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Ms. S Radha Chauhan
CEO
Government e-Marketplace (GeM)

Respected Madam,

Greetings from MAIT, the apex body representing the ICTE Hardware Sector in India!

We have been closely working with GeM towards facilitating the business. Although many initiatives are being taken to improve GeM, there are still many issues which need to be addressed to make it efficient, productive and industry-friendly.

Over the course of our interaction with sellers, we have identified a **few broad issues which have significant impact on GeM as follows:**

1. *Bid to RA functionality*
2. *Jointly Combating Software Piracy and Product Misrepresentation*
3. *Increase of default delivery timeline for IT products*

The issues have been detailed with suggestion and benefits it will provide to the customers. Refer **Annexure-A** for details.

We will be grateful if you can consider issues as enclosed and visit the concerns of our industry members.

Should you need any clarifications, we will be happy to provide the same.

With warm regards,

Anwar Shirpurwala
Chief Executive officer

ANNEXURE A

A. Bid to RA functionality

After the financial bid is opened the customer can proceed to conduct a Reverse Auction among the technically qualified sellers. At present sellers are not informed upfront whether they are participating in a conventional bid or this hybrid Bid-RA evaluation method.

The following are the problems with this mechanism:

1. We believe it is at variance with GFR guidelines which prohibit entering into negotiations with non L1 sellers in a bidding process which is effectively what is now getting facilitated by this functionality. As clearly stated in the enclosed GFR 2017 document:

Under Rule 173 which deals with Transparency, competition, fairness and elimination of arbitrariness in the procurement process

Section xiv (Page 13):

“Negotiation with bidders after bid opening must be discouraged. However, in exceptional circumstances where price negotiation against an ad-hoc procurement is necessary due to some unavoidable circumstances, the same may be resorted to **only with the lowest evaluated responsive bidder.**”

2. The sellers are not being informed up front that a subsequent RA will be carried out in bids, this remains at the discretion of the buyer which has created avenues for malpractices in the procurement process to manifest themselves. For example:
 - a) A certain unethical seller A colludes with a buyer B and informs him of his quoted price. The buyer sees the L1 price and goes for a RA in case that is different from what has been shared with him by Seller A.
 - b) Buyer B informs Seller A that he intends to go for RA post the bidding. Other sellers are not aware of this and quote with their no regret final prices as is done in the case of conventional bids, Seller A quotes significantly higher than his no regret price and only decides to participate in the RA if he is convinced that he can get clearances for underquoting the L1 price.
3. This will almost certainly increase confusion and prolong the selection process, many buyers will see that they now have the option for undertaking a supplementary reverse auction after opening the financial bids and go for this to avoid the risk of being questioned for not doing so in their internal audits.
4. Effectively over time every major bid may turn into a reverse auction with obvious complications for the broader organized IT industry.

In view of the above issues with this functionality, we recommend that GeM re-consider the Bid to RA functionality as it is not in line with government tender philosophy of open and transparent terms for the tender and this ambiguity via a vis whether there will in fact be a RA after opening of the price bid is being misused on the portal.

B. Jointly Combating Software Piracy and Product Misrepresentation

There is a serious problem of unethical resellers facilitating software piracy as well as misrepresenting attributes like the OEM Warranty.

Software such as MS Windows and Office as well as extended OEM warranties cost a considerable amount of money and this may explain how sales of computers of reputable brands are occurring at prices which are so much cheaper than prices quoted directly by OEMs or their resellers.

Some of the modus operandi of unethical sellers are:

1. Purchase Computers preloaded with MS-DOS from OEMs or major resellers of OEMs, load pirated software on these machines and sell these to buyers on the GeM platform.
2. Purchase Computers with 1-year warranty from OEMs or major resellers of OEMs and sell these to buyers stating 3 or 5 years OEM warranty.
3. Carry out unauthorized modifications of OEM computers with refurbished/secondhand components.

This is at the end of the day a commoditized industry therefore an anomalously low-price sale of a brand product should be immediately flagged and proactively analyzed to ensure it is not the result of one or more of the above-mentioned malpractices.

To facilitate this in a consistent and efficient manner, we recommend that GeM partner with OEMs in its fight against software piracy and other unethical practices by:

1. Modifying the **OEM Dashboard** to facilitate the sharing of details of all sales conducted on the GeM portal pertaining a brand with the respective OEM. We recommend that the **seller name and location, customer name and location, product, quantity, configuration and the unit price** pertaining to each sale on the portal be shared with the respective OEM.
2. Sharing data of past sales of brand products on the GeM platform (i.e. from the inception of the GeM portal to present) be shared with the respective OEMs so that they may analyze the data and proactively take corrective action where possible instead of waiting for buyers to raise incidents on previously concluded sales. We would like this data for sales for both resellers and 'other' i.e. non-affiliated seller that used to be permitted in previous versions of the GeM platform.

This would benefit GeM as it can expect OEMs to play a proactive role in the curtailment of unethical business practices rather than reactively weighing in when incidents are raised by the customer often after a considerable time after the sale has occurred.

C. Increasing the Delivery Timeline for IT products

The delivery timeline in the case of Direct Purchase and L1 Purchase is set to 15 days (In some cases 10 days) which has resulted in most OEMs reevaluating their direct business model on GeM to the detriment of the buyer who has increasingly fewer OEMs prepared to supply under such conditions and risk paying late delivery penalties and a reduction of their seller rating. In the case of bids being published on the GeM portal, the default delivery timeline is 15 days. In both cases the present status quo is adversely impacting the industry in terms of LD charges being levied.

A few facts need to be taken into account while coming up with a reasonable delivery timeline, namely:

- a) The IT hardware Industry is globally facing very serious supply challenges of Processors from Intel.
- b) In the case of bids being published on the GeM portal, it is important to note that no demand aggregation is taking place so every bid is practically a customized configuration (making demand forecasting of specific configurations and their corresponding stocking in the country difficult for all OEMs) being sought by the buyer on the basis of products present on the GeM portal.
- c) Other than the brand on whose product the customer is creating the bid, it is entirely possible that other OEMs do not have ready stock of that configuration in the country so have to either manufacture or import competing products to address the opportunity requiring additional lead times.

In view of these facts, we recommend an upward revision of the default delivery timeline for IT Products to 4-6 weeks.