



To: CUPOs

AUD #20-08

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From: Audits, State Purchasing Division

Date: June 16, 2020

Re: Fiscal Year 2019 Audit of Exempt Purchase Orders (POs) issued by University System of Georgia (USG) entities

Conclusion

We did not find any major issues with exempt purchase orders. Our audit identified 20,236 POs totaling \$457.2 million classified as exempt¹ in fiscal year 2019. Of the POs issued in fiscal year 2019 by USG entities: 6% of the 315,581 POs were classified as exempt, which amounted to 21% of the \$2.2 billion of the POs issued. With few exceptions, exempt purchase orders were issued for purchases which qualified as exempt under the State Purchasing Act. Exempt POs did not appear to be used to circumvent the bidding process. We found 30% of the amount issued on exempt POs was coded to a non-exempt NIGP (National Institute of Governmental Purchasing) code. Despite not referencing an exempt NIGP code these POs appear to be for procurements that are exempt under the State Purchasing Act. Only 311 of the 544 NIGP codes on the exempt NIGP code list were used on exempt POs. In contrast, 1,590 non-exempt NIGP codes were used on POs coded as exempt.

Background

Coding a PO as exempt or “EXM” indicates the state entity is conducting the procurement outside of the procurement processes as defined by the *Georgia Procurement Manual (GPM)*. There are some exemptions where competitive bidding requirements do not apply and other exemptions where these requirements still do. Consequently, some exemptions could be used to circumvent competitive bidding requirements by claiming a PO is exempt when it is not. Section 1.2 of the GPM states:

There are three major factors in determining whether a purchase is subject to the State Purchasing Act:

- Identity of the purchasing entity,
- Identity of the provider/seller, and
- What is being procured.

¹ There were \$54.9 million in POs issued by the University of Georgia without a PO type designated. Of these POs, \$2.8 million used an exempt NIGP code. These POs were not included in this audit. Many of these POs were grant subawards.

Identity of the purchasing entity

As an example of an exemption based on the identity of purchasing entity, construction or public works contracts under USG entities are exempt from the State Purchasing Act. These activities are defined in section 1.3.6.1 of the GPM. This exemption does not preclude the USG entities from utilizing statewide contracts. With this type of exemption, coding the PO as exempt does not necessarily mean that competitive bidding is not required or has not occurred; rather, that the procurement process was not conducted pursuant to the State Purchasing Act. These types of exemptions are summarized in table 1.3 in section 1.2.1.2. of the GPM.

Identity of the provider/seller

An example of an exemption based on the identity of the provider/seller includes contracts for services only with non-profit entities. These types of exemptions are covered in table 1.4 in section 1.2.2. of the GPM.

What is being procured

For exemptions based on what is being procured, SPD has established a list of NIGP codes to assist agencies in coding and identifying these specific commodities and services. This list is referred to as the NIGP code exempt list and is referenced in section 1.2.4 of the GPM. The NIGP code exempt list does not necessarily include commodities or services that may only be exempt for select agencies. Further, the NIGP code exempt list is not applicable when the exemption is based on the identity of the purchasing entity or the identity of the provider/seller. Last, section 1.2.3 of the GPM provides further guidance on the use of exempt NIGP codes where goods and services are exempt from competitive bidding but are not designated by a specific exempt NIGP code.

Audit Objectives

1. Which USG entities had the highest dollar amount of exempt POs?
2. Which NIGP codes were used on exempt POs?
3. Which three-digit NIGP categories were used on exempt POs?
4. Do exempt POs meet the requirements of the GPM?
5. Were exempt POs issued for non-exempt purchases?
6. Did the exempt POs need to be issued per the statewide purchase order policy?

Audit Summary

Our audit identified 27 entities used the exempt PO type in fiscal year 2019 and that the exempt POs issued by the top 10 entities accounted for 91% of the total dollar amount of exempt POs issued in fiscal year 2019 as per **Table 1**.

Table 1
Exempt PO Amounts by USG Entity

| State Entity | PO Amount | Percent |
|---------------------------------|------------------|----------------|
| Georgia State University | \$118,149,859 | 26% |
| University of Georgia | \$61,308,873 | 13% |
| Georgia Institute of Technology | \$59,124,636 | 13% |
| Kennesaw State University | \$49,873,007 | 11% |
| Board of Regents | \$43,875,254 | 10% |
| Augusta University | \$33,290,662 | 7% |
| Valdosta State University | \$21,568,702 | 5% |
| University of North Georgia | \$15,908,946 | 3% |

| | | |
|---|-------------|----|
| University of West Georgia | \$7,294,821 | 2% |
| Fort Valley State University | \$7,004,597 | 2% |
| Sources: BOR_OPO019D_PO_LIST_BY_BU_DTL; PO data provided by Augusta University, Georgia Institute of Technology, Georgia State University, and University of Georgia. | | |

The POs summarized in **Table 1** were exempt from the State Purchasing Act, for procurements related to the following:

- Office space rental or lease, typically with a foundation associated with the university or college
- Transactions with other government entities or with non-profit entities
- Utility services, which are exempt
- Professional services, which are exempt

At the NIGP code level, the audit also identified that a PO coded as EXM was six times more likely to include non-exempt NIGP codes over exempt NIGP codes. See **Table 2** for more detail.

Table 2
Exempt POs by NIGP Code Type

| NIGP Code Type | Amount | Number of Codes | Percent of Amount | Percent of Codes |
|--|---------------|-----------------|-------------------|------------------|
| Non-Exempt NIGP Code | \$138,533,232 | 1,590 | 30% | 83% |
| Exempt NIGP Code | \$316,077,567 | 311 | 69% | 16% |
| Source: BOR_OPO019D_PO_LIST_BY_BU_DTL; PO data provided by Augusta University, Georgia Institute of Technology, Georgia State University, and University of Georgia. | | | | |

Using a non-exempt NIGP code on a PO coded as an exempt, is not a violation of policy but rather the exemption was related to the identity of the provider rather than the service provided. Most of the non-exempt NIGP codes used on POs coded as exempt were for professional services (Table 1.5 of the GPM), construction/public works contracts (Table 1.3 of the GPM), technical instruments and suppliers (Table 1.6 of the GPM), and space management for real estate administration (Table 1.5 of the GPM).

For non-exempt NIGP codes, the top 10 codes account for 11% of the total exempt PO spend as shown in **Table 3**.

A further review of the NIGP codes summarized in **Table 3** revealed:

1. In most cases, the majority (if not all) of the POs for each code were issued by a single USG entity, and
2. There is no evidence of the widespread use of non-exempt NIGP codes by USG entities for spending at this level

Table 3
PO Amount by Non-Exempt NIGP Codes

| NIGP Code | Code Description | PO Amount | Percent |
|-----------|--|--------------|---------|
| 91832 | Consulting Services (Not Otherwise Classified) | \$12,423,005 | 3% |
| 90903 | Administration of [Construction] Contracts: Summary of Work, Quality Control, Project Closeout, etc. | \$7,064,475 | 2% |

| | | | |
|--|--|-------------|-----|
| 91065 | Remodeling and Alteration Services | \$4,390,493 | 1% |
| 83833 | Communications: Networking, Linking etc. | \$4,146,300 | <1% |
| 49055 | Mass Spectrometers and Accessories | \$3,921,948 | <1% |
| 97164 | Residential Space Rental or Lease | \$3,683,074 | <1% |
| 92419 | Educational Research Services | \$3,528,989 | <1% |
| 91897 | Utilities: Gas, Water, Electric Consulting | \$3,438,555 | <1% |
| 92045 | Software Maintenance and Support Services | \$2,950,254 | <1% |
| 49043 | Laboratory and Scientific Equipment and Supplies | \$2,807,157 | <1% |
| Source: BOR_OPO019D_PO_LIST_BY_BU_DTL; PO data provided by Augusta University, Georgia Institute of Technology, Georgia State University, and University of Georgia. | | | |

In contrast to the above data, for exempt NIGP codes, the top 10 NIGP codes account for 47% of the total amount of exempt POs issued as shown in **Table 4**.

Table 4
PO Amount by Exempt NIGP Codes

| NIGP Code | Code Description | PO Amount | Percent |
|--|--|------------------|----------------|
| 97145 | Office Space Rental or Lease | \$79,891,783 | 17% |
| 95635 | Internet Database Subscriptions | \$37,277,702 | 8% |
| 96185 | Utility Services, Water | \$29,150,398 | 6% |
| 96183 | Utility Services, Electric | \$14,993,986 | 3% |
| 91878 | Medical Consulting | \$12,401,683 | 3% |
| 97155 | Parking Spaces in a Parking Lot or Garage, Rental or Lease | \$10,274,738 | 2% |
| 91503 | Advertising and Public Relations, Including Skywriting | \$7,130,800 | 2% |
| 96343 | Intergovernmental and Inter-Agency Contracts | \$7,094,811 | 2% |
| 73012 | Computer-Automated Measurement and Control (CAMAC) Systems | \$5,203,319 | 1% |
| 96348 | Membership Dues | \$5,105,721 | 1% |
| 97165 | Room Rental or Lease for Conferences, Seminars, etc. | \$5,088,335 | 1% |
| Source: BOR_OPO019D_PO_LIST_BY_BU_DTL; PO data provided by Augusta University, Georgia Institute of Technology, Georgia State University, and University of Georgia. | | | |

The NIGP code exempt list is a list of goods and services, which are either exempt from the State Purchasing Act or for which the competitive bid requirements have been waived. These exempt codes are organized by three-digit NIGP category level. The NIGP code exempt list has 59 three-digit NIGP categories. Of these 59 three-digit categories there are 56 three-digit categories, which have both exempt and non-exempt NIGP codes and 3 three-digit categories, which have only exempt NIGP codes. As mentioned previously, it is not a requirement to code an exempt PO with an exempt NIGP code. Using an exempt NIGP code on an exempt PO is not a requirement since the reason for the exemption may be a result of the identity of the purchasing entity or the identity of the provider or seller. Since NIGP codes are used to categorize what is being procured you can have a non-exempt NIGP code referenced on an exempt PO.

At the three-digit NIGP category level, exempt POs were coded to 245 three-digit NIGP categories. This included all 59 three-digit NIGP categories on the NIGP code exempt list and 186 three-digit NIGP categories, which had only non-exempt NIGP codes.

Table 5 provides further detail on the top fifteen three-digit categories used in exempt POs.

Table 5
PO Amount by NIGP Three-Digit Category Exempt and Non-Exempt

| NIGP Category | Category Description | PO Amount Exempt | PO Amount Non-Exempt | Total PO Amount |
|--|--|-------------------------|-----------------------------|------------------------|
| 971 | Real Property Rental or Lease | \$95,254,856 | \$6,177,661 | \$101,432,516 |
| 961 | Miscellaneous Services, No. 1 (Not Otherwise Classified) | \$54,709,672 | \$4,243,603 | \$58,953,274 |
| 956 | Library and Subscription Services, including Research Service, Internet and Periodical Subscription | \$40,967,985 | \$2,485,159 | \$43,453,144 |
| 918 | Consulting Services | \$17,357,849 | \$18,923,210 | \$36,281,059 |
| 963 | Miscellaneous Fees, Dues, Permits, Registrations, Rebates, Postage, Taxes | \$27,090,301 | \$0 | \$27,090,301 |
| 910 | Building Maintenance, Installation and Repair Services | \$0 | \$16,137,482 | \$16,137,482 |
| 915 | Communications and Media Related Services | \$14,056,758 | \$1,267,925 | \$15,324,683 |
| 490 | Laboratory Equipment, Accessories and Supplies: General Analytical and Research for Nuclear, Optical | \$1,108,556 | \$11,374,946 | \$12,483,501 |
| 906 | Architectural Services, Professional | \$11,711,560 | \$29,000 | \$11,740,560 |
| 924 | Educational and Training Services | \$4,829,540 | \$4,043,731 | \$8,873,270 |
| 909 | Building Construction Services, New, including Maintenance and Repair Services | \$0 | \$8,611,202 | \$8,611,202 |
| 730 | Radio Communications and Telecommunications Testing | \$7,555,495 | \$0 | \$7,555,495 |
| 035 | Aircraft and Airport Equipment, Parts, and Supplies | \$7,293,816 | \$32,979 | \$7,326,795 |
| 938 | Equipment Maintenance and Repair Services for Hospital, Laboratory, and Testing Equipment | \$5,886,921 | \$0 | \$5,886,921 |
| 962 | Miscellaneous Services, No. 2 (Not Otherwise Classified) | \$792,750 | \$5,089,788 | \$5,882,539 |
| Source: BOR_OPO019D_PO_LIST_BY_BU_DTL; PO data provided by Augusta University, Georgia Institute of Technology, Georgia State University, and University of Georgia. | | | | |

Additional three-digit categories where non-exempt NIGP codes were used with amounts more than \$1,000,000 are shown below in **Table 6**.

Table 6
Additional Non-Exempt NIGP Code Amount by Three-Digit Category

| NIGP Category | Category Description | PO Amount |
|----------------------|--|------------------|
| 920 | Data Processing, Computer, Programming, and Software Services | \$4,829,190 |
| 958 | Management and Operation Services | \$3,378,376 |
| 914 | Construction Services, Trades, New Construction | \$3,237,266 |
| 911 | Construction and Utilities, Higher Education | \$2,928,258 |
| 493 | Laboratory Equipment, Accessories and Supplies | \$2,818,493 |
| 475 | Hospital, Surgical, and Medical Related Accessories and Sundry Items | \$1,882,409 |
| 898 | X-Ray and Other Radiological Equipment and Supplies, Medical | \$1,416,207 |

| | | |
|---|---|-------------|
| 913 | Construction Services, Heavy, Including Maintenance and Repair Services | \$1,196,956 |
| 206 | Computer Hardware and Peripherals for Mainframes and Servers | \$1,123,764 |
| 203 | Computer Accessories and Supplies | \$1,036,994 |
| Source: BOR_OPO019D_PO_LIST_BY_BU_DTL; PO data provided by Augusta University, Georgia Institute of Technology, Georgia State University and University of Georgia. | | |

NIGP categories 920 was used primarily by Augusta University with the Augusta University Medical Center, which is exempt from the State Purchasing Act since it is intergovernmental. NIGP categories 914 and 911 fall under the exemption given to construction and public works contracts. NIGP categories 493 and 475 are under the exemption given to technical instruments and supplies.

Do exempt POs meet the requirements of the GPM?

As part of the audit we reviewed 55 POs² classified as exempt to determine if the PO met the requirements of the GPM. For exempt POs, section 6.3.1.2 (Table 6.6) of the GPM requires the “specific exemption being claimed must be identified in the PO comment field.” We found only 20 of the 55 POs (36%) reviewed identified the specific exemption. Of the 35 POs that did not identify the exemption:

- 28 of the POs used an exempt NIGP code, so although no comment was added to the PO, the NIGP codes used helped explain the exempt status of the PO
- Five POs were for technical instruments
- Two POs should have been coded as IGA for intergovernmental,

Are exempt POs issued for non-exempt purchases?

We looked at exempt POs at both the enterprise and individual PO level. At the enterprise level, exempt POs with the highest dollar amounts (summarized by non-exempt NIGP codes in **Table 3**) were exempt because they were for public works construction, covered in sections 1.2.1.2 and 1.3.6.1 of the GPM. We found some of the POs were for services provided by a non-profit, which is covered in section 1.2.2 (Table 1.4) of the GPM. We also found POs issued for the purchase of technical instruments, which is covered in section 1.2.3.2 (Table 1.6) of the GPM.

At the individual PO level, we reviewed 55 exempt POs to determine if the POs were issued for non-exempt purchases. We found the POs were for exempt purchases. Two POs should have been coded as intergovernmental or IGA; however, intergovernmental is an exemption category, covered in section 1.2.2 (Table 1.4) of the GPM.

Exempt POs and the Statewide Purchase Order Policy

In the final section of this audit, we looked at exempt POs and how they might be impacted by the Statewide Purchase Order Policy (rev. 07/01/2017) issued by the State Accounting Office (SAO). This policy removes the requirement for entities to create a purchase order for following types of payments:

- Attorney and legal related payments, as such procurements are prescribed to the Department of Law via OCGA §45-15-34
- Benefit payments made directly to recipients

² The sample was comprised of at least two POs from each USG entity summarized in Table 1. Thirty-five of the 55 POs came from these 10 USG entities. The remaining 20 POs were randomly selected.

- Intergovernmental agreements/payments (e.g., GTA bills, Risk Management premiums, HRA assessments, etc.)
- Membership dues and/or subscriptions
- Payroll and associated tax and benefit payments
- Postage and shipping
- Real estate rental/lease payments
- Registration fees
- Sales and Use tax payments
- Travel expense reimbursements
- Utilities (e.g., electricity, telephone land lines, cell phone charges, etc.)
- WEX and ARI payments

Our review found that slightly more than 15% of the total amount of exempt POs was for intergovernmental agreements and utilities. A further 24% of the total amount of POs was for real estate rental or lease payments (see NIGP category 971 in **Table 5** above).

Other issues noted

The audit also identified two issues with exempt POs, which are described below.

There were 34 inactive NIGP codes used on exempt POs. Inactive NIGP codes were referenced on 103 PO lines totaling \$2.4 million. The inactive codes were on 99 POs issued by USG entities. These NIGP codes were inactive as of January 1, 2016. Of the 34 inactive NIGP codes use, six were previously designated as exempt. These inactive codes and the codes, which should have been used, are summarized below in **Table 7**. Many of the inactive NIGP codes were only used once or twice.

Table 7
Summary of Inactive NIGP Codes Used on Exempt POs

| Inactive NIGP code used | NIGP code which should have been used (a) | Status of NIGP code when it was active (b) | Number of times the inactive NIGP code was used |
|-------------------------|--|--|---|
| 03187 | 03155 | Non-Exempt | 20 |
| 17566 | 17567 | Non-Exempt | 1 |
| 18066 | 18072 | Non-Exempt | 2 |
| 28596 | 20767 | Non-Exempt | 1 |
| 36067 | 36065 | Non-Exempt | 1 |
| 45035 | 45035 | Non-Exempt | 1 |
| 54075 | 15034 | Non-Exempt | 2 |
| 57812 | 20052 | Non-Exempt | 4 |
| 57831 | 57883 | Non-Exempt | 1 |
| 57847 | 25738 | Non-Exempt | 1 |
| 57854 | 57883 | Non-Exempt | 1 |
| 57858 | 36027 | Non-Exempt | 1 |
| 57874 | 57876 | Non-Exempt | 4 |
| 66524 | 48505 | Non-Exempt | 1 |
| 66554 | 08030 | Non-Exempt | 2 |
| 84546 | 84584 | Exempt | 1 |
| 90625 | No replacement code specified. Codes in the NIGP category 906 Architectural Services, Professional would be appropriate. | Exempt | 4 |

| | | | |
|--|--|------------|----|
| 91458 | 91457 | Non-Exempt | 1 |
| 91479 | 91457 | Non-Exempt | 1 |
| 91815 | 90607 | Exempt | 7 |
| 91820 | 91821 | Non-Exempt | 14 |
| 91842 | 90740 | Exempt | 10 |
| 91885 | 91865 | Non-Exempt | 1 |
| 92533 | No replacement code specified. Codes in the NIGP category 925 Engineering Services, Professional would be appropriate. | Exempt | 1 |
| 96157 | 91509 | Non-Exempt | 1 |
| 96167 | 96146 | Exempt | 18 |
| 96178 | 95892 | Non-Exempt | 7 |
| 96182 | 96286 | Non-Exempt | 1 |
| 96208 | 96168 | Non-Exempt | 2 |
| 96234 | 96260 | Non-Exempt | 1 |
| 96264 | 96126 | Non-Exempt | 1 |
| 96265 | 99046 | Non-Exempt | 2 |
| 96387 | 96288 | Non-Exempt | 14 |
| 98803 | 90917 | Non-Exempt | 3 |
| Notes | | | |
| (a) The correct NIGP code is referenced here: https://ssl.doas.state.ga.us/gpr/loadNigpSearch | | | |
| (b) Inactive exempt NIGP codes can be found here: http://doas.ga.gov/assets/State%20Purchasing/NEADocumentLibrary/NIGPExemptList.pdf | | | |

There were statewide contract (SWC) numbers referenced on exempt POs. These contracts were cited on 272 PO lines totaling \$289,971. These contract IDs were on 117 POs issued by three USG entities. The purchase type code used and the purchase type code, which should have been used are summarized in **Table 8**.

Table 8
Incorrect Use of the Exempt Purchase Type Code

| Issue | Purchase type code used | Purchase type code which should have been used | PO Lines | PO amount |
|-------------------|--------------------------------|---|-----------------|------------------|
| SWC contract used | EXM | SWCC | 219 | \$87,871 |
| SWC contract used | EXM | SWCM | 53 | \$202,100 |

There were 12 invalid NIGP codes used on exempt POs. Invalid NIGP codes were referenced on 265 PO lines totaling \$2.1 million. The invalid codes were on 186 POs issued by two USG entities., which were not valid NIGP codes. Some of the invalid codes were transposition errors, where two digits were reversed, and others appeared to be data entry errors, where the invalid code was one digit off from the correct code. One entity used codes which were not part of NIGP's coding system. Code 91900, for example, is an internal accounting code created to track reimbursed expenses. This code was used on exempt POs since the professional service provided was exempt. These reimbursed expenses were recorded on the PO as a separate line, so accounting could distinguish the reimbursable expense from the payment for service since this information is needed for 1099 reporting. These invalid codes and the codes, which should have been used, are summarized below in **Table 9**.

Table 9
Summary of Invalid NIGP Codes Used on Exempt POs

| Invalid NIGP code used | NIGP code which should have been used | Number of times the invalid NIGP code was used |
|-------------------------------|--|---|
| 35.14 | 96286 | 1 |
| 11915 | 11512 | 5 |
| 29680 | 18072 | 1 |
| 40972 | 49072 | 1 |
| 91900 | This code was used with the NIGP codes: 96161 (3 times), 91832 (2 times), and 91838 (2 times). This code was used to account for payments made to consultants for reimbursable expenses. The code used to categorize the service provided should have been used. | 7 |
| 95286 | 96286 | 1 |
| 96373 | 93673 | 1 |
| 96786 | 96286 | 1 |
| 98286 | 96286 | 1 |
| 99900 | This code was used for non-employee travel expenses. Codes under the 993 NIGP category should have been used. | 230 |
| 99902 | This code was used for travel expenses. Codes under the 993 NIGP category should have been used. | 12 |
| 99903 | This code was used with the NIGP codes: 96130 and 91838. This code was used to account for payments made to non-employees for reimbursable expenses. The code used to categorize the service provided should have been used. | 2 |

Recommendations

1. CUPOs are reminded of the requirement in Section 6.3.1.3 of the GPM that states “for all purchases identified as exempt, the reason for exemption must be identified in the [purchase order] comments field.” This is especially important when a non-exempt NIGP code has been used.
2. USG entities should periodically review their exempt PO activity to ensure that local procedures and practices remain consistent and compliant with the practices permitted by the State Purchasing Act and all parts of section 1.2 of the GPM. This review should include analyzing existing long-term purchasing practices and relationships and allow the state entity to quickly identify the nature of the exemptions being claimed and the section of the GPM being applied.
3. CUPOs are requested to review the Statewide Purchase Order Policy (rev. 07/01/2017). If your internal processes require you to complete a PO to encumber funds for intergovernmental agreements, please use the PO type IGA. SPD policies or processes do not require the creation of POs for any of the payments listed in the SAO policy.