

GeM Procurement – Legal Notifications

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- Based on the recommendations of the Group of Secretaries made to Hon'ble Prime Minister, the Government decided that GeM SPV will create a one stop Government e-Marketplace (GeM) to facilitate online procurement of common use Goods & Services required by various Government Departments / Organizations / PSUs.
- Government of India inserted **Rule no. 141A** after Rule 141 in GFR 2005 regarding proposed creation of GeM vide OM no F.26/4/2016-PPD dated 03.05.16.
- Government of India (Allocation of Business) Rules, 1961, vide notification dated 8th December 2017 has made the following entry "32. Development, operation and maintenance of National Public Procurement Portal—Government e-Marketplace". Government e-Marketplace (GeM) is the National Public Procurement Portal; an end-to-end online Marketplace for Central and State Government Ministries/Departments, Central & State Public Sector Undertakings (CPSUs & SPSUs), Autonomous institutions and Local bodies, for procurement of common use goods & services. The portal is owned and managed by GeM SPV which is a Section 8 (Non-profit) Company registered under the Companies Act, 2013. GeM SPV operates monitors and supervises all the business transactions on the portal through the Managed Service Provider as per roles and responsibilities defined in the Legal Framework Document available on GeM portal.
- GeM aims to enhance transparency, efficiency and speed in public procurement. It provides the tools of e-bidding, reverse e-auction and demand aggregation to facilitate the government users, achieve the best value for their money.
- The purchases through GeM by Government users have been authorized and made mandatory by Ministry of Finance by adding a new **Rule No. 149** in the General Financial Rules, 2017.

- The **Department of Finance, Government of Bihar** vide its **notification No 3457 dated 19.05.17** has added **subrule xx** after sub-rule xix of Rule no. 30 Of Bihar Financial Rules for procurement through GeM portal.
- The Department of Finance, Government of Bihar vide its **notification No 9230 dated 27.11.17** has further substituted sub-rule xx rule 30 Of Bihar Financial Rules laying down elaborate rules for procurement under GeM. The Department of Finance, Government of Bihar further vide its **notification No 1407 dated 22.02.18** has made it mandatory for government departments to procure goods & services available on GeM through the portal w.e.f. 01.04.18.
- GeM made elaborate General Terms and Conditions (**GTC**) applicable on all Goods & Services available on GeM, for such procurement through GeM under either of the processes like Direct Purchase, L1, Bid and Reverse Auction. The term **Direct Purchase (or PAC buying)** on GeM envisages procurement through single OEM instead of a Bid and is usually applicable for procurement of value of upto Rs 50,000/- only for all items in all categories.
- GeM further made Special terms and Conditions (STC) in supersession of GTC, only applicable for items under Automobiles category. **Section 2 (h) of STC** inter *alia* lays down “Ceiling of direct buying for PAC as mentioned in GTC will not be applicable for Vehicles under automobile category as in this category, only those models are up loaded on GeM for which manufacturers agreed to accept discount on MRP negotiated time to time as mentioned above against each vehicle. As such, Buyer may go for **Direct Purchase** even beyond Rs 50,000/- for vehicles under automobile category.....”