

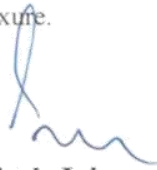
## Government e-Marketplace

### **Comprehensive Review of Policy on Incident Management for GeM – Reg**

An Office Order vide No. GA-II/32/1/2018-GeM (C-9087) dt. 6<sup>th</sup> Dec. 2019 was issued constituting a committee with the mandate of comprehensive review and up-gradation of IM policy for GeM taking the following factors into consideration:

- i. Change in GeM seller landscape and on-boarding process post implementation of CMS 2.0
  - ii. Impact on re-sellers if action is taken on OEM as seller
  - iii. Elimination of dual penalty provisions for same offence
  - iv. Appeal provisions with clear authorities and hierarchy, escalations etc
  - v. Provision in case Buyer requests for closer of incident
  - vi. Any other issue deemed fit by the Committee or conveyed by the Competent Authority.
2. Further to detailed deliberations among the members of the Committee on the prevailing IM Policy considering the quantum of experience gained in management of incidents since April 2018, the draft has been revised. The draft Policy has been shared with the DCEOs/ACEOs / Technical Team and MSP seeking their inputs. The revised Policy has also been presented to CEO-GeM. Considering the suggestions from various persons, the committee has recommended the revised policy with following salient features:
- i. System to randomly allocate the escalated incidents (post-contract) and MSP to escalate eligible pre-contract incidents to category owners in case action is required to be taken against Seller/SP as per SoP of Pre-contract & IM Policy.
  - ii. System to raise incident for non-delivery of goods/ services after placing contract on DP/L1/Bid/RA
  - iii. “Raised By”/“Raised Against” to communicate on IM dashboard and resolve the issue in 7 calendar days of raise of incident failing which “Raised By” can escalate the incident to GeM.
  - iv. Upon escalation to GeM, system to issue SCN to “Raised Against”. SCN would have no impact. In case of no response from Raised Against in 7 calendar days to SCN, auto-Notify or Auto-Watchlist by system. In case of response, concerned authority will take further action
  - v. Auto-handling by system also proposed in case of no response to SCN or thereafter
  - vi. Provision with the consent of Buyer and Seller/SP to take corrective action
  - vii. Provision to give weightage to the performance of Seller/SP
  - viii. Provision of Appeal
3. A copy of the Revised IM policy is at Annexure.

  
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# **Government e-Marketplace – 3.0**

## **Incident Management - GeM 3.0**

This is version 14.1

**Metadata of the Standard**

<b>S. No.</b>	<b>Data elements</b>	<b>Values</b>
1.	<b>Title</b>	Incident Management on GeM
2.	<b>Target Audience</b>	Stakeholders of GeM including buyers, sellers, service providers, industry associations, partners etc.
3.	<b>Source</b> <i>(Reference to the resource from which present resource is derived)</i>	The incident management document elaborates the overall framework for identification and handling of deviations on GeM portal.
4.	<b>Document Number</b>	GeM/Transition 3.0/IM/V14.1

## **1. Introduction**

1.1 Government e-Marketplace (GeM) is a trust based system. As self-declaration is the key, strong automated processes to penalize any deviant behavior at GeM platform is a must. Similarly, good buyer behavior is a key component to generate seller confidence on GeM so that they can offer the best price and quality. For this purpose, any action that is at variation from the terms and conditions of procurement on GeM and relevant Government rules and guidelines is termed as “deviation”.

1.2 This document lays down the Incident Management Policy which shall guide the on-line mechanism for reporting and initiating action on any such deviation, and elaborates the overall framework for identification and handling of deviations on GeM portal. This policy is issued in supersession of all earlier instructions on the subject.

1.3 All administrative actions under this Incident management Policy, taken by GeM against any of the stakeholders shall not cause any limitation on the legal and contractual remedies including any financial recoveries, available to Buyers/Sellers/ Service Provider (SP) under the Terms and Conditions of contract and/or GeM policies. In case the Buyer / Seller /SP choose to pursue any of these remedies, GeM shall not be made party to such proceedings / remedial actions taken by Buyer/Seller/Service Provider under the contractual provisions.

### **1.4 WHO CAN RAISE INCIDENT:**

- (i) Buyer
- (ii) Seller/Service Provider
- (iii) GeM Admin (In case of raise of Post Contract incident by GeM Admin, the same gets auto-escalated after 48 hours. GeM Admin may escalate any time after creation of incident).
- (iv) GeM portal – In case of raise of incident by GeM portal, the same procedure as indicated in the policy would be applicable.

### **1.5 PROCESS FLOW:**

1.5.1 Buyer / Seller / Service Provider can create incident and try to get a resolution within the stipulated time from the party against whom the incident has been raised. In case of no resolution at user end, the incident can be escalated to GeM Admin after completion of the stipulated time. GeM Admin takes suitable action based on available facts and merit of the case.

1.5.2 All the stakeholders shall comment/ respond on IM Dashboard only and no resolution / response relating to incidents shall be provided through emails or any other mechanism. Also the stakeholders shall not attach/indicate the details which reveal their identity such as name of organization, name of any person or telephone numbers etc. on IM Dashboard.

1.5.3 No penalty shall be imposed for the same reason under the same Contract more than once. However, in case of Services, more than one incident can be created for same reason of the contract with different duration.

**2. Potential areas of deviation as identified on GeM**

2.1 The deviations on GeM are categorized into four levels, namely: mild, serious, severe and Grave. The table below depicts some of the key deviations and its categorization:

TABLE 1-Potential areas of Deviation

<b>Category of Deviation</b>	<b>Pre-Contract</b>	<b>Post-Contract / Post Bidding</b>
<b>MILD</b>	<p>Listing the Products / Services not in relevant categories and / or listing the same with vague/conflicting product specifications / details and irrelevant product photographs etc., by Seller/Service Provider (SP) including by the Original Equipment Manufacturers (OEMs) (proven on the basis of sanitization of product after raise of incident) (UPTO 2 such deviations during the rolling period of 30 days)</p> <p>Wrong reporting using “Report this Product” functionality in GeM market (UPTO 5 such wrong reporting during the rolling period of 30 days)</p>	
<b>SERIOUS</b>	<p>3<sup>rd</sup> or above case of Listing the Products / Services not in relevant categories and / or listing the same with vague / conflicting product specifications / details and irrelevant product photographs etc., by Seller/Service Provider including by the OEMs during the rolling period of 30 days. (Proven on the basis of sanitization of product after raise of incident).</p> <p>In case of OEMs, in addition to penal action as per policy, the “Fresh product upload” functionality will be removed for 7days for 3<sup>rd</sup> deviation, 10 days for 4<sup>th</sup> deviation, 15 days for 5<sup>th</sup> deviation and for 6<sup>th</sup> and above deviations, the period of penalty and removal of fresh product upload functionality would be same as would otherwise be applicable as per policy. (rolling period of 30 days)</p>	Upto 2 contracts (Direct /L1 Purchase) auto cancelled or declined in 30 days (rolling 30 days)
	6 <sup>th</sup> or above case of wrong reporting using “Report this Product” functionality in GeM market during the rolling period of 30 days	Delay in Delivery, as per contract

*Incident Management on GeM 3.0*

	Fails to update latest information status on GeM within the prescribed time limit	Non-delivery <sup>1</sup> of the product / services after placement of contract, for Direct Purchase / L1 purchase leading to cancellation of contract by Buyer.
	Fails to produce the requisite documents / information / certificates / test reports etc. when asked to furnish.	Refuses to supply product / services after placement of contract for Direct Purchase / L1 purchase (Mandatory to upload refusal letter/ email of Seller/ Service Provider)
	Offering discontinued or end of life products	Supplies goods of inferior / substandard quality against contract the value of which is upto Rs. 5 lakh
	Offering product with false authorization or without requisite authorization to sell in open market	Non-compliance of Service Level Agreement (SLA) / unsatisfactory performance against a Service Contract for DP/L1 the value of which is upto Rs. 5 lakh
	Unreasonable offer price	Fails to produce the requisite documents/ information/certificates /test reports etc. during the course of inspection/ assessment at any stage
		Not honoring warranty obligations in respect of the contract the value of such contract is upto Rs. 5 lakh
		Cancelling the contract after acceptance of the same by the Seller/ Service Provider (Mandatory to upload cancellation letter/ email by Seller/Service Provider)
		Splitting of demands and making repetitive direct purchases or creating multiple bids of same item
		Not finalizing the bid/RA within the bid life cycle
		Delay in CRAC generation <sup>2</sup>
		Delay in payment post CRAC generation <sup>3</sup>
		Refusal to receive the consignment at the consignee place
		Rejecting the goods without any valid reasons
<b>SEVERE</b>	Indulgence in any anti-competitive behavior or cartel formation	More than 2 contracts (Direct /L1 Purchase) auto cancelled or declined in 30 days (rolling 30 days)
	Mis-declaration/false declaration related to availability of required certifications.	Supplies goods of inferior / substandard quality against contract the value of which is more than Rs. 5 lakh
	Mis-representation of Brand Name/ Brand	Non-compliance of Service Level Agreement

<sup>1</sup>Non- delivery: Seller/SP has not supplied after expiry of delivery period

<sup>2</sup>Delay of more than 10 days post scheduled PRC generation date

<sup>3</sup>Delay of more than 10 days post scheduled CRAC generation date

	in Category	(SLA) / unsatisfactory performance against a Service Contract the value of contract is more than Rs. 5 lakh
	Mis-use of Original Equipment Manufacturer (OEM) rights	Not honoring warranty obligations in respect of the contract the value of which is more than Rs. 5 lakh
		Withdraws or modifies or impairs or derogates from the bid in any respect within the period of its validity (upload of documentary evidence by Buyer is mandatory), if the value of bid is upto Rs 5 lakh
		Fails to furnish requisite performance security/ Performance Bank G within stipulated time required as per e-Bid/RA conditions
		Delivering Fake or Counterfeit or refurbished products
		Non delivery of the product/ service after successful bidding/RA leading to cancellation of contract by Buyer, if the value of the contract is upto Rs. 5 lakh
<b>GRAVE</b>	Registering with benami/Fake identity or credentials	Non delivery <sup>4</sup> of the product/ service after successful bidding/RA leading to cancellation of contract by Buyer, the value of contract is more than Rs. 5 lakh.
	Mis-declaration of Maximum Retail Price (MRP)	Violating the integrity pact / Exercising corrupt influence on the stakeholder
	Submission of fake documents or false statement	Refuses to supply product/services after placement of contract after successful bidding/RA (upload of documentary evidence is mandatory)
	Impersonation of Brand Name/ Brand in Category	Withdraws or modifies or impairs or derogates from the bid in any respect within the period of its validity (upload of documentary evidence by Buyer is mandatory), if the value of bid is more than Rs 5 lakh
	Violating the integrity pact / Exercising corrupt influence on the stakeholder	

Clause 4.5 lists the penalties applicable for Serious, Severe and Grave deviations.

2.2 In pre-contract incidents, the corrective action consists of removal of catalogue from market apart from imposing penalty as per IM Policy

2.3 For deviations that do not fall in any of the reasons mentioned above, GeM admin can create incident with the reason '**Others**'. Severity level for such incidents shall be defined by

<sup>4</sup>Non- delivery: Seller/SP has not supplied after expiry of delivery period

GeM Admin. Once created, such incidents will auto escalate after 48 hrs. GeM Admin can however escalate such incident earlier also.

2.4 In case of Delay in Delivery, if the Seller/SP takes corrective action after raise of incident but before imposing penalty or within the period availing the facility under “**Provision to provide opportunity to take corrective action**” and Buyer generates CRAC accepting the goods/services, the incident will get auto-closed. It is for the Buyer to impose Liquidated Damages (LDs) or not, as per terms of GeM Contract and internal decision taken at their end. In case the Seller/SP does not take corrective action due to which Buyer has to cancel the contract, the deviation would be treated as Non-delivery of Product/ Service after placement of Contract.

2.5 Note: CEO-GeM shall have the full discretion to assign a case as Mild/ Serious/ Severe/ Grave, in case the deviation is not listed above.

2.6 Non payment of GeM Transaction Charges leading to cancellation of Contract shall be treated at par with Refusal to supply Product/Services after successful Bid/RA

3. The deviations on GeM can be identified in one of the following ways:

**3.1 Platform driven** : Action of the Seller/Service Provider/Buyer on GeM portal that is not in line with the terms and conditions on GeM including those identified through analytics will attract platform driven action by GeM. Some of key identified deviations along with action to be taken is placed as **Annexure I & II**.

**3.2 Reported:** Buyer/Seller/Service Provider or GeM Admin may initiate the deviation management on GeM. In case Buyer/Seller/Service Provider raise an incident, they would try to get a resolution within the stipulated time from the party against whom the incident has been raised. In case of no resolution at user end, the incident can be escalated to GeM Admin after completion of the stipulated time. GeM would take suitable action on the escalated incidents against a Seller/Service Provider/Buyer as reported to GeM by any stakeholder and/or any other third party based on the available facts and merit of the case.

**4. Process flow for handling Reported incidents on GeM is as under:**

**4.1. Mild Deviation:** Mild deviations are those which are related to incomplete or unintentional erroneous submissions of information. Seller/ Service Provider/ Buyer is alerted for corrective action.

**4.2. SERIOUS Deviation** - Serious deviations are those, which will have impact on the functioning of other stakeholders. The process flow for handling serious incidents shall be as follows:

4.2.1 Seller/ Service Provider/ Buyer against whom an incident is raised shall be provided with a **notice period of 7 calendar days** to rectify the deviation and report such corrective action through IM Module. In case of rectification/ re-conciliation at user end, no further action is required and the Incident Reporter can close the incident.



4.2.2 In case of non-rectification, the reporter of the incident can escalate to GeM Admin. Auto- Show Cause Notice (SCN) is sent by GeM Portal upon escalation of incident to GeM and it will be reflected on the respective user's GeM dashboard and / or sent through email. Issue of SCN shall not have any impact on the business of the Buyer/Seller/Service Provider in GeM.

4.2.3 SCN shall be responded and/or corrective action be taken and the same reported at the IM module against the incident by the user against whom the incident is raised **within 5 calendar days. In case of no response from Buyer/ Seller/Service Provider to SCN in 5 calendar days, GeM portal would automatically place the Buyer/Seller/Service Provider in Notified in case of Serious deviation and Watch-listed in case of Severe and Grave deviations w.e.f. 6<sup>th</sup> calendar day, till a decision is taken.**

4.2.4 GeM admin may seek “**Further Clarification**” from any of the stakeholder after the response of the SCN has been received. The concerned stakeholder has to respond to “Further clarification in 5 calendar days” In case of no response within 5 calendar days from the stakeholder from whom further clarification was sought, GeM Admin may take action based on available facts, merit of the case and as per provisions of the IM Policy.

4.2.5 In case of unsatisfactory response to SCN within stipulated time, the following would apply:

- A. For Buyer - is reflected as “Notified” in GeM market
- B. For Seller/ Service Provider (SP) - is reflected as “Notified” in GeM Market. The related product/service/cause of deviation (if any) will be suspended for future transactions till a decision is taken. Barring this, the seller/SP will be able to transact on GeM normally. Status of Notified will not have any impact on OEM dashboard in CMS Quadrant 2 & 3

**4.2.6 Based on the outcome of findings:**

- A. If no deviation at Buyer/Seller/Service Provider – “Notified” flag off and in case of Seller/SP, the related product/service/cause of deviation is enabled
- B. In case, there is an unsatisfactory explanation by the Buyer/ Seller/ SP the following steps shall be taken: -
  - a) Buyer – Primary user and competent authority to be notified for necessary action.
  - b) Seller / SP would be suspended<sup>7</sup> by the GeM admin for a period of:
    - 30 Days – For first & second deviations within a period of 90 calendar days
    - 45 Days – For third and subsequent deviations within a period of 90 calendar days

**4.2.7** Deviation reflects in the overall Seller/Buyer rating.

### **4.3. SEVERE Deviation**

- i. Severe deviations are those which have the potential to adversely impact the market eco-system. The process flow for handling severe incidents shall also be same as mentioned in para 4.2.1 to 4.2.4.
- ii. In case of unsatisfactory response to SCN within stipulated time, the following would apply :

A For Buyer - is reflected as “Notified” in GeM market

B For Seller/ Service Provider (SP) - is reflected as “Watch-listed” in GeM Market. The related product/service category will be suspended for further transactions till a decision is taken. Barring this the Seller/SP will be able to transact on GeM normally. No impact on OEM dashboard in CMS Quadrant 2 & 3.

iii. **Based on the outcome of findings:**

A. If no deviation at user end– “Notified/Watch-listed” flag off and in case of Seller/SP, the related product/service category is enabled

B. In case, there is an unsatisfactory explanation by the buyer/ Seller/ SP the following steps shall be taken: -

- a) Buyer – Primary user and competent authority to be notified for necessary action.
- b) Seller / SP would be suspended by the GeM admin for a period of:
  - 45 days- for first and second deviation within a period of 120 calendar days
  - 60 days- for third and subsequent deviations within a period of 120 calendar days (and up to 12 months with approval from CEO). Additionally, GeM may recommend the case to Ministry of commerce, GOI for appropriate action.

C. Deviation reflects in the overall Seller/Buyer rating

**4.4 Grave:**

4.4.1 The Grave incidents are those which adversely impact the reputation/ credibility of the GeM platform. The process flow for handling Grave incidents shall also be same as mentioned in para 4.2.1 to 4.2.4.

4.4.2 In case of unsatisfactory response to SCN within stipulated time, the following would apply.:

- A For Buyer - is reflected as “Notified” in GeM market
  
- B For Seller/ Service Provider (SP) - is reflected as “Watch-listed” in GeM Market. The related product/service category will be suspended for further transactions till a decision is taken. Barring this the Seller/SP will be able to transact on GeM normally. No impact on OEM dashboard in CMS Quadrant 2 & 3.

**4.4.3 Based on the outcome of findings of the show-cause notice:**

- A. If no deviation at user end– “Notified/Watch-listed” flag off and in case of Seller/SP, the related product/service category is enabled
  
- B. In case, there is an unsatisfactory explanation by the Buyer/ Seller/ SP the following steps shall be taken: -
  - a) Buyer – Primary user and competent authority to be notified for necessary action.
  
  - b) Seller / SP suspended by the GeM admin for a period of
    - upto 60 days- for first & second deviation within a period of 180 calendar days
  
    - upto 90 days- for third and subsequent deviations within a period of 180 calendar days (and up to 12 months with approval from CEO). Additionally, GeM may recommend the case to Department of Commerce, GOI for appropriate action.
  
- C. Deviation reflects in the overall Seller/Buyer rating

4.5 To summarise, the quantum of penalty based on severity, as mentioned above, would be:

<b>SERIOUS</b>	<b>SEVERE</b>	<b>GRAVE</b>
<ul style="list-style-type: none"> <li>• Buyer – Primary user and competent authority to be notified for necessary action.</li>   <li>• Seller / SP would be suspended<sup>7</sup> by the GeM</li> </ul>	<ul style="list-style-type: none"> <li>• Buyer – Primary user and competent authority to be notified for necessary action.</li>   <li>• Seller / SP would be suspended by the GeM admin for a period</li> </ul>	<ul style="list-style-type: none"> <li>• Buyer – Primary user and competent authority to be notified for necessary action.</li>   <li>• Seller / SP suspended by the GeM admin for a period of</li> </ul>

<p>admin for a period of:</p> <ul style="list-style-type: none"> <li>• 30 Days – For first &amp; second deviations within a period of previous 90 calendar days</li> <li>• 45 Days – For third and subsequent deviations within a period of previous 90 calendar days</li> </ul>	<p>of:</p> <ul style="list-style-type: none"> <li>• 45 days- for first and second deviation within a period of 120 calendar days</li> <li>• 60 days- for third and subsequent deviations within a period of 120 calendar days (and up to 12 months with approval from CEO). Additionally, GeM may recommend the case to Ministry of commerce, GOI for appropriate action.</li> </ul>	<ul style="list-style-type: none"> <li>• Upto 60 days- for first &amp; second deviation within a period of 180 calendar days</li> <li>• Upto 90 days- for third and subsequent deviations within a period of 180 calendar days (and up to 12 months with approval from CEO). Additionally, GeM may recommend the case to Ministry of commerce, GOI for appropriate action.</li> </ul>
<p>Deviation reflects in the overall Seller/Buyer rating</p>		

**5. Provision to Seller/ Service Provider to rectify the deviation after escalation of incident:**

5.1 Process flow for this activity would be:

In case Seller/Service Provider makes request to rectify the deviation:

- As soon as the incident is escalated by Buyer to GeM, Show Cause Notice would be sent to the Seller/Service Provider.
- In case Seller/Service Provider has already taken corrective action, he may indicate so on IM Dashboard
- In case deviation still exists but there is possibility to take corrective action, the Seller/Service Provider may either take corrective action immediately or express his willingness to rectify the deviation on IM Dashboard itself. This shall be done by Seller/Service Provider within 5 calendar days of receiving show cause notice.
- In case Buyer does not provide consent to Seller/Service Provider to rectify the deviation, GeM shall take action as per the policy.
- In case buyer responds stating that he would like to give opportunity to the Seller/ Service Provider to rectify the deviation, he shall provide his consent on IM dashboard within 5 calendar days from the date the Seller/SP made request to rectify the deviation.
- In case of no response of BUYER within 5 calendar days, it will be treated as “No consent of Buyer” and further action will be taken as per Policy.
- Once Buyer accepts the request of Seller/Service Provider to take corrective action, the status of incident would be marked as “Corrective Action initiated”.
- In case Seller/ Service Provider takes corrective action, both Buyer and Seller/ Service Provider shall confirm about rectification of the deviation on the IM dashboard along with documentary support within stipulated time. In such cases, GeM may consider closing the incident. In case of delay in delivery, the incident gets auto-closed once Buyer generates CRAC accepting the goods/services. However, levy of LDs is prerogative of BUYER as per terms of GeM contract and internal decision at Buyer end.

- i) In case the Seller/ Service Provider fails to fulfil the commitment of rectifying the deviation, Buyer can re-escalate the incident to GeM after 10 calendar days, and GeM may take further action, as per the policy.

**6. PROVISION OF GRANTING WEIGHTAGE TO PERFORMANCE WHILE IMPOSING PENALTY**

6.1 The quantum of punishment as detailed in paras 4.2.5, 4.3.2 and 4.4.2 which is summarised in para 4.5 of the Policy in respect of Post-Contract Deviations will be reduced after considering the transaction history of Seller/ Service Provider on GeM portal, and eligible dues to the Seller/Service Provider from the Buyer who reported the incident.

6.2 The duration of data to be considered to grant this weightage of past performance by Seller/ Service Provider is **last one year**. Conditions to be fulfilled for Seller/ Service Provider to become eligible for availing the reduction in imposition of penalty are as under:

- i. Case of Seller/ Service provider to be considered only if the total contracts accepted on GeM portal during the stipulated period are at least Ten (10).
- ii. Not more than two incidents are created against the Seller/SP for the same reason (as the incident under consideration) in last 30 calendar days.

6.3 The criteria to be adopted for providing weightage of past performance of Seller / SP is as under:

**Table -1 – Seller/Service Provider transaction history (considered)**

S No.	Description	Count
1	Total Contracts accepted in respect of Seller/SP	
2	Total Contracts fulfilled so far by Seller/SP	
3	Percentage of fulfillment rate	
Based on percentage of fulfillment –		
98% and above	Penalty would be reduced to 30% of what otherwise is applicable as per the Policy	
95% or more but less than 98%	Penalty would be reduced to 40% of what otherwise is applicable as per the Policy	
>90% but < 95%	Penalty would be reduced to 50% of what otherwise is applicable as per the Policy	

Criteria of calculation of S.No. 1& 2 (Table 1)

1. Total Contracts accepted by Seller/SP shall exclude those contracts where Seller/SP accepted the Contract but Delivery period is not yet complete.
2. Total contracts fulfilled are those contracts against which All CRACs have been generated out of total contracts accepted by Seller/SP (as indicted in 1 above).

CRAC- Consignee Receipt and Acceptance Certificate



**7. PROVISION OF GRANTING WEIGHTAGE OF DUES OF BUYER TO THE SELLER/SP AGAINST WHOM THE INCIDENT IS RAISED**

7.1 The criteria to be adopted for providing weightage of BUYER dues to the Seller / SP against whom Buyer raised incident:

Table-2: History of dues from BUYER (Reporter of incident) to Seller/SP(Against whom incident is raised)

<b>S No.</b>	<b>Description</b>	<b>Count</b>	<b>Granting in penalty</b>
1	Total number of contracts against which CRAC generated but payment has not been released beyond stipulated timelines, as per GeM contract	More than two contracts	Penalty would be reduced to 30% of what otherwise is applicable

7.2 The penalty arrived at after calculation as per paras above shall also be subject to a minimum penalty of at least 10 days in case of Serious and 15 days in case of Severe and 20 days in case of Grave deviations.

7.3 No reduction in penalty based on performance/dues from incident report to Seller/SP is permissible for the following deviations:

**A PRE-CONTRACT:**

- (i) Indulgence in any anti-competitive behavior or cartel formation
- (ii) Mis-declaration of maximum Retail Price (MRP)
- (iii) Mis-declaration related to availability of required certifications
- (iv) Mis-representation of Brand name/ Brand in category
- (v) Registering with benami/fake identify credentials
- (vi) Submission of fake documents or false statement
- (vii) Violating the integrity pact/ exercising corrupt influence on the stakeholder
- (viii) Impersonation of Brand name/ Brand in category

**B POST CONTRACT:**

- (i) Withdraws or modifies or impairs or derogates from the bid in any respect within the period of its validity
- (ii) Fails to furnish requisite performance security/PBG within stipulated time required as per e-Bid/RA Conditions
- (iii) Delivering fake or counterfeit, or refurbished products
- (iv) Violating the integrity pact/ exercising corrupt influence on the stakeholder

## **8. Provision of APPEAL**

- a) The option of APPEAL can be availed by Seller/SP after imposition of penalty
- b) The option of APPEAL can be availed only if there is any additional material evidence which was not available for consideration at the time of taking a decision by the Competent Authority of GeM.
- c) Request for APPEAL can be made in 10 calendar days of imposition of penalty.
- d) Provision of APPEAL is available only once against one incident for Seller/ SP.
- e) Further clarifications may be sought from Buyer/Seller/SP by GeM Admin, if required.
- f) In case of receipt of satisfactory or unsatisfactory response, further action based on the facts and merits of the case and as per provisions of the IM policy will be taken by GeM Admin for either closure of incident or continuation of the penalty. In case of no response from the Buyer/Seller/SP to the APPEAL or the clarifications sought, in 5 calendar days at each level, GeM Admin may take action based on available responses without giving any further opportunity or waiting for response.
- g) The status of Seller/SP will not change during the period of consideration of APPEAL.
- h) 5% of contract value with a minimum of Rs. 1000 and a maximum of Rs. 10,000 would be charged as fee for consideration of Appeal. In case the deviation is not linked to a specific contract, a fee of Rs. 1000 shall be charged for consideration of Appeal.
- i) In case of decision in favour of Seller/SP who applied for Appeal, the fee charged would be returned.

## **9. CLOSURE OF INCIDENT**

- (i) Incident “Raised By” have the option to close the incident without escalating the incident to GeM, in case the “Raised Against” fulfils the cause/deviation.
- (ii) GeM Admin can close the incident after escalation of incident by “Buyer” in cases where Seller/SP fulfils the cause/ deviation and the Buyer also confirms the same on dashboard (with supporting documents where required) after availing the opportunity to rectify the deviation.

- (iii) **In case of raising of incident by BUYER and no corrective action having been taken by Seller/SP, if BUYER still wants to recommend for closure of incident, he may do so with approval of competent authority in their organization. The Primary User of GeM shall make such request on IM Dashboard stating that “even though there is no change in the status of deviation, as stated in the incident raised, and/ or no corrective action has been taken by Seller/Service Provider, after examining the request of Seller/SP, it is recommended to GeM that no further penalty on the Seller/SP is necessitated. This recommendation has approval of Competent Authority in the office”. In case BUYER recommends on above lines, GeM Admin may consider closing the incident. A monthly report on incidents closed in this category will be sent to the concerned Secretary and Financial Advisor of the Ministry/ Department /State or Heads of Public Sector Undertakings(PSUs)/Autonomous Bodies /Organisaions for their information.**
- (iv) In case of raise of incident by GeM portal also, the procedure as indicated in (i), (ii) & (iii) above would apply.

**10. Impact of Incident on an on-going bid – The cut off date for applying the impact of incidents is the date of financial bid opening.**

<b>Status of Seller /Service Provider</b>	<b>Impact on the ongoing Bid after opening of Financial Bid</b>
<b>Suspended</b>	<p><b>Product/Service Bids, Reverse Auction (RA), Bid to RA -</b></p> <p>The system would exclude the suspended bidders at the time of opening of financial bid making them as ineligible due to suspension and identify the L1 bidder. Suspended Bidder will not be eligible to participate in RA process.</p>
<p><b><u>After opening of financial bid with eligible L1 Bidder (not suspended) -</u></b> In case LI bidder was not suspended at the time of opening of financial bids, but subsequently got suspended during the period of BUYER taking internal approvals, the transaction will be treated as pending activity and BUYER is permitted to place order on such L1 bidder.</p>	

11. Notwithstanding any of the procedure and quantum of penalty prescribed in this policy, CEO GeM-SPV reserves the right to condone partly or fully, or to enhance the penalty imposed on a Buyer/ Seller/ Service Provider, after taking into account the specific circumstances of the case.



**Penalty Matrix Table**

SERIOUS						
For 1st and 2nd deviations						
	% to be reduced	No. of days	% to be reduced	No. of days	% to be reduced	No. of days
Penalty due as per Policy		30		30		30
Reduction based on Seller /SP history	70%	21	60%	18	50%	15
<b>Penalty after considering Seller/SP history</b>		<b>9*(10)</b>		<b>12</b>		<b>15</b>
Reduction based on payment dues from Buyer to Seller/SP	30%	2.7	30%	3.6	30%	4.5
<b>Penalty after considering both Seller/SP history and buyer-seller/sp specific dues</b>		<b>6.3</b>		<b>8.4</b>		<b>10.5</b>
<b>Permissible reduction</b>		<b>6*(10)</b>		<b>8*(10)</b>		<b>10</b>
For 3rd and subsequent deviations						
Penalty due as per Policy		45		45		45
Reduction based on Seller /SP history	70%	31.5	60%	27	50%	22.5
Balance after considering Seller/SP history		13.5		18		22.5
<b>Permissible reduction after round off, if only Seller/SP history is considered</b>		<b>13</b>		<b>18</b>		<b>22</b>
Reduction based on payment dues from Buyer to Seller/SP	30%	4.05	30%	5.4	30%	6.75
<b>Penalty after considering both Seller/SP history and buyer-seller/sp specific dues</b>		<b>9.45</b>		<b>12.6</b>		<b>15.75</b>
<b>Permissible reduction after round off</b>		<b>9*(10)</b>		<b>13</b>		<b>16</b>

SEVERE						
For 1st and 2nd deviations						
	% to be reduced	No. of days	% to be reduced	No. of days	% to be reduced	No. of days
Penalty due as per Policy		45		45		45
Reduction based on Seller /SP history	70%	31.5	60%	27	50%	22.5

Balance after considering Seller/SP history		13.5		18		22.5
Permissible reduction after round off, if only Seller/SP history is considered		13		18		22
Reduction based on payment dues from Buyer to Seller/SP	30%	4.05		5.4		6.75
<b>Penalty after considering both Seller/SP history and buyer-seller/sp specific dues</b>		<b>9.45</b>		<b>12.6</b>		<b>15.75</b>
Permissible reduction after round off		9*(15)		12*(15)		16
<b>For 3rd and subsequent deviations</b>						
Penalty due as per Policy		60		60		60
Reduction based on Seller /SP history	70%	42	60%	36	50%	30
Balance after considering Seller/SP history		18		24		30
Reduction based on Buyer history	30%	5.4	30%	7.2	30%	9
<b>Balance penalty after considering both Seller/SP history and buyer-seller/SP specific dues</b>		<b>12.6</b>		<b>16.8</b>		<b>21</b>
Permissible reduction after round off		12*(15)		17		21

GRAVE						
For 1st and 2nd deviations						
	% to be reduced	No. of days	% to be reduced	No. of days	% to be reduced	No. of days
Penalty due as per Policy		60		60		60
Reduction based on Seller /SP history	70%	42	60%	36	50%	30
<b>Balance after considering Seller/SP history</b>		<b>18</b>		<b>24</b>		<b>30</b>
Reduction based on payment dues from Buyer to Seller/SP	30%	5.4		7.2		9
<b>Penalty after considering both Seller/SP history and buyer-seller/sp specific dues</b>		<b>12.6</b>		<b>16.8</b>		<b>21</b>
Permissible reduction after round off		13*(20)		17*(20)		21
<b>For 3rd and subsequent deviations</b>						
Penalty due as per Policy		90		90		90

*Incident Management on GeM 3.0*

Reduction based on Seller /SP history	70%	63	60%	54	50%	45
<b>Balance after considering Seller/SP history</b>		<b>27</b>		<b>36</b>		<b>45</b>
Reduction based on payment dues from Buyer to Seller/SP	30%	8.1	30%	10.8	30%	13.5
<b>Penalty after considering both Seller/SP history and buyer-seller/sp specific dues</b>		<b>18.9</b>		<b>25.2</b>		<b>31.5</b>
<b>Permissible reduction after round off</b>		<b>19(20)</b>		<b>25</b>		<b>31</b>

**\* As per para 7.2 of the Policy, a minimum penalty would be of 10 days in case of Serious, 15 days in case of Severe and 20 days in case of Grave deviations.**

This Annexure covers the scenarios for which seller/ service provider will be automatically alerted and action shall be taken by the system on the basis of rule engines. Monthly reports need to be generated for all such cases.

Rule	Action to be taken
Upto 2 Contracts (Direct /L1 Purchase)Auto cancelled or declined in 30 rolling days.	Auto-raise of incident. Buyer can escalate the incident as per the norms of Policy.
Deviation of norms in Listing the Products / Services not in relevant categories and / or listing the same with vague / conflicting product specifications / details and irrelevant product photographs etc., by Seller/Service including by the OEMs (proven on the basis of sanitization of product after raise of incident)(UPTO 2 such deviations during the rolling period of 30 days)	Seller/SP is alerted on each of such incidents upto 2 incidents during rolling 30 days.
Wrong reporting using “Report this Product” functionality in GeM market (proven on the basis of rejection of incident) (upto 5 lapses in a rolling period of 30 calendar days).	Seller/SP is alerted on each of the 5 such wrong reporting during rolling 30 days
>2 contracts (Direct /L1 Purchase) auto cancelled or declined in 30 days (rolling 30 days)	Auto raise of incident & Show Cause Notice (SCN) is sent to Seller/SP. In case of no response in 5 calendar days from the Seller/SP, auto-Notified.
<b>Raise of Incident by GeM:</b> Non-delivery of the product / services after placement of contract, for Direct Purchase / L1 purchase/ Bid / RA (15 days after expiry of expected date of delivery)	Auto-raise of incident. Buyer can escalate the incident as per the norms of Policy
<b>Auto Action in case of no response:</b>	
Escalation of incident to GeM by Buyer/Seller/SP	AUTO SCN to Buyer/ Seller/SP (Auto SCN will not have any impact on the business of Buyer/Seller/SP)
In case of no response from Buyer/ Seller/SP to SCN within 5 calendar days	AUTO Notify/Watch-list against Buyer /Seller /SP, as per the norms of the Policy
In case of <b>no response</b> from Seller/SP within 5 calendar days of being in auto-Notified/Watch-listed	AUTO “Recommendation for Action” against Seller/SP
In case of <b>no response</b> from Seller/SP in spite of recommending action against him within 5 calendar days	“AUTO Action” against Seller/SP
Auto-close of inactive incidents not escalated to GeM	System to remind for review by Reporter of incident (in case of inactive incidents only) giving 7 days notice after it becomes due for escalation  System to auto-close non escalated incidents 7 days after lapse of notice period

**The above action shall be without prejudice to the penalties imposed, if any, on the Seller/Service Provider based on Reported Incidents.**

**Annexure II**

This annexure covers the scenarios for which action will automatically be taken against the buyer by the system on the basis of rule engines. Monthly reports need to be generated for all such cases.

<b>Rule</b>	<b>Action to be taken</b>
In case of no response from Buyer within 5 calendar days to SCN sent	Auto Notifying the Buyer
In case of no response from Buyer within 5 calendar days of Notifying	Auto Escalation/ Notifying to HOD/ Primary User

Once the action is taken system generated notification will be reflected on respective user's GeM dashboard and also sent through email.

\*\*\*\*\*END OF DOCUMENT\*\*\*\*\*

<b>Abbreviations</b>	
GeM	Government e-Marketplace
IM	Incident Management
CEO-GeM	Chief Executive Officer-Government e-Marketplace
SP	Service Provider
RA	Reverse Auction
PBG	Performance Bank Guarantee
PSUs	Public Sector Undertakings
SLA	Service Level Agreement
SCN	Show Cause Notice
OEM	Original Equipment Manufacturer
MRP	Maximum Retail Price
LDs	Liquidated Damages
PRC	Provisional Receipt Certificate
CRAC	Consignee Receipt and Acceptance Certificate