



To: APOs

AUD #20-07

CC: Lisa Eason, Deputy Commissioner, State Purchasing Division
Mary Chapman, Director of Policy, Training and Outreach, State Purchasing Division

From: Audits, State Purchasing Division

Date: March 30, 2020

Re: Fiscal Year 2019 audit of Exempt Purchase Orders (POs) issued by Team Georgia Marketplace™ (TGM) entities

Conclusion

We did not find any major issues with exempt purchase orders. Our audit identified 12,983 POs totaling \$422.1 million classified as exempt in fiscal year 2019. Exempt POs represented less than 10% of the POs issued in fiscal year 2019 by TGM entities: 7.1% of the 181,930 POs were classified as exempt, which amounted to 6.3% of the \$6.7 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 67% 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 218 of the 542 NIGP codes on the exempt NIGP code list were used on exempt POs. In contrast, 594 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.

These are explained in greater detail on the next page.

Identity of the purchasing entity

As an example of an exemption based on the identity of purchasing entity, the Georgia Department of Transportation is exempt from the State Purchasing Act for contracts for construction, public works and services ancillary to the construction and maintenance of a public road. In this instance, 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 agencies 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 55 agencies used the exempt PO type in fiscal year 2019. The exempt POs issued by the top 12 agencies accounted for 90% of the total dollar amount of exempt POs issued in fiscal year 2019 as summarize in **Table 1**. The Georgia Department of Human Services accounted for nearly two-thirds of the total dollar amount of POs issued by agencies in fiscal year 2019.

**Table 1
Exempt PO Amounts by Agency**

State Entity	PO Amount	Percent
Human Services, Department of	\$261,385,307	62%
Corrections, Department of	\$37,317,222	9%
Georgia Bureau of Investigation	\$14,403,235	3%
Public Telecommunications Commission	\$9,730,208	2%
Community Health, Department of	\$9,355,713	2%
Technical College System of Georgia	\$8,097,468	2%
Transportation, Department of	\$8,050,029	2%

Public Health, Department of	\$7,655,592	2%
Economic Development, Department of	\$7,132,582	2%
Public Safety, Department of	\$5,555,744	1%
DBHDD	\$5,138,017	1%
Natural Resources, Department of	\$5,086,831	1%
Source: PeopleSoft query TGM_oEPO019D_PO_SPEND_BY_DATE		

Several of the state entities in **Table 1** conduct procurements, which are exempt from the State Purchasing Act, such as:

- The Georgia Department of Human Services is exempt for child placement services;
- The Georgia Public Telecommunications Commission is exempt for contracts for services, construction, and public works;
- The Georgia Department of Community Health is exempt for the purchase of health insurance for state employees and public-school teachers under the State Health Benefit Plan; and,
- The Georgia Department of Transportation is exempt for contracts for construction, public works and services ancillary to the construction and maintenance of a public road.

At the NIGP code level, the audit also identified that a PO coded as EXM was two 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	PO Amount	Number of Codes	Percent of Amount	Percent of Codes
Non-Exempt NIGP Code	\$281,452,877	594	67%	73%
Exempt NIGP Code	\$140,65,448	218	33%	27%
Source: PeopleSoft query TGM_oEPO019D_PO_SPEND_BY_DATE				

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 done by the Georgia Department of Human Services. The Georgia Department of Human Services issued \$255.7 million in exempt POs coded to non-exempt NIGP codes or 91% of all such POs issued by state entities.

Table 3 is a summary of the top 10 non-exempt NIGP codes used on exempt POs. The amount of exempt POs issued under these codes totaled \$236.3 million; of this amount, 99.999% was issued by the Georgia Department of Human Services. These POs had one or more of the following characteristics:

- Issued to non-profit entities or governmental entities;
- Were for services, which were exempt, but did not have an exempt NIGP code;
- Were related to a grant or public assistance program; or
- Cited an agency contract.

Despite not citing an exempt NIGP code, these POs appeared to be exempt from the State Purchasing Act, nonetheless. Last, it seems that the primary purpose of these POs was to encumber funds for budgetary purposes.

Table 3
PO Amount by Non-Exempt NIGP Codes

NIGP Code	Code Description	PO Amount	Percent
95243	Family and Social Services	\$126,280,624	30%
95295	Youth Care Services	\$49,481,157	12%
95240	Elderly Assistance Services	\$19,011,148	5%
95259	Human Services (Not Otherwise Classified)	\$12,130,640	3%
96240	Food Distribution Services	\$11,241,369	3%
95284	Supplemental Food Services	\$5,970,256	1%
95294	Transportation Services: Elderly, etc.	\$5,234,843	1%
92486	Vocational Training, All Types	\$3,766,467	<1%
92418	Educational Services, Alternative	\$3,159,625	<1%
95245	Food Stamps and Coupons	\$3,157,319	<1%
Source: PeopleSoft query TGM_oEPO019D_PO_SPEND_BY_DATE			

In contrast to the above data, for exempt NIGP codes, the top ten exempt NIGP codes used on POs account for only 21% of the total amount of exempt POs issued as shown in **Table 4**. Also, in contrast these NIGP codes were used by 47 agencies as opposed to one agency¹, which was the case with the non-exempt NIGP codes.

Table 4
PO Amount by Exempt NIGP Codes

NIGP Code	Code Description	PO Amount	Percent
91878	Medical Consulting	\$33,043,312	8%
95221	Counseling Services	\$12,956,618	3%
97145	Office Space Rental or Lease	\$8,532,184	2%
91804	Accounting, Auditing, Budget Consulting	\$6,681,546	2%
96377	Sponsorships, All Types	\$5,859,224	1%
91504	Advertising Services, Outdoor Billboard, etc.	\$5,572,362	1%
91503	Advertising and Public Relations	\$5,480,722	1%
90740	Engineering Services, Non-Licensed	\$5,160,363	1%
91838	Education and Training Consulting	\$4,344,326	1%
95635	Internet Database Subscriptions	\$2,774,874	<1%
Source: PeopleSoft query TGM_oEPO019D_PO_SPEND_BY_DATE			

At the three-digit NIGP category level – exempt POs were coded to 164 three-digit NIGP categories. Of these 164 three-digit categories:

- 113 three-digit categories contained only non-exempt NIGP codes;
- 48 three-digit categories contained both exempt and non-exempt NIGP codes; and,

¹ The Georgia Department of Human Services comprised 99.999% of the exempt POs issued with the codes summarized in Table 3. The Georgia Department of Community Supervision and the Atlanta Technical College also cited these NIGP codes on their exempt POs but to a much lesser extent.

- 3 three-digit categories contained only exempt NIGP codes.

Table 5 provides further detail on the top three-digit NIGP 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
952	Human Services	\$12,956,618	\$233,208,401	\$246,165,019
918	Consulting Services	\$45,812,007	\$1,924,000	\$47,736,007
963	Miscellaneous Fees, Dues, Permits, Registrations etc.	\$18,142,017	\$2,990	\$18,145,007
915	Communications and Media Related Services	\$15,903,043	\$1,715,658	\$17,618,701
962	Miscellaneous Services, No. 2 (Not Otherwise Classified)	\$21,092	\$12,912,394	\$12,933,486
971	Real Property, Rental or Lease	\$10,477,239	\$283,467	\$10,760,706
924	Educational & Training Services	\$0	\$9,364,018	\$9,364,018
907	Architectural Services, Non-Professional	\$8,438,996	\$0	\$8,438,996
961	Miscellaneous Services, No. 1 (Not Otherwise Classified)	\$5,079,798	\$3,157,416	\$8,237,215
715	Publications, Audiovisual Materials, Books, Textbooks etc.	\$3,943,772	\$224,982	\$4,168,754
785	School Equipment, Teaching Aids and Supplies	\$2,400,453	\$1,483,686	\$3,884,139
Source: PeopleSoft query TGM_oEPO019D_PO_SPEND_BY_DATE				

Additional three-digit categories where non-exempt NIGP codes were used amounts in excess of \$500,000 are shown below in **Table 6**.

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

NIGP Category	Category Description	PO Amount
968	Public Works and Related Services	\$2,353,884
940	Equipment Maintenance and Repair Services for Railroads	\$1,603,310
926	Environmental and Ecological Services	\$1,573,264
917	Contracted Services and Rentals, Higher Education	\$1,425,099
948	Health Related Services	\$1,178,958
920	Data Processing Programming and Software Services	\$1,002,647
912	Construction Services, General	\$762,531
953	Insurance and Insurance Services	\$550,621
393	Foods: Staple Grocery and Grocer's Miscellaneous Items	\$510,663
Source: PeopleSoft query TGM_oEPO019D_PO_SPEND_BY_DATE		

NIGP categories 968, 926, and 912 were primarily used on POs issued by the Georgia Department of Transportation, which is exempt from the State Purchasing Act for contracts for construction, public works and services ancillary to the construction and maintenance of a public road. NIGP categories 940 and 920 were primarily used on POs issued by the Georgia Public Telecommunications Commission, which is exempt for contracts for services, construction, and public works. The

remaining NIGP categories were exempt because of the identity of the provider/seller or what was being procured was exempt.

Do exempt POs meet the requirements of the GPM?

As part of the audit we reviewed 60 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 10 of the 60 (17%) POs reviewed identified the specific exemption. Of the 50 POs that did not identify the exemption; we found:

- Five (10%) of the POs had documentation (e.g. contract, quote, invoice) uploaded to TGM. Although no comment was added to the PO, the uploaded documentation helped explain the exempt status of the PO in these instances.
- Thirty-four (68%) of the POs used an exempt NIGP code. Although no comment was added to the PO, the NIGP codes used helped explain the exempt status of the PO in these instances.
- Eleven (22%) of the POs used a non-exempt NIGP code.
 - Nine of the POs the exemption was clearly discernable.
 - Two POs were miscoded as exempt. One PO should have been coded as a sole source and the other PO was for a product sold under a mandatory contract and the agency did not obtain a waiver not to use the statewide contract.

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 NIGP codes in **Table 3**) were exempt because they were issued to a non-profit entity or another governmental entity. Transactions of this type are exempt under the State Purchasing Act. This is covered in section 1.2.2 of the GPM under the identity of the provider/supplier. POs under these NIGP codes accounted for 67% of exempt POs.

At the individual PO level, we reviewed 60 exempt POs to determine if the POs were issued for non-exempt purchases. We found that 58 of the 60 (97%) POs were for exempt purchases. Two POs did not appear to be for exempt purchases.

Did the exempt POs need to be issued per 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. 07/01/2019). This policy removes the requirement for entities to create a PO 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
- 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

² The sample was comprised of at least two POs from each state entity summarized in Table 1. Fifty of the 60 POs came from these 12 state entities. The remaining 10 POs were randomly selected.

- 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 24% of the total amount of exempt POs was for intergovernmental agreements and utilities. A further 3% of the total amount of POs was for real estate rental or lease payments (see NIGP three-digit category 971 in **Table 5** above).

Other issues noted

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

There were 17 inactive NIGP codes used on exempt POs. Inactive NIGP codes were referenced on 103 PO lines totaling \$1.2 million. The inactive codes were on 53 POs issued by 21 state agencies. These NIGP codes were inactive as of January 1, 2016. Of the 17 inactive NIGP codes use, seven 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
57831	57883	Non-Exempt	1
84512	84549	Exempt	2
89574	89572	Non-Exempt	20
90625	No replacement code specified. Codes in the NIGP category 906 Architectural Services, Professional would be appropriate.	Exempt	3
91815	90607	Exempt	1
91842	90740	Exempt	23
91866	91865	Non-Exempt	1
92533	No replacement code specified. Codes in the NIGP category 925 Engineering Services, Professional would be appropriate.	Exempt	8
96167	96146	Exempt	30
96179	91821	Non-Exempt	2
96213	96115	Non-Exempt	5
96217	96113	Non-Exempt	1
96234	96260	Non-Exempt	1
96265	99046	Non-Exempt	1
96279	96166	Non-Exempt	1
96289	96286	Non-Exempt	1
96387	96288	Exempt	2

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 and references to Georgia Correctional Industries (GCI) and Georgia Enterprises for Products and Services (GEPS) contracts on exempt POs. These contracts were cited on 138 PO lines totaling \$271,020. These contract IDs were on 39 POs issued by 12 state agencies. 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	99	\$151,628
SWC contract used	EXM	SWCM	34	\$117,903
Purchased from GCI	EXM	IGA	2	\$143
Purchased from GEPS	EXM	MAN	3	\$1,346

Table 6.6 of the GPM summarizes the different purchase type codes and when they should be used. The purchase type of EXM is for when the competitive bidding requirements have been waived or to designate purchases, which are exempt from the State Purchasing Act. Hence, the purchase type EXM should be used on POs, which meet these circumstances. POs issued to suppliers who are on a statewide contract should be designated with the purchase type of SWCC for convenience contracts or SWCM for mandatory contracts.

When products are purchased from GCI the purchase type code is either IGA for intergovernmental agreement or MAN for statutory mandatory sources of supply if the product has been certified. In this instance the products purchased were not certified. When products are purchased from GEPS, the purchase code of MAN is used if the products are certified, if the products are not certified then the purchase type code of PRF for preferred is used. In these instances, the products were certified so the purchase type code of MAN should have been used.

Recommendations

1. APOs 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. State 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. APOs are requested to review the attached Statewide Purchase Order Policy (rev. 07/01/2019). 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.