

DO No.222/CEO-GeM/2022

8th July, 2022

Respected Ma'am/Sir,

GeM is the National Public Procurement portal for procurement of Goods and Services by Government Departments. You would be aware that GeM crossed the INR 1 Lakh Crore of procurement in a single fiscal year in FY 21-22. Cumulatively GeM has facilitated more than 1 crore transactions valued at over INR 2.5 Lakh Crore. The platform continues to evolve with newly added functionalities and features.

2. GeM was created to facilitate procurement by different Government organisations across the country. However, few cases of misuse of the platform by buyers have come to light, where some buyers are opting for BoQ based bidding or custom catalogue-based bidding for cases that are possible through regular catalogue/category-based bidding.

3. Attention is also invited to Office Memorandum No. F. No.6/18/2019-PPD dated 23-July-2020, issued by the Public Procurement Division, Department of Expenditure, Ministry of Finance, regarding Restrictions under rule 144 (xi) GFR in respect of bidders having beneficial ownership interests in land Border sharing countries, which mandates the following in respect of GeM:

- "The Government E-Marketplace shall, as soon as possible, require all vendors/bidders registered with GeM to give a certificate regarding compliance with this order, and after the date fixed by it, shall remove non-compliant entities from GeM unless/until they are registered in accordance with this order."

4. As Custom / BoQ bids are manually created by Buyers, the Bidders and their Product Offerings in such bids are not validated by GeM. Such bidding may lead to violation of one or more of the following:

- Compliance of Restrictions under Rule 144 (xi) of GFR 2017: Restrictions on procurement from a bidder of a country which shares a land border with India:

GeM ensures compliance with Rule 144 (xi) of GFR 2017 and as such GeM GTC clause 26 regarding Restrictions on procurement from a bidder of a country which shares land border with India, stipulates that any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. While participating

be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However, in case 'Class I Local suppliers' do not qualify for award of contract for at least 50 (fifty) percent of the tendered quantity, purchase preference should be given to the 'Class I local supplier' over 'Class II local suppliers'/ 'Non local suppliers' provided that their quoted rate falls within 20 (twenty) percent margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class I Local suppliers' taken in totality are considered for award of contract for at least 50 (fifty) percent of the tendered quantity.

- d) First purchase preference has to be given to the lowest quoting 'Class-I local supplier', whose quoted rates fall within 20 (twenty) percent margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting 'Class-I local supplier', does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher 'Class-I local supplier', falling within 20 (twenty) percent margin of purchase preference, and so on.
- e) To avoid any ambiguity during bid evaluation process, the procuring entities may stipulate its own tender specific criteria for award of contract amongst different bidders including the procedure for purchase preference to 'Class-I local supplier' within the broad policy guidelines stipulated in sub-paras above.

- iv) **Exemption of small purchases:** Notwithstanding anything contained in paragraph (i), procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from the Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.
- v) **Minimum local content.** The 'local content' requirement to categorize a supplier as 'Class-I local supplier' is minimum 50 (fifty) percent. For 'Class-II local supplier', the 'local content' requirement is minimum 20 (twenty) percent.

In a bid, the Bidder must ensure compliance of this through an undertaking and any false declaration or non-compliance of can be a ground for immediate termination of the contract and further legal action in accordance with law. In case of GeM category-based procurement bids, the Bidder status for critical categories is pre-checked / verified by QCI teams.

o MSE Purchase Preference:

In case of category-based bidding, the Bidder status, and its eligibility for MSE preference is pre-validated by GeM system. In BoQ and Custom bids such validations do not exist

o MII Purchase Preference:

Like in the case of MSE preference, the % of MII content etc. are declared by OEMs in case of category-based procurement. In BoQ and Custom bids such validations do not exist.

5. In Custom / BoQ bids, the credentials of sellers on their authorization by the OEM are not validated since there is no pre-uploaded catalogue or OEM mapping possible.

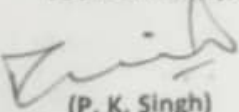
6. In view of the above, it is requested to kindly direct all officials under your administrative control to ensure that Custom catalogue and BoQ based bidding is not resorted to in respect of items for which regular categories exist on GeM. This is particularly important in respect of all Information Technology, Cyber Security, Surveillance and Medical Equipment categories etc. where there is possibility of data transfer through the equipment. In addition, adequate care needs to be taken by the Buyer to ensure compliance of the Restrictions under Rule 144(xi) of GFR, 2017, MSE and MII Purchase Preference while creating Custom or BoQ based bid for categories not available on GeM.

7. In respect of critical categories that are given in the attached list, GeM would be constrained to cancel any bid created by the Buyer using Custom / BoQ bid method for which regular categories exist on GeM, irrespective of the stage up to which the bid has progressed. This is an indicative list and GeM would continuously be identifying more such sensitive categories. Buyers are necessarily required to refrain from creating Custom / BoQ bids for any item for which regular category is available on GeM.

8. All buyers under your administrative control may kindly be sensitized about this issue to avoid any inconvenience or delay arising out of cancellation of the bid by GeM.

warm regards,

Yours sincerely,


(P. K. Singh)

To,
Secretaries of all Ministries /Departments.