



केन्द्रीय विद्यालय संगठन (मु.)

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The Deputy Commissioner/Director,
Kendriya Vidyalaya Sangathan,
All Regional Offices/ZIETs

E-mail/Post

Sub: Ensuring compliance of GeM Disclaimer Clauses in Buyers' Additional Terms & Conditions(ATCs) in GeM Bids to procure various Goods/Services in KVS -reg.

Madam/Sir,

This office has been receiving certain inputs/representations/complaints from various GeM prospective bidders to seek redressal against some GeM Bids being floated by KVs/ROs wherein the buying entities are in habit of inserting **restrictive** clauses under the guise of Buyers' Additional Terms & Conditions (ATCs) which ultimately result into skewing the fair & transparent price competition by way of eliminating genuine prospective bidders on flimsy grounds of non-compliance of some of ATCs that are otherwise violative of GeM **Disclaimer clause** of Bids. For example, seeking **Samples** of products before opening of technical bids, seeking experience of **particular** organisation/KVs etc and **disproportionate** Annual turnover against the GeM mandate, GST regn of a **particular** City/State etc. Also, in few cases, the procurement of Goods/Services are allocated to different KVs leading to **split of purchases** in violation of GFR provisions viz, Sports items (track suits, kits, sports articles, medals etc) being allocated separately to different KVs rather than to be supposedly procured at RO level for RSCB/NSCB events being a matter belonging to Sports Control Board.

2. In this regard, it is reiterated that GeM Disclaimer clause which is inherently mentioned in all GeM Bids by default disowns 15 numbers of such restrictive/prohibitive clauses being violative of GFR provisions as listed below and treats such Bids as **null & void** while shifting full responsibility to the Buyer in cases such ATCs do impact bidding process and its outcome thereupon. The same is hereby reproduced for ready reference:

"DISCLAIMER (as mentioned in all GeM Bids by default): The additional terms and conditions have been incorporated by the Buyer after approval of the Competent Authority in Buyer Organization, whereby Buyer organization is solely responsible **for the impact of these clauses on the bidding process, its outcome, and consequences thereof including any eccentricity / restriction arising in the bidding process due to these ATCs** and due to modification of technical specifications and / or terms and conditions governing the bid. If **any clause(s)** is/are incorporated by the Buyer regarding following, the **bid and resultant contracts shall be treated as null and void** and such bids may be cancelled by GeM at any stage of bidding process without any notice:

1. Definition of Class I and Class II suppliers in the bid **not in line** with the extant Order / Office Memorandum issued by DPIIT in this regard.
2. **Seeking EMD submission** from bidder(s), including via Additional Terms & Conditions, in contravention to exemption provided to such sellers under GeM GTC.
3. Publishing **Custom / BOQ bids** for items for which **regular GeM categories** are available without any category item bunched with it.
4. Creating **BoQ bid for single** item.
5. **Mentioning specific Brand or Make or Model or Manufacturer or Dealer name.**
6. Mandating submission of documents in **physical form as a pre-requisite** to qualify bidders.
7. Floating / creation of **Work contracts as Custom Bids** in Services.
8. **Seeking sample with bid or approval of samples during bid evaluation process.**
9. Mandating foreign / international certifications even in case of existence of Indian Standards without specifying equivalent Indian Certification / standards.
10. Seeking **experience from specific** organization / department / institute only or from foreign / export experience.
11. Creating bid for items from **irrelevant** categories.
12. **Incorporating any clause against the MSME policy and Preference to Make in India Policy.**
13. Reference of conditions published on any **external site** or reference to external documents/clauses.
14. Asking for any **Tender fee / Bid Participation fee / Auction fee** in case of Bids / Forward Auction, as the case may be.
15. Any ATC clause in contravention of with GeM ATC Clause 4(xiii)(h) will be invalid.