



## Navigating Government e-Marketplace: Key Insights for Sellers

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The Government e-Marketplace (GeM) has emerged as a leading platform for businesses seeking to engage in procurement activities with government buyers in India. Here, we address five key seller-centric questions:

### 1. Who can sell on GeM?

To be eligible to sell on GeM, a seller must fall under one of the following categories:

- Original Equipment Manufacturer (OEM);
- A seller (who is not an OEM) authorized by an OEM to sell products manufactured by the OEM in the open market;
- A licensed manufacturer under the Drugs and Cosmetics Act, 1940; or
- A seller without OEM authorization, in line with GEM's Quadrant policy.

### 2. Can a foreign OEM sell on GeM?

A foreign OEM must appoint either a deemed OEM or an authorized reseller with a physical presence in India, to register on GeM on the foreign OEM's behalf. To be recognized as an OEM on GeM, the seller must obtain Vendor Assessment Report from a designated agency (unless exempted) in accordance with GeM policy.

**Note:** There are restrictions on manufacture and/or supply of finished products from countries which share a land border with India.

### 3. What governs the Buyer-Seller Contract on GeM?

The resulting contract is governed by GEM's General Terms and Conditions (GTC), unless otherwise superseded by special terms and conditions provided by the buyer/procurement agency, which may be in the form of:

- Product / Service specific Special Terms and Conditions (STC),
- Product / Track / Domain Specific STC of Particular Service including its SLA (Service Level Agreement); and/or
- BID/Reverse Auction Specific Additional Terms and Conditions (ATC) as applicable.

#### **4. Can Sellers add their own terms and conditions?**

GeM may not allow the incorporation of the seller's terms and conditions but subject to approval from the Competent Authority of the buyer, the seller may request the inclusion of specific indispensable terms through the Request Management System (RMS). Only indispensable conditions that are not covered by or in conflict with the GTC, STC, or standard ATC library, and that comply with Government orders on Public Procurement while upholding the principles of transparency, fairness, and efficiency, may be requested through RMS ATC for inclusion via corrigendum.

However, it is likely that GeM may not agree for any material change in the GTC/STC/ any other document. The fundamental principle is that existing terms and conditions on the GeM portal will prevail. In fact, even the government buyers are required to ensure that procurement done by them are in compliance with GTC

#### **5. Is it compulsory to disclose the ownership and nationality of the Board of Directors and its shareholders during vendor assessment?**

Currently, GeM allows the submission of an undertaking (*please see [here](#)*) as an option/alternative, for declaring the ownership, nationality of directors and shareholding.

However, the specific documentation required depends on the category under which vendor assessment or exemption is sought. The requisition list is periodically updated by GeM.

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