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Sub: Frequently Asked Questions (FAQ) on Procurement through GeM

To address the frequently asked questions pertaining to procurement through GeM, list of FAQs along with replies is hereby issued for clarification and understanding of all concerned.

This shall be considered as part of the existing SOP on GeM tenders available on MM website.


(Sandeep Gupta)
ED-Chief MM Services
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FREQUENTLY ASKED QUESTIONS ON PROCUREMENT THROUGH GEM

FAQ VERSION 1.0

Issued on 20.02.2023

ISSUED BY: POLICY AND MONITORING CONTROL (PMC) CELL, CORPORATE MM, ONGC,

Frequently Asked Questions (FAQ) – GeM

A. EMD/Security Deposit/Performance Security

A1. Question: *In case of Hiring of Services, GeM GTC allows percentage of Performance Security/PBG in terms of total contract value whereas for tenders through e-portal, IMMM provisions para 16.6.2 mandates percentage of Performance Security/PBG in terms of annualized contract value. What do I need to follow for GeM tenders?*

Answer: For GeM tenders, as per para 8.1.2.2.4 of IMMM, percentage of Performance Security/PBG is to be obtained as per Total contract value, as per GeM GTC.

A2. Question: *As per PPP-MSE, one of the benefits available to eligible MSEs is EMD exemption provided they have valid UDYAM registration. However, as per GeM GTC, EMD exemption is also available to MSEs registered with NSIC, DIC, etc. Should such exemption of EMD be provided to eligible MSEs as per GeM GTC?*

Answer: As per para 8.1.2.2.4 of IMMM, categories of Sellers exempted from furnishing the EMD shall be as per General terms and conditions available on GeM Portal. As per GeM GTC, benefits of EMD exemption is also available to MSEs based on their registration with NSIC, DIC etc. and hence, exemption from submission of EMD is to be provided to such eligible MSEs as per GeM GTC. However, Purchase preference available to such MSEs shall be strictly as per the provisions of PPP-MSEs. For example, if an MSE does not have UDYAM registration but have other documents as per GeM GTC provisions for EMD exemption for MSEs, then such MSE shall get EMD exemption only and shall not be eligible for Purchase Preference in line with PPP-MSE.

A3. Question: *As per GeM GTC, EMD exemption is available to Start-ups as recognized by Department of Industrial Policy and Promotion (DIPP). Whereas, as per para 16.5.1 of IMMM,*

Firms Recognized as 'Start-ups' by DPIIT are exempted from furnishing bid security / earnest money deposit subject to submission of documents including a declaration from the Directors/Partner of the start-up stating that bid is submitted by Start-up as Manufacturer of the quoted item and not as a trader/dealer/distributor.

Should Start-ups participating in GeM tenders be provided EMD exemption irrespective of their status as manufacturer of quoted item?

Answer: As per para 8.1.2.2.4 of IMMM, categories of Sellers exempted from furnishing the EMD shall be as per General terms and conditions available on GeM Portal. Therefore, EMD exemption in GeM tenders available to Start-ups as recognized by DIPP shall be regardless of their status being manufacturer of the quoted item.

A4. Question: *In GeM GTC, various categories of suppliers who are exempted from furnishing EMD/Bid Bond are mentioned. Further, it is also mentioned that no EMD to be taken from exempt category of sellers even by way of specific clauses mentioned in ATC/STC by the Buyers. (contd...)*

As per Standard BEC provisions, in case MSEs has submitted bid on the basis of technical support of another company for meeting experience criteria or taking support financial support of another company for meeting financial criteria, benefits such purchase preference to MSEs and exemption from submission of EMD will not be available to such MSEs. What should I do?

Answer: As per PMC Circular No. 55/2022, no provision/conditions w.r.t. obtaining EMD/Bid Bond should be kept in Additional Terms and Conditions/Special Terms and conditions of tenders invited through GeM portal, which are in contradiction to the provision of GeM GTC. Therefore, provision with respect to not extending the benefits of exemption from submission of EMD may not be kept in GeM tenders for MSEs submitting bid on the basis of technical support of another company for meeting experience criteria or taking financial support of another company for meeting financial criteria.

A5. Question: *As per GeM GTC, EMD exemption is available to Sellers who have got their credentials verified through the process of Vendor Assessment by Vendor Assessment Agencies for the Primary Product / Primary Service for which Bid / RA has been invited. Whether as per this clause, bidder seeking EMD exemption is required to the manufacturer of the Primary Product?*

Answer: As per para 8.1.2.2.4 of IMMM, categories of Sellers exempted from furnishing the EMD shall be as per General terms and conditions available on GeM Portal. Presently, Vendor Assessment (VA) is done by GeM for both Manufacturers as well as resellers for the specific product categories. Therefore, GeM GTC clause provides EMD exemption to Vendor Assessed Sellers irrespective of them being manufacturer or reseller for the Primary Product. GeM enables the options for such Vendor Assessed bidders based on the category / primary product /service category in which tender is invited and the option used by such bidder is visible in the bid under EMD status. Apart from the status in bid, the status of Vendor Assessment is available in their offered product catalogues in the bid.

Buyers also to note that for custom bidding, EMD exemption will not be available to Sellers who have got their credentials verified through the process of Vendor Assessment since their Vendor Assessment is done for a specific category and custom bidding is done only when there is no category available on GeM.

A6. Question: *As per GeM GTC, EMD exemption is available to Sellers/ Service Provider having annual turnover of INR 500 Crore or more. Is there any document required to verify the same?*

Answer: For the said exemption, GeM enables the option for eligible bidders to choose the appropriate option in the bid based on their annual turnover in profile registered with GeM portal. Therefore, such bidders whose EMD status is appearing for exemption under the said exemption category of annual turnover of INR 500 Crore or more, no separate document is required to verify the same.

B. Tender Creation & Processing

B1. Question: While inviting tender through GeM, whether experience criteria is to be adopted through ATC library or through the drop-down option in GeM?

Answer: Buyer added ATC clause may be used to incorporate the required manufacturing / supply experience / experience criteria or other technical BEC clauses in line with standard BEC for procurement of Goods / Hiring of Services.

B2. Question: As per GeM portal/GTC, Start-up bidders are exempted from the requirement of "Bidder Turnover" criteria and "Experience Criteria" subject to their meeting of quality and technical specifications.

However, as per IMMM para 90.0, relaxations from 'Prior Experience Criteria' and 'Criteria to ascertain Financial capability' has been provided to Start-ups bidders and required clauses has been incorporated in standard BEC for procurement of Goods/Hiring of Services.

What should I do while creating bid in GeM portal?

Answer: Provisions with regard to providing relaxations to Start-up bidder from Prior Experience Criteria' and 'Criteria to ascertain Financial capability' as incorporated in Standard BEC for Procurement of Goods/Hiring of Services, should be followed. These provision should be incorporated through Buyer Added ATC as part of BEC and not through the default option appearing while entering details at the time of bid creation. These relaxations should be provided to the Start-up bidders for the cases as detailed in para 90.2 of IMMM.

B3. Question: There is no guideline for standard tender template / structure especially for custom bids. Whether ITB and GCC/GTC of Standard Booklet for Goods / Services be used in Custom bids through GeM?

Answer: Following modalities may be followed:

In case of Procurement of Goods: GeM GTC is a comprehensive document and there is no need to incorporate ITB or GTC of Standard Booklet for Procurement of Goods (NCB tenders) irrespective of whether the GeM tender is through available product category or through Custom /BOQ bidding. However, conditions pertaining to submission of invoices through VIMS can be added from GTC of Standard Booklet.

In case of Hiring of Services through available Service Categories: GeM GTC is a comprehensive document and there is no need to incorporate ITB or GCC of Standard Booklet for Service Contracts (pertaining to NCB tenders). However, after examination of Service Level Agreement, if required, provisions of GCC of Standard Booklet for Service Contracts pertaining to NCB tenders can be added under buyer specific ATC/SLA. Any case specific clauses from ITB such as Concessional rate of Custom duty / GST, mobilisation period, payment terms, etc., also can be adopted under buyer specific ATC.

GeM encourages buyers to utilize the regular service categories even by superseding the conditions related to GeM specific SLA such as Wages, service conditions etc.

through use of buyer added SOW, buyer added SLA & buyer added ATC to incorporate the required SoW, SCC & BEC for buyer.

However, provisions regarding putting the firm on Holiday/Suspension/banning as mentioned in Standard Tender booklets may not be incorporated, in line with para 8.1.8 of IMMM. Further, GeM has an in-built format for PBG and Bid Bond towards EMD, therefore, format for Bid Bond/ PBG as mentioned in Standard Tender Booklets are not required to be incorporated. Also, the period for release of payment shall be replaced as 10 days in place of 21 days wherever mentioned in Standard GTC/GCC.

In case of Hiring of Services through Custom bid for Services: Custom bid for Services and such similar service category on GeM does not have a Service Level Agreement (SLA) or Service conditions like SoW, SCC etc. This service category itself allows the buyer to incorporate their SLA /service conditions with order of precedence vis-à-vis other conditions on GeM portal defined therein. Therefore, provisions of GCC of Standard Booklet for Service Contracts pertaining to NCB tenders can be added as Service Level Agreement at designated place at the time of creation of bid. Other service conditions like SoW, SCC, etc. can also be incorporated. Any case specific clauses from ITB such as Concessional rate of Custom duty / GST, mobilisation period, payment terms can also be adopted under instructions to bidder mentioned therein / under buyer added ATC.

However, provisions regarding putting the firm on Holiday/Suspension/banning as mentioned Standard Tender booklets may not be incorporated in line with para 8.1.8 of IMMM. Further, GeM has an in-built format for PBG and bid bond towards EMD, therefore, format for bid bond/ PBG as mentioned in Standard Tender Booklets are not required to be incorporated. Also, the period for release of payment shall be replaced as 10 days in place of 21 days wherever mentioned in Standard GTC/GCC.

B4. Question: *GeM portal allows buyer added ATC to be incorporated in Tenders. Can Standard Technical and Commercial BEC conditions be adopted through buyer added ATC?*

Answer: Technical BEC may be framed based on Standard Technical BEC clauses by indenting section provided along with indent with due approval. The technical BEC so framed may be incorporated in GeM tenders through buyer added ATC.

So far the standard Commercial BEC conditions are concerned, GeM GTC is a comprehensive document and cover the commercial aspects of bidding. Further, aspects of price evaluation criteria, undertakings related to acceptance of bid conditions & land boundary conditions etc. are already covered in GeM GTC and are also in-built in bids submitted by the bidders. The clauses of Purchase Preference under MSE and MII are also in-built in GeM tenders except for tenders for services wherein only PP-MSE clause is in-built in tender document upon appropriate selection. So, there is generally no requirement of incorporating standard commercial BEC clauses. However, commercial clauses of BEC, if required, can be adopted under buyer specific ATC with taking due care that no clause should be in contradiction to in-built processes on GeM portal.

B5. Question: *How many rounds of clarification are allowed to be sought from bidders?*

Answer: As per SOP for GeM Tenders available on MM Portal, Clarifications are to be sought from the bidders as per provisions available on GeM GTC and Portal. Presently, GeM portal does not have any restriction on number of rounds of clarification to be sought. Time allowed for Technical Clarifications during technical evaluation is required to be indicated at the time of bid creation itself which shall be applicable for each round of clarification and cannot be change at later stage. It must be ensured to complete the tender processing within bid validity.

B6. Question: *GeM portal at the time of technical bid evaluation inter-alia has a note referring to a paragraph of Manual for Procurement of Goods 2017 regarding clarification and shortfall information / document. As per this note, it is inter-alia mentioned that no new supply order to be asked as part of clarification to qualify the bidder. Whereas in ONGC as per guidelines for seeking clarification a new supply order dated prior to opening of tender can also be asked during clarification from the bidder and considered as per meeting BEC even if the bidder has not submitted it originally along with their bid. What should I follow?*

Answer: The said note appearing in GeM portal is presently not part of any conditions like GTC in GeM portal. It is only a reference for information to the buyers as there are many buyer organization on the platform which follow Manual for Procurement of Goods 2017. Whereas, ONGC has its own IMMM. GeM has clarified in this regard that buyers may follow guidelines issued by their own organization. Therefore, as per SOP for GeM tenders, process for seeking clarification shall be as per GeM portal and GeM GTC. However, the guidelines for seeking documents / information may be followed as prevalent in ONGC.

B7. Question: *As per tender conditions for Hiring of Services, bidders are required to quote over a certain value (like Fair wage component etc.). How do I ensure the same in GeM portal at the time of bid creation?*

Answer: At the time of creation of bid for Hiring of Services, GeM has an option to choose the minimum price to be quoted by the bidders (called "Set Minimum Price for This Bid"). Upon selecting this option, bidders would not be able to quote the offer price below the minimum price set by the buyer. Presently it appears just below the option for setting the duration of contract at step called details at the time of bid creation for Services.

C. Miscellaneous

C1. Question: *Since there is no Tender Committee at tender invitation stage, who will sign the Integrity Pact for cases where ONGC IP is applicable in tenders invited through GeM portal?*

Answer: Integrity Pact shall be signed by the MM executives (for tenders dealt by MM department)/ executive from tender processing group (for all other tenders) at the level of Tender Committee as per para 10.3.1 of IMMM based on the estimated value of tender.

C2. Question: *As per PMC Circular no. 51/2022 regarding consideration of Single Offers in Open/ Limited Tenders are applicable for tenders through GeM portal? If so, whether TC is required to be held, as and when a single offer situation gets triggered against a GeM tender? Please clarify.*

Answer: PMC Circular no. 51/2022 is applicable for GeM tenders too. As per para 8.1.3 of IMMM, there is no tender committee for procurement through GeM except under scenarios mentioned therein. Therefore, level of CPA shall change as and when a single offer situation gets triggered. However, TC at the appropriate level shall be held after price bid opening as per provisions of para 8.1.3 of IMMM.

C3. Question: *GeM portal allows Price negotiations with original L-1 bidder only even for cases where there is price matching to be done with eligible bidders under PPP-MSE/ PPP-MII. Whereas, para 14.2.1 of IMMM says that in case of price matching with eligible bidders, negotiation shall be done with eligible bidders under purchase preference policies after they match L-1 price. What should I follow?*

Answer: The provisions of L-1 price negotiation and price matching under Purchase preference policies are in-built in the GeM portal. If price matching is carried out first then, option for L-1 price negotiation disappears from the tender on GeM. Therefore, provisions are to be followed as per GeM portal.

In case of price matching and L-1 price negotiations, first the price negotiation to be done with original L-1 bidder and reduction of prices to be obtained through GeM portal using price negotiation option and then the price matching option to be utilized. The system is designed in a manner that eligibility of bidders for purchase preference and price matching thereby is determined based on the original L-1 price (before negotiation) and the quoted price of bidders eligible for purchase preference. It remains unaffected by the reduction in L-1 price after negotiation with L-1 bidder.

C4. Question: *What is the meaning of minimum routing in para 8.1.3 of IMMM?*

Answer: Under para 8.1.3 of IMMM, it is mentioned to follow minimum routing of file for obtaining approval through vertical note. In all such cases as per para 8.1.3, vertical note shall be moved by dealing officer through concerned senior MM executives (upto the level of executive from MM at Tender committee level) involved in the processing of that case to respective members from Indenting and Finance at the level of Tender Committee as per para 10.3.1 of IMMM based on the estimated value of tender.

C5. Question: *Should I create SAP PO /OLA after receipt of PBG/security deposit in case of GeM tenders?*

Answer: In case of GeM tenders, purchase order is placed through GeM portal only. As brought out in SOP for GeM tenders, PO/OLA in SAP/ICE is to be created simultaneously for facilitating inspection, acceptance, material accounting and payment. PO/ OLA in SAP/ICE is created for accounting purpose only and all terms & conditions are governed by GeM contract or its amendment issued thereupon. Therefore, PO/OLA in SAP/ICE to be created immediately after awarding the PO through GeM portal, without waiting for Security deposit/PBG. However, it must be ensured that supplier submits the Security deposit/ PBG within the stipulated time as per contract.

D. User id related

D1. Question: *I want to have a user id on GeM portal as buyer. Can I directly sign up on the portal? If not, how do I get the user id?*

Answer: Secondary Users (like buyer, consignee, technical evaluator, PAO etc.) **cannot** sign up directly on GeM portal. It is advised that individuals must not sign up on GeM portal on their own. For getting User-id on GeM portal, you need to send the nomination through your Head of Department to the Primary user of your work-center i.e. In-charge MM / Head MM. Primary user will create the secondary user for their work-center.

D2. Question: *I have been transferred to a new work-center. How do I handover the existing GeM userid? Can I use the same Gembuyer email id and GeM userid to the new location?*

Answer: GeMbuyer email id and GeM userid are two different things. GeMbuyer email id is accessible at <https://email.gov.in> whereas the GeM userid is used to logon to GeM portal. GeMbuyer email id belongs to the individual concerned whereas the GeM userid belongs to the work-center concerned (i.e. registered through Primary user on GeM). Therefore, before getting relieved on transfer you shall have to inform your existing Primary user to either make your userid inactive (provided there are no active transactions/ pending orders/ payment etc.) or transfer your userid to other user in your department. Thereafter, your Gembuyer email id shall be free to take up a userid at your new location.

You can use your existing Gembuyer email id at the new location but the existing GeM userid **cannot** be used at the new location. You shall have to inform the Primary user at the new location that you have an existing Gembuyer email id and they will either create a new userid for you or transfer you an existing userid under him (new location) by linking it with your existing Gembuyer email id.

D3. Question: *An existing supplier of ONGC has approached the work-center to issue a letter of recommendation from CPSEs for availing Vendor Assessment Exemption for tendered items/ items to be procured through available product categories on GeM. How is that recommendation letter to be issued?*

Answer: Vendor Assessment process is mandatory for Sellers who are manufacturers of the items available in a product category and want to get registered on GeM portal as OEM/manufacturer. Exemption from Vendor Assessment is available to sellers under certain conditions on GeM portal as per the process mentioned therein. One of the basis of VA exemption is a CPSE recommendation letter. However, such letter can be issued by ONGC only for product categories specific to ONGC provided such sellers have supplied to ONGC in the past as manufacturers. Therefore, work-center upon receipt of such requests from manufacturers only shall examine the same based on the past purchase orders / contracts issued to such suppliers. After examination of the request, certificate as per **Appendix-1** of this FAQ, may be forwarded to Corporate MM (Nodal Coordinator for GeM) for issuance of the recommendation letter.

D4. Question: I'm a Primary / Secondary user going on leave. How do delegate my userid to another person in my absence at my work-center?

Answer: For such temporary delegation of work during absence of users, the person authorized to take charge may be handed over the userid through an option in my account section of GeM user. The option is displayed as – “not <First name of the user>” of the person, using which Aadhaar Number and Mobile number of the person taking over can be mapped after which all the OTPs for transaction through the userid will come to the new person. After coming back from leave, the same process can be used to map the original user back to the account.



**FORMAT FOR CONFIRMATION BY WORK-CENTER FOR ISSUANCE OF
VENDOR ASSESSMENT EXEMPTION LETTER AS PER FAQ NO. D3 ABOVE**
(TO BE SUBMITTED ON THE LETTER HEAD BY THE CONCERNED)

No. _____ dated _____

Ref: < _____ (Email / Letter reference from Vendor)> dated _____
for issuance of Recommendation Letter for Vendor Assessment Exemption & OEM/ Brand Approval.

Sub: Confirmation for Issuing ONGC /CPSE Recommendation for vendor assessment exemption and Brand & OEM approval in GeM portal

With reference to above, this is to certify that following manufacturer is an existing supplier for <_____>
<_____ (Name of material)> in ONGC and have supplied this item to ONGC in the past as manufacturer. This item is available in GeM under product category as under:

Name of item (in ONGC)	GEM Product Category name (as per GeM portal)

Following are the details of the supplier:

Name of ONGC Vendor (Manufacturer)	Contact Person	Mobile No.	Email	Full Address	ONGC vendor code

This letter is being issued on the request of the concerned vendor for the specific purpose as above.

(Name & Designation)
<Work-center concerned>