# Appendix III: Model Letters for Below Threshold - Open Competition

**Model Letter (Below Threshold)**

**Letter to the Preferred Tenderer (Successful Tenderer)**

**Company name**

**Address**

**SUBJECT TO CONTRACT / CONTRACT DENIED**

**RE: Competition ref ………..**

**Competition for …………………**

Dear …….

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I am pleased to inform you that your tender has been identified by the [insert name of contracting authority] as the most economically advantageous.

Please note that no commitment of any kind, contractual or otherwise will exist unless and until a formal written contract has been executed for and on behalf of [insert name of contracting authority]. The identification of your tender as the most economically advantageous does not and will not give rise to any enforceable rights.

The [insert name of contracting authority] may cancel this public procurement competition at any time prior to a formal written contract being executed for and on [his / her / its] behalf.

I wish to take this opportunity to remind you that in line with the terms of the Request for Tenders, [insert appropriate text if additional documentary or other evidence is required in addition to the TCC] your company will be required to [supply](http://supply) its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of your tax status by [insert name of contracting authority].

Yours etc.

**Model Letter (Below Threshold)**

**NOTICE TO UNSUCCESSFUL TENDERER AT EVALUATION STAGE**

**Company name**

**Address**

**RE: Competition ref. ……….**

**Competition for …………………**

Dear [insert name],

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I regret to inform you that your tender was not successful on this occasion.

The decision reached by [insert contracting authority] is that the tender received from [company ………] is the [most economically advantageous/lowest price] tender.

Please note that the [insert contracting authority] will not conclude a contract with [insert company name of company identified as successful tenderer] until on or after [date].

The following table sets the characteristics and relative advantages of the successful tenderer as compared with your tender:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Award Criteria | Maximum marks  available | Marks awarded to successful tender | Marks awarded to  your tender | Characteristics and  Relative advantages |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

Yours etc.

# Appendix VI: Model Letters for above EU threshold - Open Competition

|  |  |
| --- | --- |
| **Scenario** | **Model Letter to be used** |
| Non-compliant tenders and tenderers who do not meet the Selection Criteria | Letter 1, Letter 2 and Letter 3 |
| Contracting authority seeking documentary evidence from tenderers ( ESPD documentation) | Letter 4 |
| Tenderer fails to qualify on the evidence it has submitted | Letter 5 |
| Unsuccessful tenderer | Letter 6 |
| Successful tenderer | Letter 7 |

**Model Letter 1: Letter to Non-Compliant Tenderer or a Tenderer who does not meet the Selection Criteria (where notification is sent before the award decision is made)**

FOR USE IN AN OPEN PROCEDURE

**Company name**

**Address**

**RE: Competition ref. ……….**

**Competition for …………………**

Dear …..,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition

**[THE TWO SENTENCES BELOW ARE ALTERNATIVES. CHOOSE ONE AND DELETE THE OTHER.]**

Your tender was deemed non-compliant with the terms of the Request for Tender (RFT) dated \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_201\_\_ because of:

**[OR]**

Your tender did not meet the Selection Criteria as set out in the Request for Tenders (RFT) dated \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_201\_\_ because of:

**Insert the following:**

1. **reason for failure to qualify**
2. **the specific section(s) in the RFT being relied upon and**
3. **List (if relevant) any documents not produced or information not provided in compliance with the section in the RFT.**

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

***Note 1: After the award decision is made please send Model Letter 2***

***Note 2: Please delete as appropriate the “either/ or” text which is not relevant to your letter.***

**Model Letter 2: Standstill letter to Non-Compliant Tenderer or a Tenderer who does not meet the Selection Criteria and who has previously been notified**

FOR USE IN AN OPEN PROCEDURE

**Company name**

**Address**

**RE: Competition ref. ……….**

**Competition for …………………**

Dear …..,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and to my letter of the [date] informing you that your tender was not successful on this occasion and setting out the reasons why your tender was not successful. I enclose a copy of my letter for your convenience.

The decision reached by [insert contracting authority] is that the tender received from [company ………] is the most economically advantageous tender.

Please note that the [insert contracting authority] will not conclude a contract with [insert company name of company identified as successful tenderer] until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (S.I. 130 of 2010 and S.I. 192 of 2015).

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

**Model Letter 3: Letter to Non-Compliant Tenderer and/or Tenderers who have not met the Selection Criteria who have not previously been notified**

FOR USE IN AN OPEN PROCEDURE

**Company name**

**Address**

**RE: Competition ref. ……….**

**Competition for …………………**

Dear [insert name],

I refer to your company's tender submitted on [date] in respect of the above mentioned competition

**[THE TWO SENTENCES BELOW ARE ALTERNATIVE. CHOOSE ONE AND DELETE THE OTHER.]**

**Your tender was deemed non-compliant with the terms of the Request for Tender (RFT) dated \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_201\_\_ because of:**

**[OR]**

**Your tender did not meet the Selection Criteria as set out in the Request for Tenders (RFT) dated \_\_\_ day of \_\_\_ 201\_\_ because of**

**[Insert the following:**

1. **reason for failure to qualify**
2. **the specific section(s) in the RFT being relied upon and**
3. **List (if relevant) any documents not produced or information not provided in compliance with the section in the RFT.]**

The decision reached by [insert name of contracting authority] is that the tender received from [company ………] is the most economically advantageous tender.

Please note that the [insert name of contracting authority] will not conclude a contract with [insert name of successful tenderer] until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (SI 130 of 2010 and S.I 192 of 2015).

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

***Note: Please delete as appropriate the “either/ or” text which is not relevant to your letter.***

**Model Letter 4: Letter to the Highest Ranking Tenderer seeking documentary evidence prior to award decision**

FOR USE IN AN OPEN PROCEDURE

**Company name**

**Address**

**RE: Competition ref. ……….**

**Competition for …………………**

**SUBJECT TO CONTRACT / CONTRACT DENIED**

Dear ….,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition.

I wish to inform you that, subject to your providing us with (i) evidence sufficient to demonstrate your fulfilment of the Selection Criteria (or any one of them) and (ii) the absence of Exclusion Grounds (Declaration in the form attached at Appendix 5 of the RFT) in accordance with the terms of the RF**T,** your tender has been identified by the [insert name of the contracting authority] as the most economically advantageous.

**We now invite you to provide the evidence of qualification as required in part [insert], section [insert] of the Request for Tenders (RFT) dated \_\_\_\_day of \_\_\_\_\_201\_. This evidence should be provided** as soon as possible but in any event no later than [insert the date by which the evidence must be produced]. If we do not receive a satisfactory response to this letter on or before this date, we reserve the right to exclude your tender from further consideration.

Please note that no commitment of any kind, contractual or otherwise will exist unless and until a formal written contract has been executed for and on behalf of [insert contracting authority]. The provisional identification of your tender as the most economically advantageous does not and will not give rise to any enforceable rights. In any event, the [insert contracting authority] will impose a standstill period and will not conclude a contract until on or after the standstill period is expired. Please note that this letter is not a standstill notice and no standstill period has yet commenced.

The [insert contracting authority] may cancel this public procurement competition at any time prior to a formal written contract being executed for and on [his / her / its] behalf.

Yours etc.

**Model Letter 5: Letter notifying Tenderer who fails to qualify on evidence submitted**

FOR USE IN AN OPEN PROCEDURE

**Company name**

**Address**

**RE: Competition ref. ……….**

**Competition for …………………**

Dear…….,

I refer to your company's tender submitted on [date] in respect of the above mentioned competition. **[THE TWO SENTENCES BELOW ARE ALTERNATIVE. CHOOSE ONE AND DELETE THE OTHER.]**

I refer to your letter dated [date] After assessment of the evidence submitted with your letter I regret to inform you that your tender failed to qualify because of:

**[Insert the following:**

1. **reason for failure to qualify**
2. **the specific section(s) in the RFT being relied upon and**
3. **List (if relevant) any documents not produced or information not provided in compliance with the section in the RFT.]**

**[Or]**

**It is noted that you have not furnished a reply to our letter of [insert date] within the time specified and therefore I regret to inform you that your tender has been excluded from this tender competition.**

I would like to take this opportunity to thank you for responding to the RFT and wish you success in the future.

Yours etc.

***Note: Please delete as appropriate the “either/ or” text which is not relevant to your letter.***

**Model Letter 6: Standstill Notice to Unsuccessful Tenderer**

FOR USE IN AN OPEN PROCEDURE

**Company name**

**Address**

**RE: Competition ref. ……….**

**Competition for …………………**

Dear [insert name],

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I regret to inform you that your tender was not successful on this occasion.

The decision reached by [insert contracting authority] is that the tender received from [company ………] is the [most economically advantageous tender.

Please note that the [insert contracting authority] will not conclude a contract with [insert company name of company identified as successful tenderer] until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (SI 130 of 2010 and S.I 192 of 2015).

The following table sets out the score obtained by your tender, the score obtained by the successful tenderer in respect of each of the award criteria and the characteristics and relative advantages of the successful tenderer as compared with your tender:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Award Criteria | Maximum marks  available | Marks awarded to successful tender | Marks awarded to  your tender | Characteristics and  Relative advantages |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

Yours etc.

**Model Letter 7: Letter to the Preferred Tenderer (Successful Tenderer)**

FOR USE IN AN OPEN PROCEDURE

**Company name**

**Address**

**SUBJECT TO CONTRACT / CONTRACT DENIED**

**RE: Competition ref ………..**

**Competition for …………………**

Dear …….

I refer to your company's tender submitted on [date] in respect of the above mentioned competition and I am pleased to inform you that your tender has been identified by the [insert contracting authority] as the most economically advantageous.

The [insert name of contracting authority] will not conclude a contract with your company until on or after [date]. This standstill notice is issued as required by the Remedies Directive (2007/66/EC) and the implementing Irish Regulations (S.I. 130 of 2010 and S.I 192 of 2015).

Please note that no commitment of any kind, contractual or otherwise will exist unless and until a formal written contract has been executed for and on behalf of [insert name of contracting authority]. The identification of your tender as the most economically advantageous does not and will not give rise to any enforceable rights.

The [insert name of contracting authority] may cancel this public procurement competition at any time prior to a formal written contract being executed for and on [his / her / its] behalf.

I wish to take this opportunity to remind you that in line with the terms of the Request for Tenders, [insert appropriate text if additional documentary or other evidence is required in addition to the TCC] your company will be required to [supply](http://supply) its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of your tax status by [insert name of contracting authority].

Yours etc.