

Employer Instructions

Letter to Unsuccessful Candidate (MF1.2f and MF1.2g) – Procurement Governed by EU Directives

Introduction The notification letter to unsuccessful candidates where a contract is above the EU threshold should be in accordance with the provisions in the Directives provided it is not excluded from the Directives by virtue of the nature of the contract. The Directives referred to are Directive 2004/18/EC, as implemented into Irish law by SI No 329 of 2006, and Directive 2007/66/EC, as implemented into Irish law by SI No 130 of 2010. The rules relating to notification are set out in Regulation 49(1)-(2) of SI No 329 and Regulation 5 and 6 of SI No 130 of 2010. However, these Instructions relate to situations where Regulations 5 and 6 of SI 130 of 2010 are not being used.

Informing candidates *Issue notice prior to issue of letters to successful and unsuccessful tenderers*
In keeping with the requirements of Regulation 49 (3)(a) of SI No 329 of 2006 an authority should “*inform a candidate whose application is rejected of the reasons for the rejection.*” This should be done “*as soon as possible and in any event not later than 15 days after the date of the request*” Where there is no request for the result of an application and an authority decides as a matter of best practice to inform the unsuccessful candidates prior to issue of letters to successful and unsuccessful tenderers then MF1.2(g) letter should be issued which will result in the rules regarding the standstill period not arising.

Issue notice at same time as issue of letters to successful and unsuccessful tenders

If a contracting authority chooses to wait until the issue of letter to successful and unsuccessful tenderers before it notifies the unsuccessful candidates of the rejection of their application a letter in the form of MF1.2(f) will have to be issued to unsuccessful candidates at the same time as the letter to successful and unsuccessful tenderers in accordance with Regulation 6 of SI No 130 of 2010 to ensure that the standstill period remains valid.

Model letter The letter that should issue to unsuccessful candidates informing them of the rejection of their application should be MF1.2(g) where the notice is sent prior to the issue of letters to successful and unsuccessful tenderers.
In accordance with requirements of Regulation 6(2) of SI No 130 of 2010 the letter that should issue to unsuccessful candidates informing them of the rejection of their application should be MF1.2(f) where the notice is issued at the same time as the issue of letters to successful and unsuccessful tenderers.

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