



To: APOs and CUPOs

AUD #24-22

CC: Jim Barnaby, Deputy Commissioner, State Purchasing Division
Mary Chapman, Deputy Division Director

From: Audits, State Purchasing Division

Date: October 19, 2023

Re: Audit of Exempt Purchases – POs issued in Fiscal Year 2023

Conclusion

Overall, we did not find any major issues with exempt purchase orders (POs); however, exempt POs that had a non-exempt NIGP (National Institute of Governmental Purchasing) code did not identify the specific exemption claimed in a PO comment field (in 46% of the POs sampled), as required by section 6.3.1.2. of the Georgia Procurement Manual (GPM). Exempt POs were issued for purchases that qualified as exempt under the State Purchasing Act and did not appear to be used to circumvent the bidding process. The audit team did identify some issues with NIGP codes and the use of the exempt PO type.

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 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:

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

These factors are explained in greater detail in the paragraphs below.

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.

The audit scope and methodology used in this audit are summarized in **Appendix A**.

Audit Summary

For fiscal year 2023, SPD Audits identified every PO coded as an exempt purchase across the enterprise with a dollar amount of \$100,000 or greater. This resulted in 1,300 POs that totaled \$977.2 million. These 1,300 POs represented 4% of all exempt POs for fiscal year 2023.

Audit Objectives

1. Do exempt POs meet the requirements of the GPM?
2. How many exempt POs use exempt NIGP codes?
3. How many exempt POs use other (non-code) exemptions?

As part of the audit, we reviewed POs 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 if the use of exempt NIGP codes is not applicable.” This requirement is also stated in section 6.3.1.3. of the GPM entitled Purchase Order Comments Field, which states: “For all purchases identified as exempt, the reason for exemption must be identified in the comments field.”

Audit Issues

In fiscal year 2023, 31,661 POs totaling \$1.3 billion were coded as exempt.¹ Of these POs, 1,300 POs were \$100,000 or more. These 1,300 POs totaled \$977.2 million, or 76% of all exempt POs issued in fiscal year 2023. SPD Audits reviewed 1,179² of these POs to determine if they met the requirements of the GPM. These 1,179 POs totaled \$940.8 million.

¹ Please see Appendix A for audit background, scope, and methodology.

² Due to our inability to access POs issued by the University of Georgia, the number of POs reviewed was reduced by 121 from 1,300 to 1,179. The University of Georgia issued 121 exempt POs totaling \$36.3 million, which were \$100,000 or more.

SPD Audits found that:

- 561 (48%) of the 1,179 POs sampled used an exempt NIGP code. The POs that had an exempt NIGP code totaled \$302.5 million (32%) of the \$940.8 million of POs reviewed. These POs appeared to be for exempt products or services.
- 618 (52%) POs sampled did not use an exempt NIGP code on the PO. These POs totaled \$638.4 million (68%) of the \$940.8 million of POs reviewed. SPD Audits reviewed these POs to determine why these POs were coded as exempt.

POs without an exempt NIGP Code

POs that do not use an exempt NIGP code are required to identify the specific exemption in the PO comments field (at the header or line level of the PO). In the audit sample, 331 (54%) of the 618 POs (that did not use an exempt NIGP code) had the exemption stated in the PO comments field. These POs totaled \$371.4 million (58%) of the \$638.4 million of POs reviewed without an exempt NIGP code. Of the 331 POs where a specific exemption was claimed, SPD Audits found the following.

Non-profit entity

230 (70%) of these POs claimed the “non-profit” exemption. Section 1.2.2. of the GPM allows non-profit entities to be exempt from the State Purchasing Act but for services only. The audit team reviewed these POs to determine if the non-profit provided services. Of the 230 POs, 227 used a services NIGP code, i.e., a NIGP code beginning with 9, to indicate a service was provided. Of the remaining three POs – two referenced a non-service NIGP code but were a result of an RFP, which used the NIGP code of 91579, which is for telecommunication services (not otherwise classified); the POs should have used this NIGP code. The remaining PO had the NIGP code field blank but was for Internet subscription services.

Technical Instruments

73 (22%) of these POs claimed the “technical instruments” exemption. These exemptions appeared to be for purchases of technical instruments and supplies. Technical instruments and supplies are exempt from competitive bidding requirements in section 1.2.3.2. of the GPM.

Other exemptions

19 (6%) POs claimed other types of exemption. The most common exempt types claimed were the resale of items, covered in section 1.2.4. of the GPM – exempt goods/services by NIGP code and purchases from other governmental entities, section 1.2.2. of the GPM.

Exempt NIGP codes

9 (3%) POs claimed an exempt NIGP code as their specific exemption but did not have an exempt NIGP code in the NIGP code field. These nine POs appeared to be for exempt services and included the following.

- Five POs where the NIGP code field was blank, but an exempt NIGP code was cited in the PO comments. The NIGP code cited in the PO comments appeared to agree with the services or goods listed on the PO and should have been used in the NIGP code field.
- Three POs used a non-exempt NIGP code, but the POs were issued to a non-profit for services, which are exempt. A note should have been added to the PO comments citing the non-profit exemption.
- One PO used a non-exempt NIGP code but cited an exempt NIGP code in the PO comments. The NIGP code cited in the PO comments should have been used in the NIGP code field.

The remaining 287 (46%) of the 618 POs, the exemption being claimed was not stated in the PO comments field. These POs totaled \$266 million (42%) of the \$638.4 million of POs reviewed without an exempt NIGP code. This requirement is important since in most cases, it is not known why the good or service is exempt.

Other issues noted

In our sample of 1,179 POs, SPD Audits also identified issues with NIGP codes and PO types, which are summarized below.

NIGP codes

- 33 POs totaling \$10.4 million, where the NIGP code field was left blank. For 19 of these POs the exemption being claimed was not stated in the PO header or comments field. We reviewed these POs to determine if exempt was the correct PO type and the POs appeared to be for services or products, which were exempt.
- 6 POs totaling \$1.3 million, where a three-digit NIGP category code was used. The three-digit NIGP categories end in "00" and only provide a general description of what was purchased. For five of these POs the exemption being claimed was not stated in the PO header or comments field.
- 5 POs totaling \$969,982 where the NIGP code field contained an invalid code. For these five POs the exemption being claimed was not stated in the PO header or comments field.

Not using a valid NIGP code and not providing comments as to why the PO is exempt makes it difficult to ascertain if the goods or services listed on the PO are exempt.

PO types

There were some instances where a different PO type than exempt could have been used. These are summarized below.

- Intergovernmental agreements (IGA): 48 POs totaling \$48.8 million were issued to another government entity, in these instances, "IGA" for intergovernmental agreements should be used as the PO type.
- Construction/Public Works (CSN): 21 POs totaling \$38.9 million were for Board of Regents construction or public works contracts and should be coded as "CSN" for construction contracts.
- State entity contract (AC): five POs totaling \$3.9 million were issued because of a solicitation or referenced a contract number on the PO in the PO comments or in the Contract ID field. These POs should be coded as "AC" for state entity contract.
- Statewide contracts (SWCC or SWCM): three POs totaling \$729,522 referenced a statewide contract number on the PO and were issued to a statewide contract supplier. These POs should have been coded as "SWCC" for a statewide contract convenience or as "SWCM" for a statewide contract mandatory.
- Title 32 (T32): one PO totaling \$599,999 appeared to relate to the services ancillary to constructing and maintaining a public road. This PO should be coded "T32" for Title 32 of the Official Code of Georgia Annotated (O.C.G.A.).
- Sole Source (SS): One PO totaling \$187,000 appears to be related to a sole source since a sole

source posting was referenced on the PO. This PO should have been coded as “SS” for sole source.

Recommendations

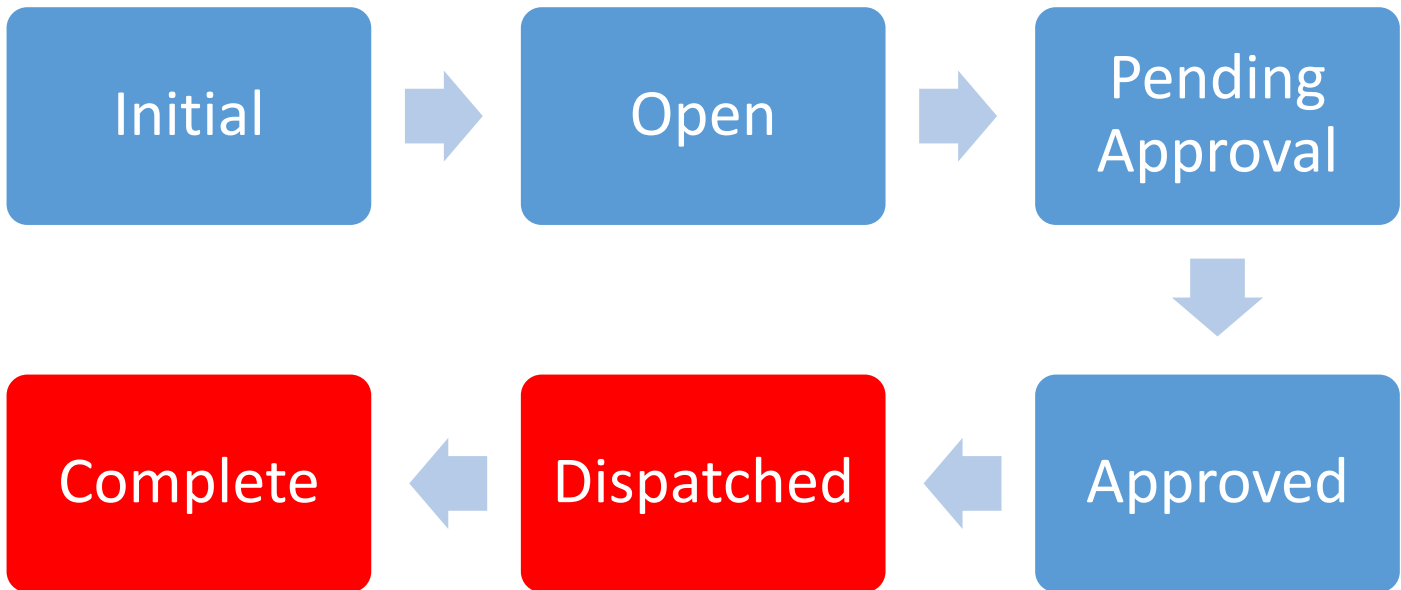
1. SPD will issue a communication for APOs/CUPOs regarding best practices with exempt POs and reiterate the importance of citing the exemption claimed in the PO comments field as required by section 6.3.1.2. of the GPM if an exempt NIGP code is not used on the PO.
2. State entities should periodically review their exempt PO activity to ensure that their internal 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.

Appendix A

Audit Background, Scope, and Methodology

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This audit is of purchase orders (POs) issued in Fiscal Year 2023 - PO dates between July 1, 2022, through June 30, 2023. The purchase type codes, PO amounts and PO dates were current as of the date the PO queries were run, which were at various times during the fiscal year. The PO queries come from different financial systems. Except for the Georgia Institute of Technology, which uses Workday, all other audited state entities use PeopleSoft for their financial system. It is not the same instance of PeopleSoft since each instance is configured differently. The objective of the audit was to audit POs issued or dispatched. Since the PO queries are run from different financial systems, the terminology used to indicate the PO status varies. For TGM entities, the PO life cycle consists of the following steps:



Only those POs in the stage of dispatched or complete were included in this audit. Phases, before dispatched, represent the internal approval process a state entity uses before the PO is sent to the supplier. For the TGM entities, this is known as dispatched. Complete is the status used when the PO is closed and can no longer be modified or used.