



केन्द्रीय विद्यालय संगठन (मु.)

KENDRIYA VIDYALAYA SANGATHAN (HQ)  
18-संस्थागत एरिया, शहीद जीत सिंह मार्ग  
18 INSTITUTIONAL AREA, SHAHEED JEET SINGH MARG,  
नई दिल्ली / NEW DELHI -110016  
Telephone No -011-26858570

e-mail: [auditsection.section@gmail.com](mailto:auditsection.section@gmail.com)

File No: 11-Aud01A/3/2021-AC(Fin)/E-13062/KVS(HQ)/Audit/443-476 Date : 07.10.2024

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.

3. As such, it is hereby conveyed to all the GeM Buyers of KVS to be more **objective** in procuring most competitive rates while drafting their GeM Bids by **NOT** making any references of such 15 types of restrictive clauses or any other similarly disguised clauses for that matter in their GeM Bid ATCs as explained in para 2 above. Some of frequently used **restrictive ATCs by the KVs/ROs** are listed as hereunder that will **not be** allowed to be uploaded in GeM bids in any case being violative of GeM DISCLAIMER clauses.

- a) Manufacturer should have active **business in India from last 15 Years**. Manufacturer should have **local GSTN registration** in (State) /(City).
- b) Manufacturer should have valid certificates ISO9001, ISO14001, ISO45001 for India.
- c) Turnover of OEM should be more than Rs 500 Crs/ Rs 1000 Crores.
- d) Experience must be **in KVS**. Manufacturer should have Local Branch office & warehouse to maintain spares/Stand by units to provide fast and smooth service from 5 years in (State).
- e) **Pre-Bid Meeting, Pre-Bid interactions, Site Visit and other similar clause.**
- f) **Demo and Sample** of Products at Buyer's Place Must Require **Before Submit Bid**.
- g) **OEM participating must be from reputed brand make such as LG, Samsung, Panasonic and ACER Only.**
- h) Bidder must **supply one UPS with** Each panel. UPS and panel must from same OEM else bid will be rejected.
- i) The Bidder shall quote **composite price inclusive of Supply of product with UPS, Installation, Testing, Commissioning, Training & all Taxes.**
- j) The Vendor must have minimum 3 years of work experience **in KVS (...)**Region during last three consecutive years.
- k) OEM must have proven record of supplying smart class room solution in not less than 1,00,000 Classrooms in India.
- l) Bidder should have **ink-signed and stamped authorization** shall be submitted along with the technical bid. Original hard copy should be submitted before the due date. Non-compliance shall result in rejection of tender.
- m) The bidder needs **to show DISPLAY ITEMS before the opening of the technical bid** round. If samples are not found up to the mark they will be disqualified from the technical round.
- n) Any other **similar clauses** that may amount to restricting the competition by way of rejecting the prospective bidders on above counts, should strictly not be added under ATCs.

4. The above list is illustrative only and not exhaustive. Therefore, **no such clause** that may result into any disguised restriction of price competition should **be allowed** to be inserted as ATC in GeM Bids. As such, you are requested to handle/dispose off such representations at your level, if any, under intimation to this office, by cancelling/seeking to cancel such GeM Bids that may contain a potential violation of GeM protocol as explained hereinabove.


5. It is pertinent to reiterate that such violations lead to **serious observations** in audit reports resulting into identification of **potential losses** on account of higher prices being paid by the Buyer/DDO due to non-adherence of ascertainment of **price reasonableness** in that regard, without prejudice to any appropriate disciplinary action as may be deemed fit for such financial improprieties.

The above instructions may be forwarded to all the Kendriya Vidyalayas under your jurisdiction for strict compliance thereof while being applicable to the Buyers of Hqrs/ROs/ZIETs also accordingly.

This is issued with the approval of Commissioner, KVS.

Hindi version follows.

Yours sincerely,

  
(Satya Narain Gulia)  
Joint Commissioner(Fin)

Copy for information:

1. The PS to Commissioner, KVS for kind information of the Commissioner, KVS.
2. The Finance Officer, all Regional Offices, KVS for observing the compliance of above at RO/KV level and report the same through Internal Audit reports accordingly.
3. The AC(EDP), KVS Hqrs with a request to upload the contents on KVS website for a general circulation to all the concerned.