



**To:** APOs and CUPOs

**AUD #23-02**

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**From:** Audits, State Purchasing Division (SPD)

**Date:** August 23, 2022

**Re:** Fiscal Years 2019, 2020 and 2021 audit of Statewide Contract Waiver Requests

### **Background**

According to Section 1.3 of the *Georgia Procurement Manual (GPM)*, all purchases made by state entities that are subject to the State Purchasing Act must be made via mandatory statewide contracts. However, there may arise a situation when such factors as ability to pay, cost, delivery time or compatibility require purchases from other than mandatory statewide contracts. Section 1.3.1.1 of the GPM allows the state entity to submit a request for a waiver from a mandatory statewide contract. State entities are not required to request a waiver from a convenience statewide contract. It is important to note contract waiver requests, when approved, “do not relieve the state entities of any bidding requirements and the state entity must comply with all stipulations included within SPD’s approved waiver.”

### **Audit Objectives**

1. How many contract waiver requests are submitted by fiscal year, state entity and contract?
2. How many waiver requests are approved, not approved, and not required?
3. What is the dollar value of waiver requests, by state entity and contract?
4. Where applicable, was an approved waiver compliant with bidding requirements?
5. Does the contract waiver process, via the online form, adequately capture the required elements?

### **Conclusion**

Overall, we did not find any major issues with the submission and processing of statewide contract waiver requests. For the most part, state entities are correctly using and submitting the waiver requests as required by the GPM.

### **Fiscal year 2019:**

Our audit identified 169 tickets in the customer relationship management system (CRM) were related to statewide contract waiver requests.

Of these 169 statewide contract waiver request tickets we found:

- 157 tickets (93%) totaling \$6.9 million were submitted and processed as waiver requests. Of these 157 waiver requests:
  - 104 (66%) were approved
  - 26 (17%) were not approved

- 17 (11%) waiver requests were not needed. These are described in greater detail below (please see 1a through 1f).
- six (4%) were rescinded by the state entity.
- four (2%) have a resolution that is not able to be determined from the available information.
- 12 tickets (7%) were duplicate tickets where multiple tickets were submitted for the same request.

Other issues noted in the review of these 169 statewide contract waiver request tickets:

1. There were 17 waiver requests, which were not needed. These waivers were not needed for the following reasons:
  - a. Five (29%) of the requests, the item or service needed was not on the mandatory statewide contract.
  - b. Four (24%) of the requests were related to a convenience statewide contract. Waivers are not needed for convenience contracts.
  - c. Three (18%) of the requests were related to products sold by Georgia Enterprises for Products and Services (GEPS). GEPS is a mandatory source, and no waivers are granted.
  - d. Two (12%) of the requests were for items that were already available from the respective mandatory statewide contract.
  - e. Two (12%) of the requests were related to a purchase, which had already been made. The purchase was made before the waiver had been submitted.
  - f. One (6%) request was from an authority not under the purview of SPD.
2. Sixteen (9%) of the 169 tickets had an incorrect final status:
  - a. Eight (50%) of the requests were listed as “closed” but should have been shown as “approved”.
  - b. Seven (44%) of the requests were listed as “closed” but should have been shown as “not approved”.
  - c. One (6%) request was listed as “not approved” and should have been shown as “closed”.
3. We reviewed a sample of five approved waiver requests of \$100,000 or more to determine if the subsequent purchase(s) were compliant with bidding requirements. Of the 5 approved requests:
  - a. Three waiver requests were linked to a posting or solicitation on the Georgia Procurement Registry (GPR): one RFP and two sole source postings.
  - b. One waiver request involved a state entity’s request was to continue using their own state entity contract until a statewide contract was awarded
  - c. On waiver request involved a state entity, which rented the items required instead of purchasing them. The state entity was able to lease these items for \$11,000 whereas purchasing them would have cost 190,000. No solicitation was needed since the lease amount was less than \$25,000.

In fiscal year 2019, we found 46 state entities requested 157 statewide contract waivers totaling \$6.8 million. A breakdown of waiver requests by state entity type is shown below in **Table 1**.

**Table 1**  
**Fiscal Year 2019 Statewide Contract Waivers**  
**By State Entity Type**

<b>State Entity Type</b>	<b>Number of Waivers</b>	<b>Waiver Amount</b>
USG Entity	108	\$5,680,935
TGM Entity	49	\$1,205,302
<b>Total</b>	<b>157</b>	<b>\$6,886,237</b>

Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)

The top 11 state entities that submitted statewide contract waiver requests accounted for 59% of total requests and 68% of the total amount requested. These entities are shown in **Table 2**.

**Table 2**

**Fiscal Year 2019 Statewide Contract Waivers**  
**By Top State Entities**

<b>State Entity</b>	<b>Number of Waivers</b>	<b>Waiver Amount</b>
University of Georgia	27	\$1,445,697
University of West Georgia	13	\$116,940
Georgia State University	10	\$27,593
Middle Georgia State University	8	\$67,793
Georgia Southern University	6	\$57,507
Kennesaw State University	5	\$2,584,591
Board of Regents	5	\$83,245
Natural Resources, Department of	5	\$77,890
University of North Georgia	5	\$30,241
Valdosta State University	4	\$122,273
Revenue, Department of	4	\$56,343

Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)

The 157 waiver requests were distributed across 30 different statewide contracts. The top seven contracts for which waivers were requested are shown in **Table 3**.

**Table 3**  
**Fiscal Year 2019 Statewide Contract Waivers**  
**By Top Contracts**

<b>Contract Number</b>	<b>Contract Description</b>	<b>Number of Waivers</b>	<b>Waiver Amount</b>
99999-001-SPD0000100	Furniture	69	\$414,752
99999-001-SPD0000072	All-Terrain Vehicles	14	\$1,018,575
99999-001-SPD0000136	Temporary Staffing Services	10	\$511,750
99999-SPD-SPD0000060	Software	7	\$87,870
99999-SPD-SPD0000137	Printers, MFPs	6	\$49,064
99999-SPD-SPD0000119	Lamps, Ballasts, Fixtures	4	\$24,256
99999-SPD-ES40199376IS	In-State Car Rental	4	\$1,819

Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)  
Note: There were a further eight contracts that had three waiver requests each.

**Fiscal year 2020:**

Our audit identified 123 tickets in the CRM were related to statewide contract waiver requests.

Of these 123 statewide contract waiver request tickets we found:

- 108 tickets (88%) totaling \$5.8 million were submitted and processed as waiver requests. Of these 108 waiver requests:
  - 77 (71%) were approved.
  - 15 (14%) were rescinded by the state entity.
  - 13 (12%) waiver requests were not needed. These are described in greater detail below (please see 1a through 1e).
  - three (3%) were not approved.
- 15 tickets (12%) were duplicate tickets where multiple tickets were submitted for the same request.

Other issues noted in the review of these 123 statewide contract waiver request tickets:

1. Of the 12 waiver requests that were not needed:
  - a. Six (46%) of the requests related to a convenience statewide contract. Waivers are not needed for convenience contracts.
  - b. Three (23%) of the requests were for items that were already available from the respective mandatory statewide contract(s).
  - c. Two (15%) of the requests were for an item or service that was not on the mandatory statewide contract.
  - d. One (8%) request was for an expired mandatory statewide contract.
  - e. One (8%) request was for a product sold by GEPS. GEPS is a mandatory source, and no waivers are granted.
2. Eleven (9%) of the 123 tickets had an incorrect final status:
  - a. Six (55%) of the requests were listed as “approved” but should have been shown as “closed”.
  - b. Four (36%) of the requests were listed as “not approved” but should have been shown as “closed”.
  - c. One (9%) request was listed as “closed” and should have been shown as “approved”.
3. We reviewed a sample of nine approved waiver requests of \$100,000 or more to determine if the subsequent purchase(s) were compliant with bidding requirements. Of the 9 approved requests:
  - a. Two waiver requests were linked to sole source posting on the GPR.
  - b. Seven waiver requests we were unable to locate a subsequent posting
    - i. Two waiver requests involved a state entity using an exempt source of supply.
    - ii. Two waiver requests involved using a General Services Administration (GSA) contract. The GSA schedule 84 is offered as statewide convenience contract for law enforcement equipment. The state entity used this statewide convenience contract since they were dissatisfied with the supplier on the statewide mandatory security services contract.
    - iii. In one waiver request, a state entity did not want to use the statewide contract for administrative vehicles and instead purchased vehicles from another state entity.

Doing so allowed the state entity to save \$9,265 since the vehicles were initially purchased through a GSA contract, which offered better prices than the statewide contract.

- iv. In one waiver request, a state entity needed police pursuit vehicles and the supplier on the statewide contract could not provide them for months. The state entity issued an open market PO for \$66,918 for three police vehicles to the only supplier who could provide them by the timeframe needed.
- v. In one waiver request, a state entity subsequently used the statewide contract supplier, despite filing a waiver.

In fiscal year 2020, we found that 48 state entities requested the 108 statewide contract waivers totaling \$5.8 million. A breakdown of waiver requests by state entity type is shown below in **Table 4**.

**Table 4**  
**Fiscal Year 2020 Statewide Contract Waivers**  
**By State Entity Type**

State Entity Type	Number of Waivers	Waiver Amount
USG Entity	64	\$3,855,466
TGM Entity	44	\$1,954,612
<b>Total</b>	<b>108</b>	<b>\$5,810,078</b>
Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)		

The top 11 state entities that submitted statewide contract waiver requests accounted for 55% of total requests and 66% of the total amount requested. These entities are shown in **Table 5**.

**Table 5**  
**Fiscal Year 2020 Statewide Contract Waivers**  
**By Top State Entities**

State Entity	Number of Waivers	Waiver Amount
University of Georgia	14	\$716,616
Kennesaw State University	11	\$1,146,374
Georgia State University	6	\$191,957
Administrative Services, Department of	5	\$34,974
Abraham Baldwin Agricultural College	4	\$1,395,803
University of North Georgia	4	\$16,756
Juvenile Justice, Department of	3	\$117,150
Natural Resources, Department of	3	\$90,000
Community Health, Department of	3	\$88,533
Georgia Gwinnett College	3	\$12,205
Southern Crescent Technical College	3	\$1,489
Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)		

The 108 waiver requests were distributed across 28 different statewide contracts. The top 12 contracts for which waivers were requested are shown in **Table 6**.

**Table 6  
Fiscal Year 2020 Statewide Contract Waivers  
By Top Contracts**

<b>Contract Number</b>	<b>Contract Description</b>	<b>Number of Waivers</b>	<b>Waiver Amount</b>
99999-001-SPD0000100	Furniture	34	\$238,353
99999-SPD-SPD0000060	Software	11	\$153,012
SWC70768	Temporary IT Staffing	7	\$651,467
99999-SPD-ES40199376CR	Capitol Hill Airport Car Rental	6	\$6,737
99999-001-SPD0000136	Temporary Staffing Services	5	\$812,600
99999-001-SPD0000102	Tractors & Mowers	4	\$1,600,898
99999-SPD-ES40199373	Administrative Vehicles	4	\$280,734
99999-001-SPD0000139	Enterprise Infrastructure	4	\$209,250
99999-SPD-SPD0000151	Hospitality Supplies	3	\$585,091
99999-001-SPD0000095	Security Service, Armed & Unarmed	3	\$490,000
99999-SPD-SPD0000054	Industrial, Medical & Special Gases	3	\$42,200
99999-SPD-SPD0000160	Background Investigative Reports	3	\$27,500
99999-SPD-SPD0000119	Lamps, Ballasts, Fixtures	3	\$5,311
Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)			

**Fiscal year 2021:**

Our audit identified 89 tickets in the customer relationship management system (CRM) that were related to statewide contract waiver requests.

Of these 89 statewide contract waiver request tickets we found:

- 69 tickets (78%) totaling \$11.9 million were submitted and processed as waiver requests. Of these 69 waiver requests:
  - 44 (63%) were approved.
  - 18 (22%) waiver requests were not needed. These are described in greater detail below (please see 1a through 1g).
  - four (6%) were not approved.
  - three (4%) were rescinded by the state entity.
- 20 tickets (22%) were duplicate tickets where multiple tickets were submitted for the same request.

Other issues noted in the review of these 89 statewide contract waiver request tickets:

1. Of the 18 waiver requests that were not needed:
  - a. Seven (39%) of the requests related to a convenience statewide contract. Waivers are not needed for convenience contracts.
  - b. Three (17%) of the requests were related to products sold by GEPS. GEPS is a mandatory source, and no waivers are granted.
  - c. Three (17%) of the requests were from an authority not under the purview of SPD
  - c. Two (11%) of the requests were for an item or service that was not on the mandatory statewide contract

- d. One (6%) request was for items or services that were already available from the respective mandatory statewide contract.
  - e. One (6%) request was for an expired mandatory statewide contract.
  - f. One (6%) request the entity had already posted a Sole Source
2. Three (3%) of the 89 tickets had an incorrect final status, where the status was listed as “closed” instead of “approved”.
3. We reviewed a sample of 10 approved waiver requests of \$100,000 or more to determine if the subsequent purchase(s) were compliant with bidding requirements. Of the 11 approved requests:
- a. Six waiver requests were linked to a posting or solicitation on the GPR:
  - b. One waiver request, the state entity made an emergency purchase
  - c. One waiver request, the state entity invited existing statewide contract suppliers on the printers, MFPs, and related technologies contract to “bid” on a scope of work to do determine which supplier offered the best price
  - d. One waiver request, the state entity used a GSA contract.
  - e. One waiver request, the state entity did a piggyback purchase on another state entity’s contract.

In fiscal year 2021, we found that 34 state entities requested the 69 statewide contract waivers totaling \$11.9 million. A breakdown of waiver requests by state entity type is shown below in **Table 7**.

**Table 7**  
**Fiscal Year 2021 Statewide Contract Waivers**  
**By Top Ten State Entities**

<b>State Entity Type</b>	<b>Number of Waivers</b>	<b>Waiver Amount</b>
TGM Entity	18	\$5,783,167
USG Entity	32	\$3,629,132
Local Entity	3	\$2,488,829
<b>Total</b>	<b>69</b>	<b>\$11,901,128</b>
Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)		

The top ten state entities that submitted statewide contract waiver requests accounted for 55% of total requests but only 21% of the total amount requested. These entities are shown in **Table 8**.

**Table 8  
Fiscal Year 2021 Statewide Contract Waivers  
By Top Ten State Entities**

<b>State Entity</b>	<b>Number of Waivers</b>	<b>Waiver Amount</b>
Board of Regents	5	\$277,905
North Georgia Technical College	5	\$18,555
Augusta University	4	\$1,206,298
University of Georgia	4	\$348,087
Kennesaw State University	4	\$186,739
Office of Planning and Budget	4	\$167,941
Georgia Bureau of Investigation	3	\$215,000
Georgia Southern University	3	\$30,949
Administrative Services, Department of	3	\$16,492
Juvenile Justice, Department of	3	\$16,490
Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)		

The 69 waiver requests were distributed across 26 different statewide contracts. The top six contracts for which waivers were requested are shown in **Table 9**.

**Table 9  
Fiscal Year 2021 Statewide Contract Waivers  
By Top Contracts**

<b>Contract Number</b>	<b>Contract Description</b>	<b>Number of Waivers</b>	<b>Waiver Amount</b>
99999-SPD-SPD0000060	Software	15	\$1,400,455
99999-001-SPD0000102	Tractors & Mowers	8	\$87,751
99999-001-SPD0000100	Furniture	8	\$1,574,855
99999-001-SPD0000086	Expedited Delivery Services	3	\$47,000
99999-SPD-SPD0000137	Printers, MFPs	3	\$1,496,738
99999-SPD-ES40199373	Administrative Vehicles	3	\$777,351
Source: Statewide Contract Waiver Dashboard data obtained from RightNow (ga)			

**Conclusion**

Of the 334 unduplicated waiver requests in fiscal years 2019 through 2021:

- 225 (67%) were approved;
- 48 (14%) were not needed (the most common reason were waivers for convenience contracts);
- 33 (10%) were not approved;
- 24 (7%) were rescinded; and,
- 4 (1%) we could not determine the status.

The statewide contracts, which had the most waiver requests in fiscal years 2019 through 2021, were:

- furniture contract with 112 (34%);
- software contract with 33 (10%); and,
- all terrain vehicles, utility vehicles, and golf carts contract with 18 (5%).

The top three state entities with the most waiver requests in fiscal years 2019 through 2021, were:

- the University of Georgia with 45 (13%) waiver requests,
- Kennesaw State University with 20 (6%), and
- Georgia State University with 18 (5%).

## Recommendations

1. SPD should review the process described in Section 1.3.1.1 of the GPM for statewide contract waiver requests and consider the following revisions:
  - a. For purchases of \$25,000 or more (single or cumulative repetitive), the state entity must indicate how it will satisfy competitive bidding requirements if the waiver is approved.
2. The online process for submitting statewide contract waiver requests could be modified as follows:
  - a. Remove the dropdown list. Add a link to a current list of mandatory statewide contracts (please see recommendation 2b below).
  - b. The Statewide Contract Index, the link referenced on page 3 of the statewide contract waiver quick reference guide should be replaced with a link, which displays current mandatory statewide contracts. The Statewide Contract Index takes the user to Team Georgia Marketplace where the user can search for contracts. This search can be done outside of the waiver request form and includes convenience contracts, which do not require a waiver.
  - c. SPD should consider revising the statewide contract waiver form as follows:
    - i. Remove the box to check “I am unable to locate my Contract”
    - ii. Add contract name (as a fillable field)
    - iii. Add contract ID (as a fillable field)
    - iv. Add Supplier(s) name on the statewide contract (as a fillable field)
  - d. It should be mandatory to attach documentation, which shows the mandatory statewide contract supplier and how it was determined the required goods or services are not available through the mandatory contract.
  - e. State entities should be required to indicate the name(s) of the off-contract supplier(s) they have contacted and the type of purchase (agency contract, open market purchase, consortia, etc.) to assist Contract Management in their decision-making.
3. To promote the best use of the process across the enterprise, SPD should offer a webinar on the statewide contract waiver policy and process. This should include input from the Contract Management team on the best practices when considering and submitting a waiver request. This webinar should be offered before the changes to the waiver form are made effective.