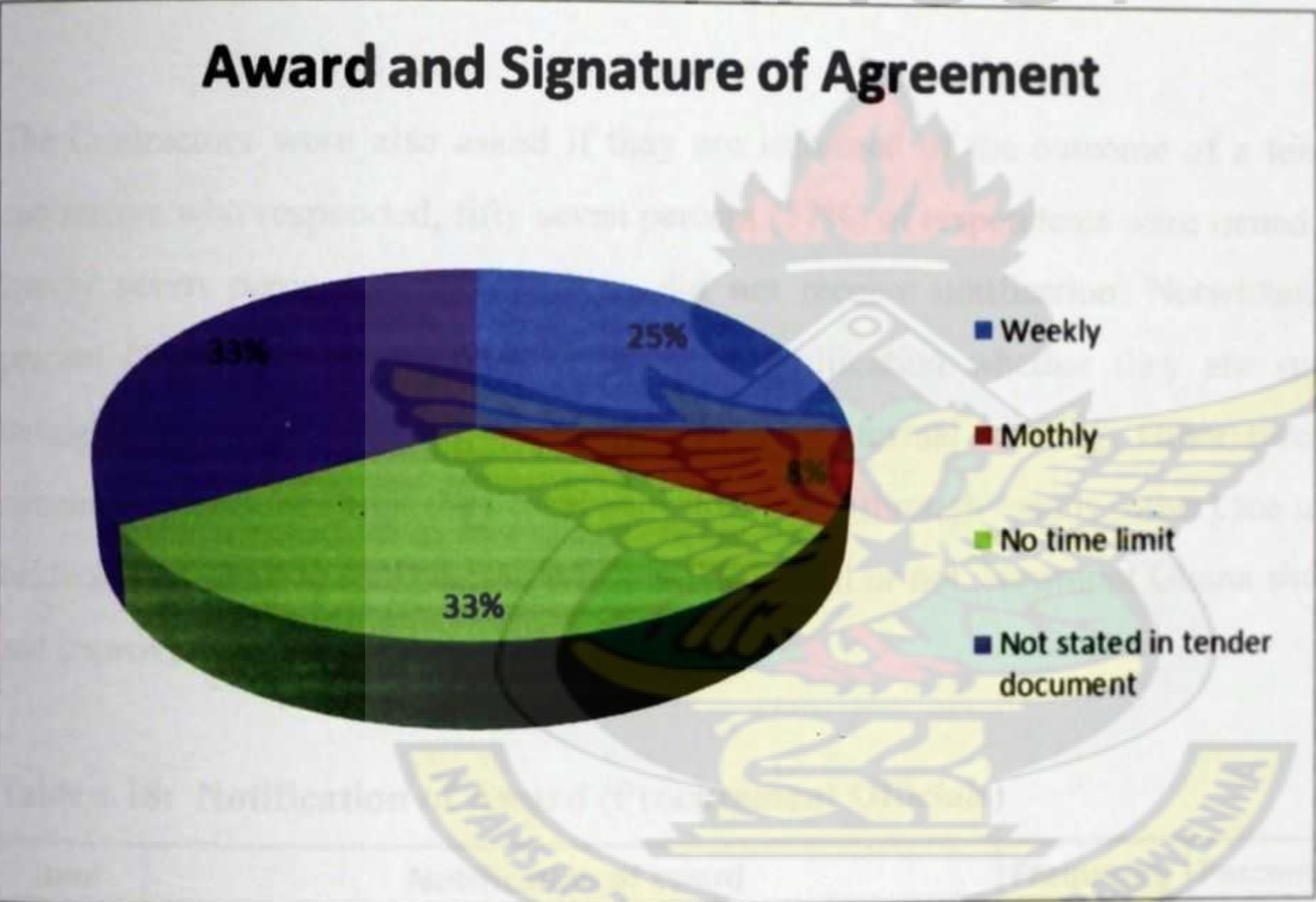


Source: Field Data, 2013

4.4.10 Award and Signature

Conforming to the tender, the procurement entity and the supplier or contractor shall sign the procurement contract within 30 days after the notice and dispatched to the supplier or contractor. As shown in Chart 4.11, thirty three percent (33%) of the respondents did not specify the limit a contract should be signed whilst other thirty three percent (33%) of respondents did not state any time limit in the tender documents. Only eight percent (8%) of respondents gave 30 days to the contractor which is not encouraging. Twenty five percent (25%) of respondents asked the contactors to sign within one week which is difficult to accomplish.

Chart 4.11: Period to sign Agreement (Procurement Officials)



Source: Field Data, 2013

4.4.11 Award Notice

Regardless of the type of procedure, the Contracting Authority should inform tenderers of decisions reached concerning the award of the contract as soon as possible, including the grounds for any decision not to award a contract. Table 4.17 shows that, ninety percent (90%) of the respondents indicated that Tenders were not published whilst only ten percent (10%) of

respondents found in international newspapers/journals. This shows that the institution does not publish wherever contract is awarded.

Table 4.17: Award Notice (Procurement Officials)

Item	Publication of Award	Frequency	Percentage
1	National Newspapers/Journals		0
2	International Newspapers/journals	1	10
3	Your website (Internet)		0
4	Not Published	9	90
	Total	10	100

Source: Field Data, 2013

The Contractors were also asked if they are informed of the outcome of a tender. Out of the contractors who responded, fifty seven percent (57%) of respondents were issued with letters and twenty seven percent (27%) of them did not receive notification. Notwithstanding, thirteen percent (13%) of the respondents received notification whether they are successful or not through phone calls and three percent (3%) had formal meeting. Other three percent (3%) remaining mentioned that they received information through emails (other) see table below. All bidders must receive notification whether successful or not. Newmont Ghana should look at this and improve.

Table 4.18: Notification of Award (Procurement Officials)

Item	Notification of award	Frequency	Percentage
1	Phone calls	4	13
2	Issue of letter	17	57
3	Through a formal meeting	1	3
4	No notification	8	27
5	Other	1	3
	Total	30	100

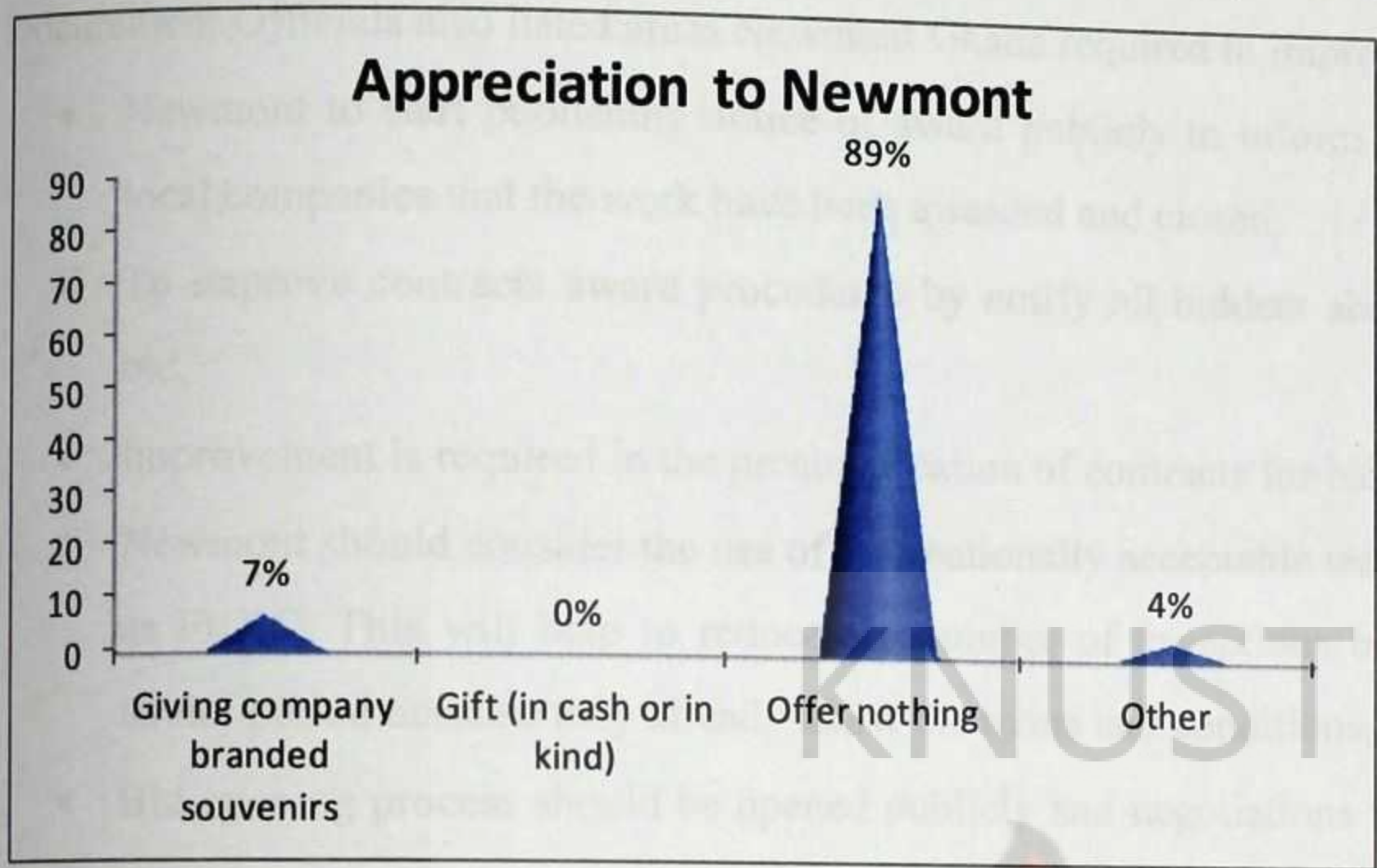
Source: Field Data, 2013

4.5 Efficiencies in Procurement Practices in Newmont

Common corrupt practices in the procurement process especially in the selection of the bidder are collusion among bidders resulting in higher prices for bids, kickbacks from suppliers and contractors to reduce competition and influence the selection process. Bribes to procurement officials monitoring the winning contractor's performance, other forms of abuse, fraud, and mismanagement can occur due to insufficient management and monitoring capacity. From Chart 4.12, the seven percent (7%) of contractors suggested that they offered branded souvenirs to Newmont Procurement Officials. Four percent (4%) specified they gave appreciation letter whilst eighty nine percent (89%) mentioned that they never offered anything to Newmont Procurement Officials. This is a demonstration of confidence in procurement system in Newmont.

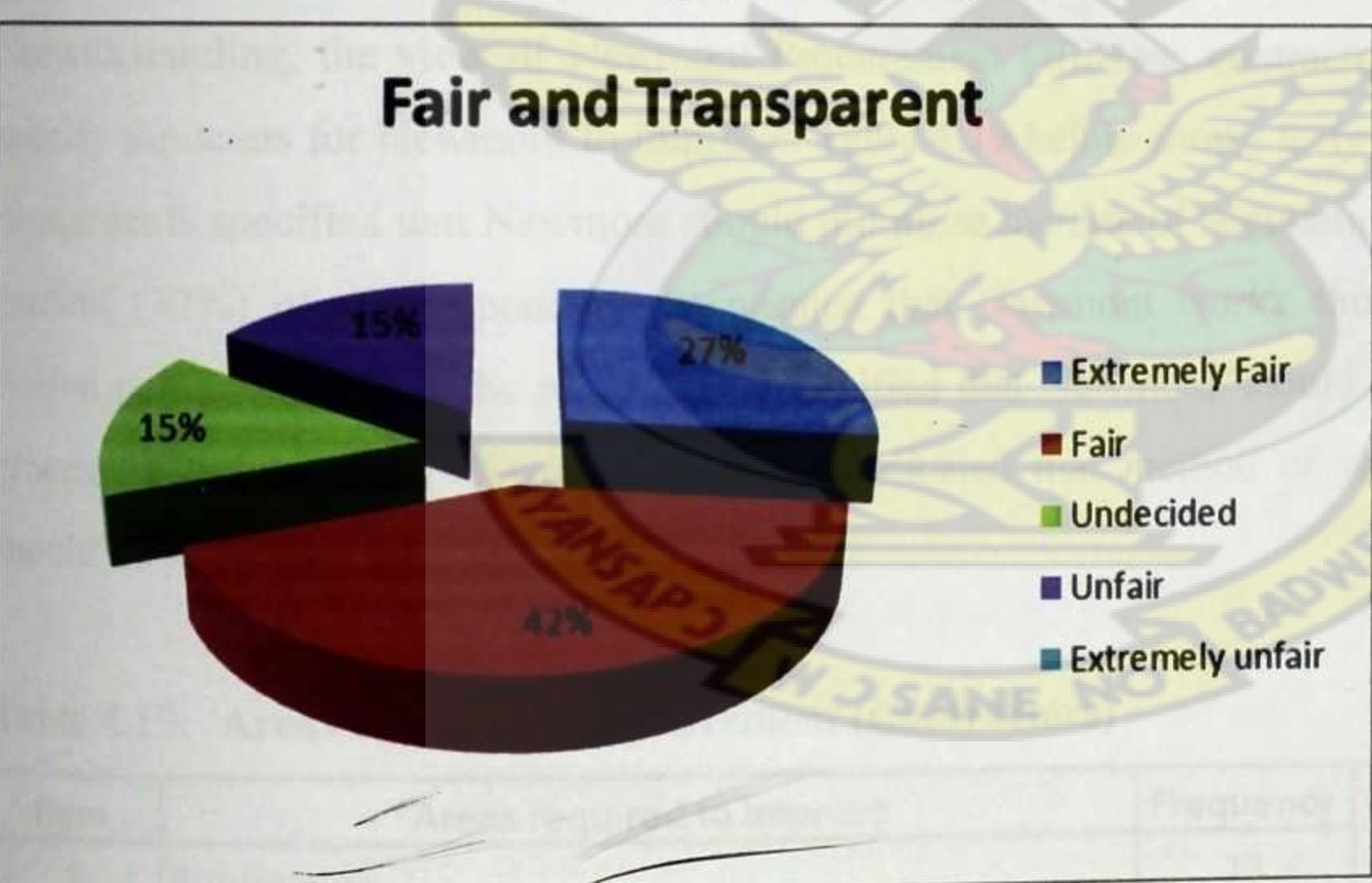
Follow up question was asked how fair Newmont process and procedures from selection to award of contract. Chart 4.13 shows that, forty two percent (42%) and twenty seven percent (27%) of the respondents specified that Newmont process and procedures from selection is fair and extremely fair respectively. Fifteen percent (15%) of the respondents could not specified whilst fifteen (15%) said the process and procedures were not fair and transparent. Among the contractors who responded, thirty percent (30%) had problem with the fairness of Newmont's process and procedure to conduct procurement of works. This is an indication that the Company need to improve the process to ensure fairness.

Chart 4.12: Appreciation to Newmont Procurement Officials (Contractors)



Source: Field Data, 2013

Chart 4.13: Fair and Transparency (Contractors)



Source: Field Data, 2013

4.6 Areas required for Improvement

Procurement Officials also listed areas Newmont Ghana required to improve as listed below:

- Newmont to start publishing notice of award publicly to inform stakeholders and other local companies that the work have been awarded and closed,
- To improve contracts award procedures by notify all bidders about the outcome of the bid,
- Improvement is required in the prequalification of contracts for bid,
- Newmont should consider the use of internationally acceptable terms and conditions such as FIDIC. This will help to reduce the number of exceptions bidders raise during the tender period because they already know the terms and conditions,
- Bid opening process should be opened publicly and negotiations with contractors should stop,
- Evaluation process should be specified in tender document and
- Recommendation report should be detailed and state all the grounds.

Notwithstanding, the view of Newmont Procurement Officials, contractors were also asked to specify the areas for Newmont to improve. Table 4.19 below shows forty four percent (44%) of respondents specified that Newmont should minimise the rate of negotiation with bidders. Thirty percent (30%) of the respondents mentioned that Newmont works should be published and twelve percent (12%) of the respondents specified that Newmont should check their evaluation process. Nine percent (9%) of respondents indicated that method of selection of contractors should be reviewed.

Table 4.19: Areas to require Improvement (Contractors)

Item	Areas required to improve	Frequency	Percentage
1	Publication	13	30
2	Process of selection	4	9
3	Evaluation process	5	12
4	Negotiation with contractors	19	44
5	Other	2	5
	Total	43	95

Source: Field Data, 2013

4.7 Summary

Fairness and transparency could be achieved in procurement practices where by effective procurement guides are available and there is enforcement. In the selection of contractors for works contract, Newmont used all types of methods but in fairness and transparency, the institution needs to encourage more competitive bidding. Publication of invitation to bids is one of the short falls in the company's processes. Bids include all necessary documents to let bidders bid effectively and efficiently. The procurement officials should not forget to include criteria to be used to evaluate the bid in the tender document as it was one of the problems identified.

Not to state particular trade mark, name, patent, design, type, specific origin or producer in a bid document was the problem to Newmont. To grant margins to national contractors for international bids was another issue. Late submission of bids entertained which should not be the case. Bids were not opened publicly which create an impression to the contractors that the company has predetermined contractors. Procurement Officials have access to electronic bid before bid opening is also a problem to the institution. Information could be leaked to other competitors.

In addition, basis of rejecting bids during evaluation is in good direction as well as checking arithmetic errors. However, negotiation was one problem to the bidders. Newmont negotiates with the bidders of every contract they win. But they never reduce their scope of services. No time limit is stated in the tender document for both parties to sign the agreement. It means that the contractor can delay in the signing of the agreement which can affect the progress of projects. The institution also fails to publish the award and sometimes call successful bidders on phone which should not be the case. Other bidders do not receive any notification if the contract has been awarded or not which can give bad impression about the institution. Based on the information gathered, contractors confirmed that they did not offer Newmont's Procurement Officials any gift except few of the contractors issue their company's souvenirs to them. The Contractors concluded that overall performance of the institution is averaged. This means that the institution should improve their process and procedures and have best practices.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter summarizes the main findings of the study and provides recommendations to Newmont Ghana to adopt best practices procurement practices of improving the process and procedures of selecting competitive contractor for works contracts.

5.2 Conclusions

5.2.1. The standard procurement practices for selection of contractor for works contracts

Standard procurement practices harmonise the processes to secure a judicious and efficient use of resources available and to ensure procurement is carried out in a fair, transparent and non-discriminatory manner. The following are the best practices identified;

- Right procurement procedures must be used as listed below;
 - Open Procedures,
 - Restricted Procedures,
 - Competitive dialogue,
 - Negotiated procedures,
 - National Procurement procedures,
 - National Competitive bidding,
 - National Shopping and
 - Force Account.
- Invitation bids must be given maximum publicity through wide circulating newspapers, website and any other appropriate media.
- Specific requirements or reference to a particular trade mark, name, patent, design, type, specific origin or producer must not be stated unless a precise or intelligible way of describing the characteristics of the goods, works or services to be procured does not exist, in which case, the words “or equivalent” shall be included.
- Evaluation criteria must be included in Tender document and all the necessary requirement needed for potential bidders to complete the proposals.

- Tenders must be opened in the presence of tenderers or their representatives for the delivery of tenders.
- Tender received by the procurement entity after the deadline for the submission of tenders must not be opened and must be returned to the contractor.
- The criteria included in the tender document must be the same criteria to be used during evaluation and arithmetic errors must be checked and advise the contractor accordingly.
- No negotiation must take place between the procurement entity and a contractor with respect to a tender submitted by the contractor.
- Procurement entity shall give notice of the procurement contract in writing to unsuccessful contractors.
- Procurement entity must use qualified and professional officers to be able to identify corruption schemes and vulnerabilities along the procurement chain and its processes in order to fight against corruption.

5.2.2. Differences and similarities of Newmont's procurement against other Standard Procurement Practices

The following are the differences and similarities between Newmont's procurement practices and other standard procurement practices found as discussed below:

- **Procurement Procedures to identify Contractors**

Newmont Ghana uses open procedures, restricted procedures, competitive procedures and negotiated procedures whilst other standard procurement practices mentioned additional methods such framework, force account and national shopping.

- **Publication of Procurement Notices**

Standard procurement practices works contract should be published in wide in at least two (2) newspapers of wide national circulation, journals, website and appropriate media similarly, Newmont Ghana publishes some of their projects in national newspapers, journals, Newmont's

Website. Contractors who have registered in the company will be probably called to bid for a proposed project. This will be a disadvantage to other contractors and it does not show a sign of best practice.

- **Preparation of Tender Document**

Standard bidding documents should furnish all information necessary for a prospective bidder to prepare a bid for the works to be provided as provided by standard procurement practices.

Newmont Ghana sometimes does not include the criteria to determine the successful tender. This will affect the evaluation of the tender and the results could be skewed.

- **Technical Specifications**

Specifications, plans, drawings and designs that provide technical or quality characteristics of works to be procured should be provided as required in standard procurement practices. These requirements mentioned above are similar to Newmont Ghana procurement practices. What was found differently from standard procurement practices from Newmont Ghana procurement practices was that the Procurement Officials stated the brand names and other designations, etc.

- **Local Preference**

Clients may grant a margin either of 15%, 10% etc. of preference for goods manufactured or works to be executed in the country. Similarly, the Procurement Officials in Newmont Ghana grant margin to local or national contractors working depending the scope or complexity of work but the margins are not stated from the survey conducted. In fact, the local or national company finds it difficult to compete with international companies on the same platform if local preference is not given.

- **Pre-Bid Meeting**

Procurement Officials in Newmont Ghana uses pre-bid conference generally in a complex acquisition, as a means of briefing prospective bidders and explaining complicated specifications and requirements to the bidders as early as possible after the invitation has been issued and before the bids are opened as a similar to standard procurement practices.

- **Submission and Opening of Tender**

Tenders must be opened publicly and record all the activities and forward to the stakeholders. Electronic bids must be secured as it is the requirement for standard procurement practices. Newmont Ghana does not open bids in public. Most often, their electronic bids are being kept by their contract administrators and information can leak to other bidder which is opposite to standard procurement practices.

- **Process of Tender Evaluation**

The criteria Procurement officials use to reject bids during the evaluation is similar to other standard procurement practices. In addition to that, they also check arithmetic errors and advise bidders to reject or accept which could not be ruled out as good practices as all other procurement guides specify.

- **Negotiation with Contractors**

One problem identified was negotiation with bidders. Procurement Officials do negotiate almost all the contract works before award. This is different from other standard procurement practices and it can affect the execution of the proposed project and reduce the quality of the product.

- **Award and Signature of Agreement and Notification of Award**

Any procurement entity and the contractor should sign the procurement contract within a period after the notice and dispatched to the supplier or contractor and advice unsuccessful contractor as a standard practices. In Newmont, only few contractors were advised if they are unsuccessful. Some of them are being called through phone calls or formal meeting. In fact the procurement officials do not specify the period to sign the agreement in the tender document.

5.2.3 Unethical behaviors in the processes of the selection of contractors

The information gathered from the survey shows that the Procurement Officials do not take bribes from the contractors to monitor the winning bidder's performance and leak information to their favorite bidders. Only few contractors confirmed that in a few occasions they present some souvenirs to the procurement officials. This is what is required for all standard procurement practices and nothing should be different. However, the same contractors' confirmed overall performance of the company as average in terms of procuring works contract.

5.3 Recommendations

This section aims at addressing issues gathered in the study with recommendations to improve procurement practices in Newmont Ghana.

5.3.1 Procurement Document

Newmont Ghana can adopt other procurement guides as their procurement officials recommended. The Company can ~~revise~~ the SOP to include most of the standard's procedures and process or to state in the SOP that the Procurement Officials can use other procurement practices. The Company can organise workshops for the Procurement Officials to debate and select best procurement practices.

5.3.2. The standard procurement practices for selection of contractor for works contracts

- **Procurement Procedures to identify Contractors**

Under a competitive procedure, the procurement entity invites interested contractors of its choice to submit tenders. Best procurement methods such open procedures, competitive dialogue, etc. as specified in standard procurement practices which encourages fairness and transparency should be encouraged by Newmont Ghana to use to select works contractors.

- **Publication of Procurement Notices**

It is recommended that Newmont Ghana to adopt open or competitive procedures as mentioned above which allow all interested contractors to submit bids. This involves strict requirements for international or national publication in the official Newspapers/Journal. The notice must be clear and comprehensive.

- **Preparation of Tender Document**

Institutions may use the conditions of contracts originating from their country's legislation, but they are also encouraged to use internationally-recognized standard procurement documentation such as FIDIC, etc. Newmont Ghana is encouraged to include all necessary document especially the criteria to evaluate the bids in tender document as a requirement in standard procurement practices. The tender document should be reviewed by at least two (2) procurement officials and approve by Procurement manager to make sure that the document to send out is standardized. This will assist the bidders to submit competitive bid for both international and national bid.

- **Technical Specifications**

Procurement Officials in Newmont Ghana is recommended to avoid to states the use of brand names or other designations that would discriminate among contractors. The Procurement Officials should try as much as possible to clarify the nature of the product requirements or state

that products of equal or higher quality. This will prevent any discrimination of a product to use for the contract. The Procurement Officials should have copies of standard specifications and other requirement which will guide them when preparing tender documents.

- **Local Preference**

The Company is encouraged to grant a margin of preference for goods manufactured or products or works in the country for international bid. Procurement Officials are encouraged to include in bid documents for international bids when the company agreed to grant margin probably from 5% to 15% depending the scope of services. The local or national company can compete with international companies when margin of preference is granted and this will also promote local industry.

- **Pre-Bid Meeting**

Pre-bid meeting enhances the process of tender. It gives the platform for the bidders to meet the client to understand the Request for Proposal (RFP) or Request for Quote (RFQ) and to assist the bidders to submit comprehensive and competitive proposals or quotations respectively. It is recommended that Newmont's management should include pre-bid meeting in their SCM SOP. The Procurement Officials are also encouraged to include this in tender document and also hold a site visit and pre-bid conference for a bidder at least for contract above US\$25,000.00.

- **Submission and Opening of Tender**

Opening of bids can be public or non-public. The decision to have a public or non-public opening of bids depends on the significance of the project but requires fairness and transparency. Newmont Ghana is recommended to open bids publicly at least seventy percent (70%) of works contract and follow the steps provided. The Procurement Officials in Newmont Ghana are

advised not to accept late bids which against standard procurement practices. Secured email addresses should be created to receive all electronic bids if electronic bids will be entertained. The password to address should be handled by Supply Chain Manager until it is time for opening. When these standard practices are adopted it will promote fairness and transparency procurement practices in the Company.

• **Process of Tender Evaluation**

The tender evaluation process up to the award of the contract must be confidential. Furthermore, contracts must be awarded within the period of tender validity to the tenderer whose tender has been determined as being substantially responsive. Procurement Officials used to reject bids during the evaluation with the right criteria and arithmetic errors are checked and advised bidders accordingly and must be continued. Newmont Procurement Officials are recommended to evaluate all tenders fairly with the basis of the evaluation criteria set out in the tender documents nothing more, nothing less as standard procurement practices demand.

• **Negotiation with Contractors**

The standard practices demand that if a lowest evaluated responsive tender exceeds the budget for the contract by a substantial margin, the contract administrator is to advise or investigate the causes for the excessive cost and might consider requesting new tenders or advise the management for approval of the excess cost. The last option to consider is to negotiate with the lowest evaluated tenderer to try to obtain a satisfactory contract. This will allow the contractor a briefing space and can provide quality works and execute the proposed contract within the stipulated period. It is recommended that Newmont Ghana should reconsider the rate of negotiating with their prosperous contractors of all works contract. The Procurement Officials

should investigate the excess cost and advice management before negotiation begins if it is still their option.

- **Award and Signature of Agreement and Notification of Award**

Procurement Officials are encouraged agreement to be signed within a period after the notice and dispatch to the contractor. The limit period should be stated in tender document as other procurement guides specified for 30 days or less. The Procurement Officials should also refrain of notifying contractors through phone calls and formal meeting. All notification should be in the form of letters and must be signed by the Procurement Manager. Procurement Officials should make sure all delivery records of the letters and copies are filed.

5.3.3 Unethical Behaviours

Procurement Officials must behave professionally as all standard procurement practices required. They have to follow the policy provided and make sure that procurement processes are fair and transparent. Further, in hiring and training procurement personnel, human resources team and procurement management should collaborate and place emphasis on ethics and integrity. Newmont Procurement Officials should place the interest of the Company before their personal interests and this will prevent them to release information to contractors for their personal gains. The Procurement Officials should put at the back of their minds that “perception sometimes exceed reality”.

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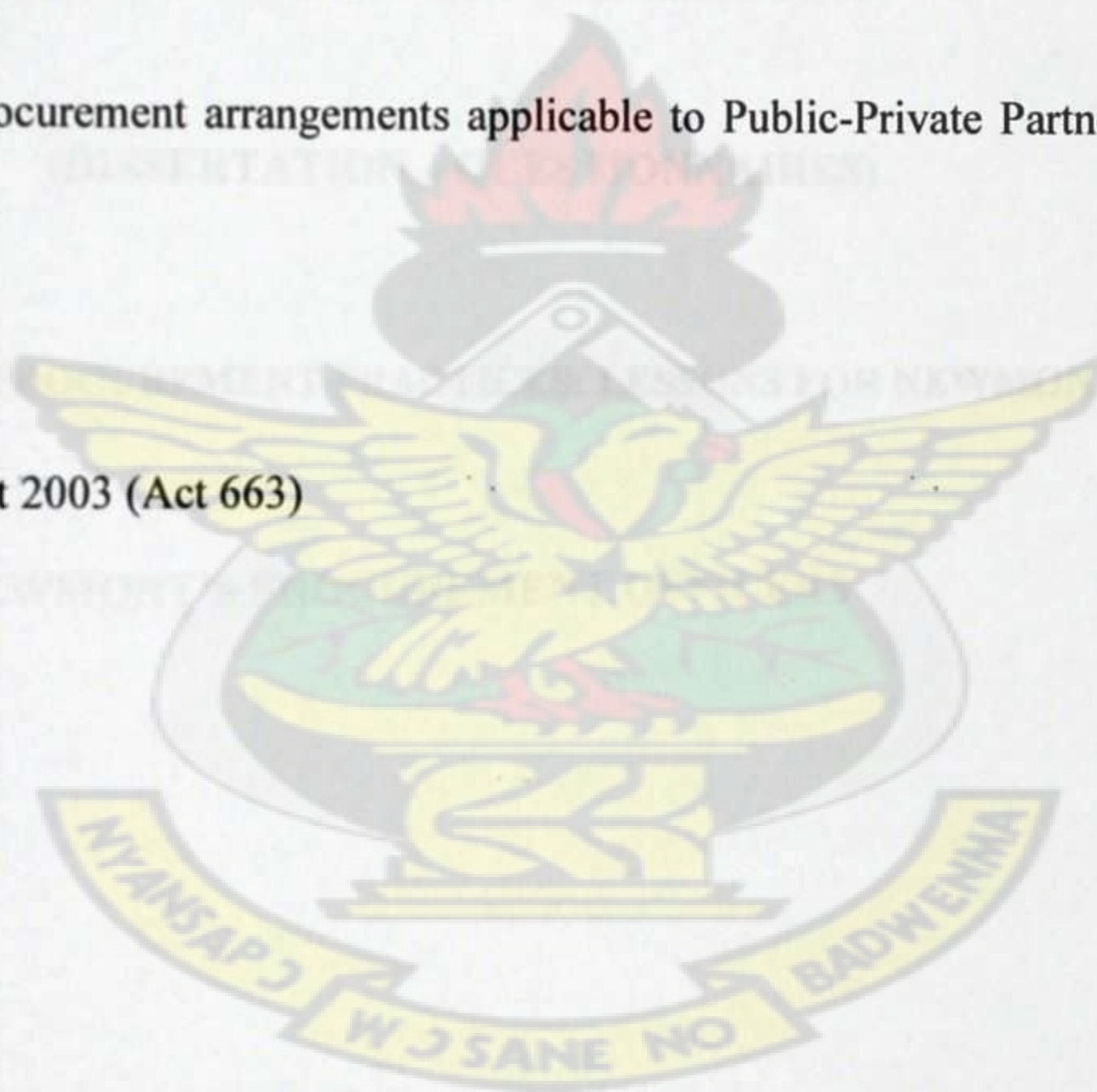
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APPENDIX A
QUESTIONNAIRES

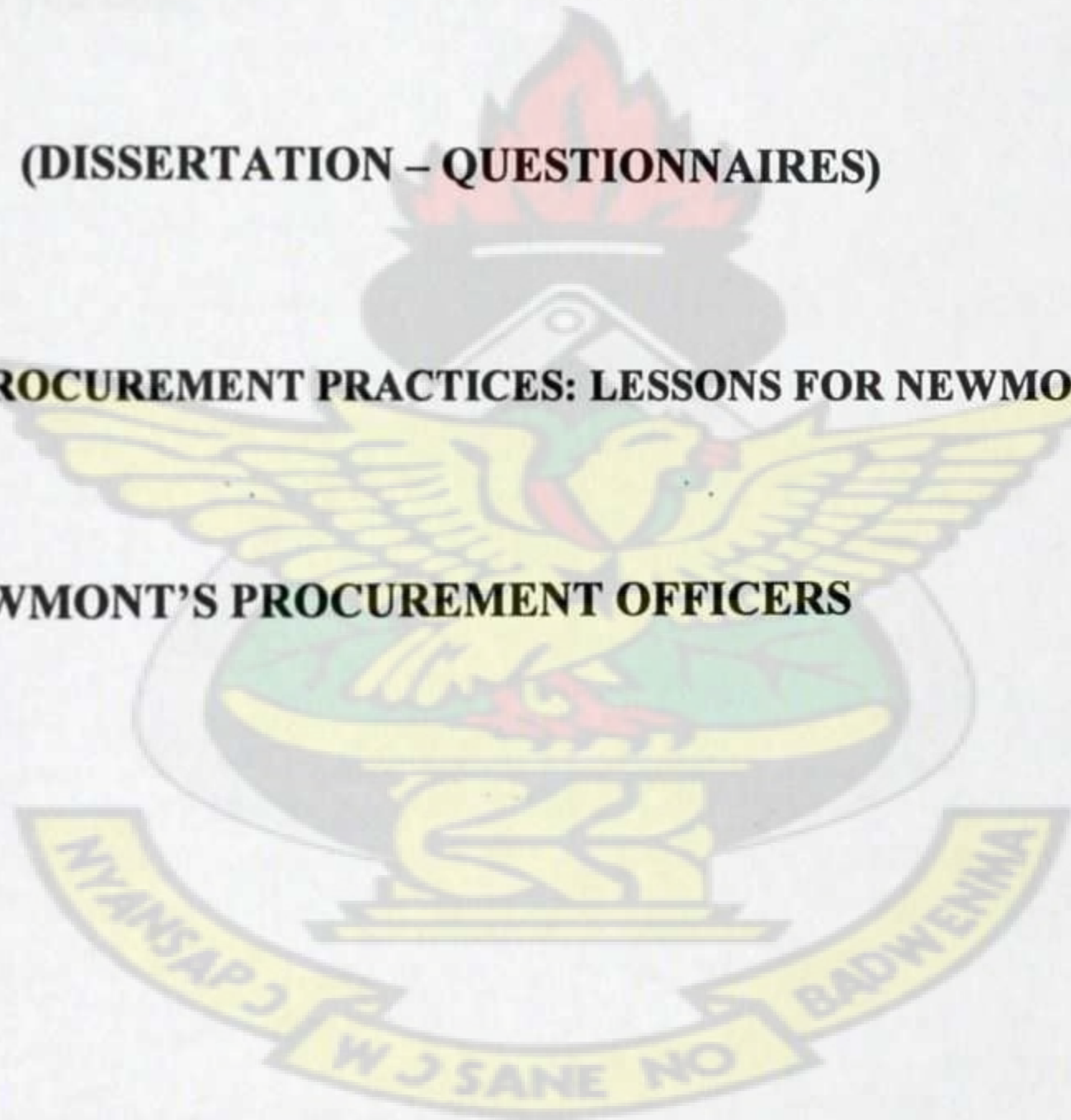
KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY
ARCHITECTURAL AND PLANNING DEPARTMENT

MSc. PROCUREMENT MANAGEMENT

(DISSERTATION – QUESTIONNAIRES)

"BEST PRACTICE PROCUREMENT PRACTICES: LESSONS FOR NEWMONT GHANA"

TARGET GROUP: NEWMONT'S PROCUREMENT OFFICERS



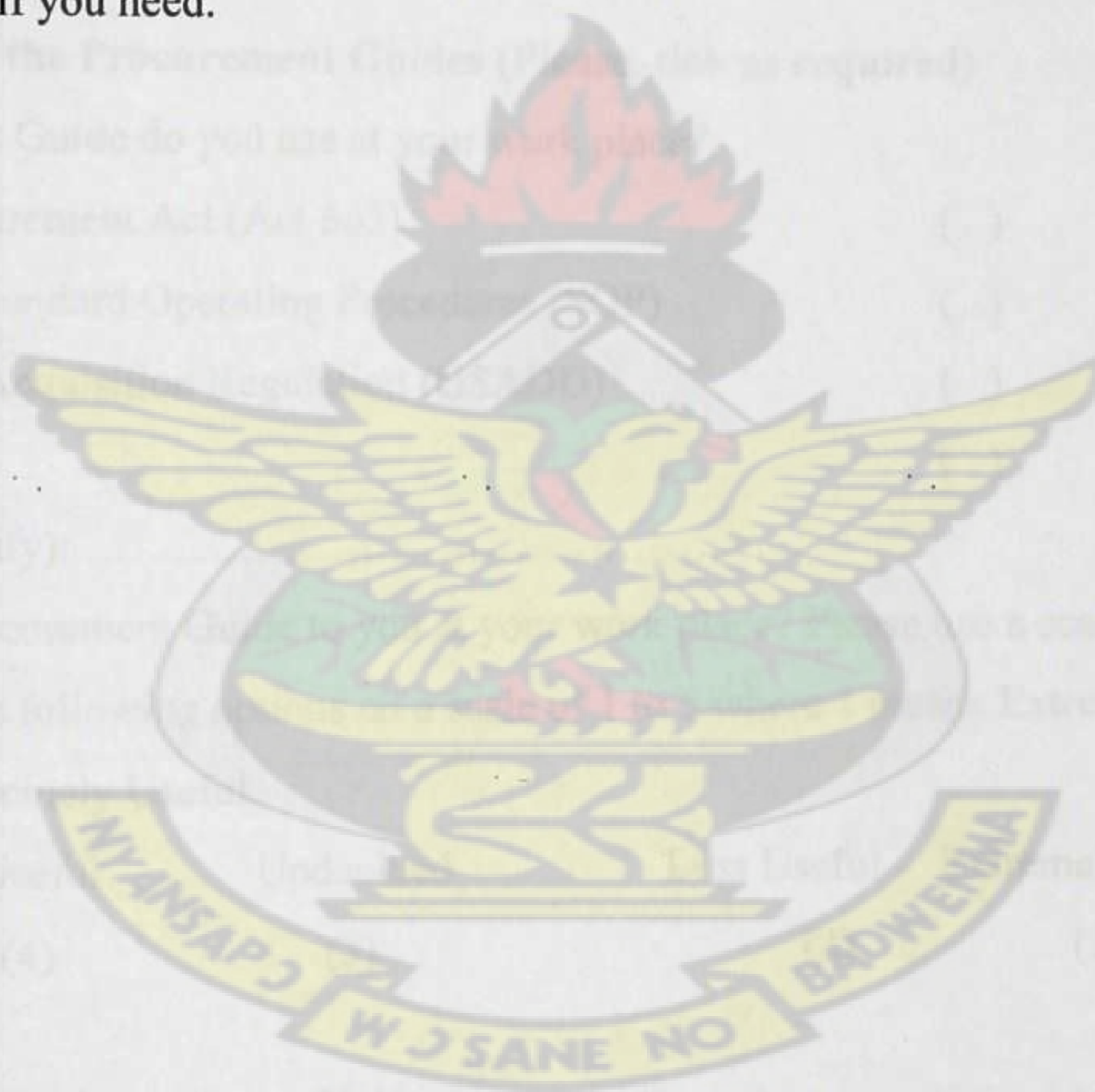
INTRODUCTION

Dear Sir or Madam

Good Morning/Afternoon,

I am a student from Kwame Nkrumah University of Science and Technology and I wish to conduct a study at this institution. The study is academic and the purpose is to recommend best practice procurement practices: Lessons for Newmont Ghana. Please, kindly answer the listed questions as accurately as possible and feel free to ask any question if you need to. This Dissertation is under the guidance of Mr. Kwame Ofori-Kuragu and Dr. Gabriel Nani. Looking forward to your useful inputs and implementing it in my Dissertation. The results of the research can be shared with you if you need.

Thank you.



PROCUREMENT OFFICERS

Please Tick or State where Applicable

General Information

1. Age:.....
Sex: Male () Female ()
2. Position:.....
3. Name of Department:.....
4. No of years of experience:.....
5. Highest Level of Education:.....
6. Date:.....

General knowledge of the Procurement Guides (Please, tick as required)

1. Which Procurement Guide do you use at your work place?
 - a. Public Procurement Act (Act 663) ()
 - b. Newmont Standard Operating Procedures (SOP) ()
 - c. Federation Acquisition Regulation (GSADD) ()
 - d. FIDIC ()
 - e. Other (Specify):
2. How useful this Procurement Guide to you at your work place? Please use a scale of 1 to 5 and choose from the following options on a scale of 1 to 5 where 1 means Extremely Not Useful and 5 is Extremely Useful.

Extremely	Useful	Undecided	Less Useful	Extremely Not Useful
(5)	(4)	(3)	(2)	(1)
3. Please, state other procurement guides you know apart from the one mentioned in question one?
 - a.
 - b.
 - c.
 - d.

4. Do you think that Newmont should use other procurement guides as stated in above?

Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree
()	()	()	()	()

Procurement Procedures to identify Contractors, Please tick as required

5. How do you identify contractors for works?

- a. Open Procedures ()
- b. Restricted Procedures ()
- c. Competitive Dialogue ()
- d. Negotiated Procedure ()
- e. Other; Specify.....

6. Should Newmont adopt your choice in Q. 5 if this is not in the Newmont guide?

Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree
()	()	()	()	()

Publication of Procurement Notices, Please tick as required

7. Where do you publish works contracts?

- a. National Newspapers/Journals ()
- b. International Newspapers/Journals ()
- c. Your website (Internet) ()
- d. Not Published ()
- e. Other (Please, specify).....

8. How often do you publish your works contracts?

- a. In all acquisitions ()
- b. As determined by Management ()
- c. As when it is necessary ()
- d. As determined by Procurement Officer ()
- e. Other (Please, specify).....

Preparation of Tender Document, please tick as required

9. How often do you include the criteria to be used by the procurement entity to determine the successful tender in the tender documents?

- a. In all acquisitions ()

- b. None ()
- c. Depend the complexity of scope ()
- d. As when it is necessary ()
- e. Other (Please, specify).....

Technical Specification, please tick as required

10. Do you specify a particular trade mark, name, patent, design, type, specific origin or producer when preparing or reviewing tender documents?

Yes () No ()

Local Preference, please tick as required

11. What percentage quota do you give to domestic contractors for international competitive bids?

- a. 5% ()
- b. 10% ()
- c. 15% ()
- d. None ()
- e. Other (Please, specify)

Pre-Bid Meeting, please tick as required

12. Do you state the procedures to conduct the pre-bid meeting in tender documents?

- a. All the time ()
- b. None ()
- c. It depends on the complexity or scope ()
- d. As and when it is necessary ()
- e. Other (Please, specify).....

Submission and Opening of Tenders, please tick as required

13. How do you treat bid opening publically?

- a. Record the Activities ()
- b. Explaining bid document ()
- c. No open bid ()

d. Other (Please, specify).....

14. How do you treat late submissions of both hardcopy and electronic copies of bids?

- a. Reject late submission all the time ()
- b. Sometimes reject late submission ()
- c. Never Rejected late submission ()
- d. Other (Specify):.....

15. How do you handle electronic submission of bids until they are ready for opening?

- a. Only contracts Manager handles and have access to ()
- b. Contract Administrator handles and have access to ()
- c. No procurement personnel have access to until is ready for opening ()
- d. Other (Specify):.....

Process of Tender evaluation, please tick as required

16. On what grounds do you reject bid during the evaluation?

- a. Bankruptcy, criminal conviction or failure to pay taxes ()
- b. Major Deviation in bid ()
- c. Not conforms to terms and condition of bid ()
- d. Do not reject bids during evaluation
- e. Other (Specify):.....

17. How do you handle computational errors?

- a. Inform bidder to accept or reject ()
- b. Only inform when favour of Newmont ()
- c. Never informed bidders ()
- d. Other (Specify):.....

Negotiation with Contractors, please tick as required

18. How often do you negotiate with works contracts?

- a. In all contract works ()
- b. None ()
- c. Depending on the value ()
- e. Other (Please, specify).....

Award and Signature of the Contract

19. How long are contractors given to sign a formal contract after notice of award provided in the tender document?
- a. Weekly ()
 - b. Monthly ()
 - c. No time limit ()
 - d. Not stated in tender document ()

Award Notice

20. How do you publish the notice of procurement contract awards?
- a. National Newspapers/Journals ()
 - b. International Newspapers/Journals ()
 - c. Your website (Internet) ()
 - d. Not Published ()

Other (Please, specify).....

Best Practices

21. In your own view, specify which process and procedure Newmont needs to improve in the process of awarding works contract?

.....

.....

.....

.....

22. How can the process(s) you mentioned in Q.21 be improved?

.....

.....

.....

.....

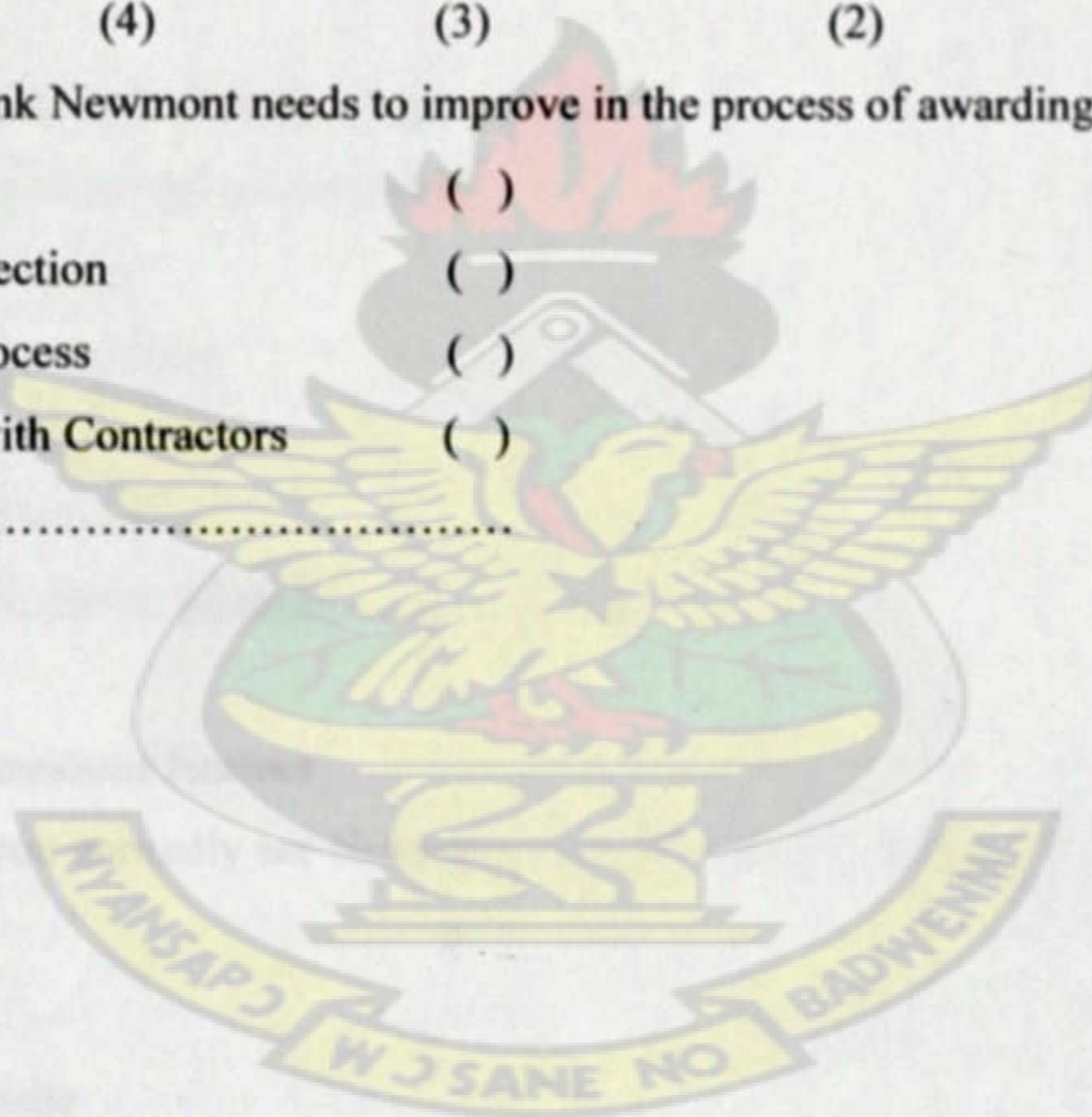
.....

Thank you

Inefficiencies/Efficiencies in Procurement Practices

8. How do you show appreciation for co-operation to Newmont Procurement Officials before and after executing works contract?
- a. Giving company branded souvenirs ()
 - b. Gift (in cash or in kind) ()
 - c. Offer nothing ()
 - d. Other (Please, specify)
9. How fair and transparent are the Newmont processes and procedures for awarding works contracts? Choose from the following options on a scale of 1 to 5 where 1 means Extremely unfair and 5 is Extremely fair.
- (5) (4) (3) (2) (1)
10. Where do you think Newmont needs to improve in the process of awarding works contract?
- a. Publications ()
 - b. Process of selection ()
 - c. Evaluation process ()
 - d. Negotiation with Contractors ()
 - e. Other specify.....

Thank you



CONTRACTORS

Please Tick or State where Applicable

General Information

1. Age:.....
Sex: Male () Female ()
2. Position:.....
3. Name of Company:.....
4. No of years of experience:.....
5. Highest Level of Education:.....
6. Date:.....

Procurement Procedures to identify Contractors

1. How are you selected for works contracts?
 - f. Open Procedures ()
 - g. Restricted Procedures ()
 - h. Competitive Dialogue ()
 - i. Negotiated Procedure ()
 - j. None of the above; Specify.....

Publication of Procurement Notices

2. Which media do you normally see Newmont works contracts published in?
 - a. Newspapers ()
 - b. Journals ()
 - c. Newmont website
 - d. Never published ()
 - e. Other (please, specify)

Preparation of Tender Document

3. Do you see the criteria to be used by Newmont to determine the successful tender in the tender document?
Yes () No ()

Local Preference

4. What quota does Newmont give to domestic contractors for international competitive bids?

- f. 5% ☐
- g. 10% ☐
- h. 15% ☐
- i. None ☐
- j. Other (Please, specify)

Submission and Opening of Tenders

5. Have you ever witnessed opening of bids publicly in Newmont before?

Yes ☐ No ☐

Negotiation with Contractors

6. Does Newmont Negotiate works' contracts with you?

- a. All the time ☐
- b. Depending the complexity of scope ☐
- c. As when it is necessary ☐
- d. Never ☐
- e. Other (Please, specify)

Award Notice

7. How are you notified of bid outcomes whether successful or unsuccessful?

Through

- a. Phone calls ☐
- b. Issue of letter ☐
- c. Through a formal meeting ☐
- d. No notification ☐
- e. Other (Please, specify)
- f.