Letter to unsuccessful bidder

This document is a template. The provisions will not be appropriate for all procurements and will need to be tailored. Professional advice should be sought before making use of the document in any specific circumstances.

An unsuccessful bidder letter is the decision notice sent out to all unsuccessful suppliers once the evaluation decision has been made. The despatch of valid unsuccessful bidder letters, together with award letters to the successful supplier(s), represents the start of the important standstill period. As such, it is important to get this right in order to manage the legal risk of a challenge and to avoid unnecessary delay to the award of the contract.

It is important that the descriptive section of the letter where bidders are informed of the relative advantages and characteristics of the winning bid is drafted in a way that is bespoke and individual to each unsuccessful bid. Including the same standard paragraph for each unsuccessful bidder is unlikely to meet the requirements for unsuccessful bidders to be afforded a clear understanding of the ways in which the winning bid scored more highly than their own.

The letter assumes the award is to the most economically advantageous tender.

Note that where there is more than one successful supplier (such as a framework agreement with multiple suppliers), the unsuccessful supplier letter must contain the relevant information for each successful supplier.

**[On Customer Organisation’s Headed Paper]**

**[insert date]**

Dear [ ]

**Re: [*insert title of procurement as described in, OJEU / Find a Tender notice, reference etc.]* (the “Proposed Contract”)**

This is an Award Decision Notice pursuant to Regulation 86 of the Public Contracts Regulations 2015 (the “**Regulations**”).

I regret to inform you that, following the evaluation process, your offer in relation to the Proposed Contract [as contained within document with reference ***[insert reference]*** and] date ***[insert date]*** (your “**Offer**”) was unsuccessful.

Following a standstill period in accordance with Regulation 87 of the Regulation, the Proposed Contract will be awarded to ***[insert name of successful bidder]****.*

The evaluation criteria were ***[insert evaluation criteria]****.* Your score against those criteria was ***[score]***. The score the winning tender obtained was ***[score]***.

The reasons for the decision, including the characteristics and relative advantages of your winning tender, were as follows. ***[Set out description of these.]***

A mandatory “standstill” period is now in force pursuant to Regulation 87 of the Regulations; this period will end at midnight on ***[insert date]***. ***[Customer Organisation]*** will not enter into the Proposed Contract before ***[insert date]***.

We would like to thank you for the time and effort spent in submitting your Offer and assure you that the fact that you have been unsuccessful on this occasion will not affect any offers you may make in any other tendering processes with us.

Yours sincerely

|  |
| --- |
| Mills & Reeve LLP is a limited liability partnership authorised and regulated by the Solicitors Regulation Authority and registered in England and Wales with registered number OC326165. Its registered office is at 7th & 8th floors, 24 King William Street, London, EC4R 9AT, which is the London office of Mills & Reeve LLP. A list of members may be inspected at any of the LLP's offices. The term "partner" is used to refer to a member of Mills & Reeve LLP.  The contents of this document are copyright © Mills & Reeve LLP. All rights reserved. This document contains general advice and comments only and therefore specific legal advice should be taken before reliance is placed upon it in any particular circumstances. Where hyperlinks are provided to third party websites, Mills & Reeve LLP is not responsible for the content of such sites.  Mills & Reeve LLP will process your personal data in accordance with data protection and privacy laws applicable to the firm (including, as applicable: the Data Protection Act 2018, the UK GDPR and the EU GDPR). You can set your marketing preferences or unsubscribe at any time from Mills & Reeve LLP marketing communications at www.preferences.mills-reeve.com or by emailing preferences@mills-reeve.com T +44(0)344 880 2666 |