



**To:** APOs and CUPOs

**AUD #24-33**

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

**From:** Audits, State Purchasing Division

**Date:** December 7, 2023

**Re:** Audit of Exempt Purchases – POs issued in August 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 52% 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 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:

- 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 the 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, 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 August 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 175 POs that totaled \$115.7 million. These 175 POs represented 5% of all exempt POs for July 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 that the “specific exemption being claimed must be identified in the PO comment field if the use of exempt NIGP codes is not applicable.”

### **Audit Issues**

In August 2023, 3,259 POs totaling \$142.6 million were coded as exempt.<sup>1</sup> Of these POs, 175 POs were \$100,000 or more. These 175 POs totaled \$115.7 million, or 81% of all exempt POs issued in August 2023. SPD Audits reviewed 167<sup>2</sup> of these POs to determine if they met the requirements of the GPM. These 167 POs totaled \$113.7 million.

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<sup>1</sup> Please see Appendix A for audit background, scope, and methodology.

<sup>2</sup> Due to our inability to access POs issued by the University of Georgia, the number of POs reviewed was reduced by 11 from 175 to 167. The University of Georgia issued 8 exempt POs totaling \$2 million, which were \$100,000 or more.

SPD Audits found that:

- 123 (74%) of the 167 POs sampled were exempt through the use of an exempt NIGP code on the PO. These POs that were exempt by NIGP code totaled \$83.7 million (74%) of the \$113.6 million of POs reviewed. These POs appeared to be for exempt products or services.
- 44 (26%) POs sampled did not use an exempt NIGP code on the PO. These POs totaled \$30 million (26%) of the \$113.7 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, 21 (48%) of the 44 POs (that did not use an exempt NIGP code) had the exemption stated in the PO comments field. These POs totaled \$18.9 million (63%) of the \$30 million of POs reviewed without an exempt NIGP code. Of the 21 POs where a specific exemption was claimed, SPD Audits found the following.

#### Non-profit entity

Six (29%) 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 six POs, six used a services NIGP code, i.e., a NIGP code beginning with 9, to indicate a service was provided. These POs were all verified to be for the procurement of services as required per section 1.2.2. of the GPM.

#### Technical Instruments

Six (29%) 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.

#### Federal grants

Five (24%) of these POs claimed to be exempt since the PO was issued to a subrecipient as part of a Federal grant award. Four of the POs were issued to a non-profit entity, and one PO was issued to a for-profit school. The state entity issuing the PO had a written agreement with each subrecipient. Although this activity is being recorded via a PO, this activity does not appear to be a purchase of a good or service covered under the State Purchasing Act; instead, it is a distribution of grant funds to subrecipients. All state entities receiving federal grant funds should follow all applicable guidance from the funding source.

#### Exempt NIGP codes

One (5%) PO 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 used listed on the PO and should have been used in the NIGP code field.

One (5%) PO used a non-exempt NIGP code but cited “Exempt NIGP” in the PO comments as the reason for the exemption. The PO was issued to a non-profit for services that are exempt. A note should have been added to the PO comments citing the non-profit exemption rather than citing an exempt NIGP code, which was non-exempt.

One (5%) PO used a non-exempt NIGP code and cited the same non-exempt NIGP code in PO

comments as the reason for the exemption. This PO appears to be exempt under the technical instrument exemption.

### School Textbooks

One (5%) PO claimed a school textbook exemption. Section 1.2.3.1. of the GPM allows school textbooks, as defined by the Georgia Department of Education, to be exempt from the State Purchasing Act. The materials purchased were for General Education Diploma (GED) testing, which falls under the exemption.

### **Other issues noted**

In our sample of 167 POs, SPD Audits also identified issues with NIGP codes and PO types, which are summarized below.

### NIGP codes

- One PO totaling \$147,800, with the NIGP code field left blank. An exempt NIGP code was cited in the PO comments.
- One PO totaling \$146,964 where the NIGP code field contained an invalid code. The number 99900 was in the NIGP code field. This number is not a valid NIGP code. For this PO, the exemption being claimed was not stated in the PO header or comments field.

### PO types

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

- Intergovernmental agreements (IGA): 13 POs totaling \$27.9 million were issued to another government entity. In these instances, "IGA" for intergovernmental agreements should be used as the PO type.

### **Recommendations**

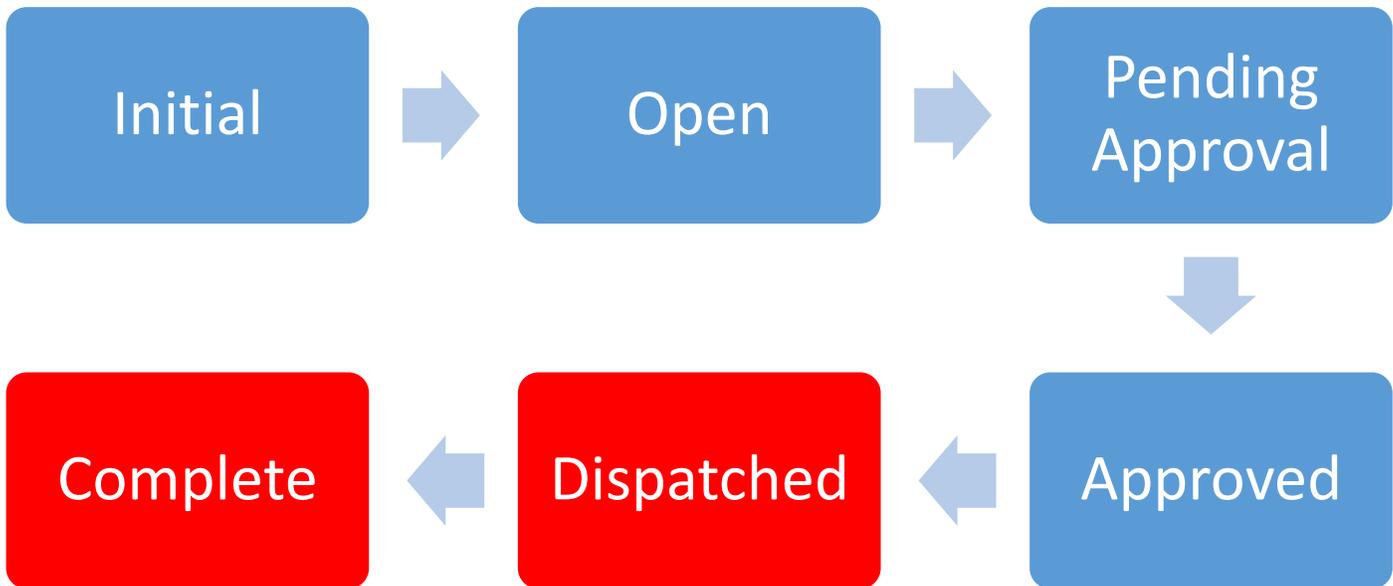
1. SPD will issue a communication for APOs/CUPOs regarding best practices with exempt POs and reiterate the importance of citing the exemption claimed in the PO comments field as required by section 6.3.1.2. of the GPM if an exempt NIGP code is not used on the PO.
2. State entities should periodically 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 August 2023 - PO dates between August 1, 2023, through August 31, 2023. The purchase type codes, PO amounts, and PO dates were current as of the date the PO queries were run, which were run in September 2023. 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.