



**To:** CUPOs

**AUD #20-08**

**CC:** Lisa Eason, Deputy Commissioner, State Purchasing Division  
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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 exempt<sup>1</sup> 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.

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<sup>1</sup> 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**

<b>State Entity</b>	<b>PO Amount</b>	<b>Percent</b>
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**

<b>NIGP Code</b>	<b>Code Description</b>	<b>PO Amount</b>	<b>Percent</b>
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**

<b>NIGP Category</b>	<b>Category Description</b>	<b>PO Amount Exempt</b>	<b>PO Amount Non-Exempt</b>	<b>Total PO Amount</b>
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**

<b>NIGP Category</b>	<b>Category Description</b>	<b>PO Amount</b>
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 POs<sup>2</sup> 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

<sup>2</sup> 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
<b>Notes</b>			
(a) The correct NIGP code is referenced here: <a href="https://ssl.doas.state.ga.us/gpr/loadNigpSearch">https://ssl.doas.state.ga.us/gpr/loadNigpSearch</a>			
(b) Inactive exempt NIGP codes can be found here: <a href="http://doas.ga.gov/assets/State%20Purchasing/NEADocumentLibrary/NIGPExemptList.pdf">http://doas.ga.gov/assets/State%20Purchasing/NEADocumentLibrary/NIGPExemptList.pdf</a>			

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**

<b>Issue</b>	<b>Purchase type code used</b>	<b>Purchase type code which should have been used</b>	<b>PO Lines</b>	<b>PO amount</b>
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**

<b>Invalid NIGP code used</b>	<b>NIGP code which should have been used</b>	<b>Number of times the invalid NIGP code was used</b>
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.