



**To:** APOs and CUPOs

**AUD #25-15**

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

**From:** Audits, State Purchasing Division

**Date:** October 17, 2024

**Re:** Audit of Exempt Purchases – POs issued in July 2024

### **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 49% 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 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 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 July 2024, SPD Audits identified every PO coded as an exempt purchase across the enterprise with a dollar amount of \$25,000 or greater. This resulted in 538 POs that totaled \$126.7 million. These 538 POs represented 17% of all exempt POs for July 2024.

### **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.”

### **Audit Issues**

In July 2024, 3,090 POs totaling \$136.2 million were coded exempt.<sup>1</sup> Of these POs, 538 POs were \$25,000 or more. These 538 POs totaled \$126.7 million, or 93% of all exempt POs issued in June 2024.

SPD Audits found that:

- 375 (70%) of the 538 POs sampled were exempt through the use of an exempt NIGP code on the PO. These POs that were exempt by NIGP code totaled \$97.6 million (77%) of the \$126.7 million of POs reviewed.
- 163 (30%) POs sampled did not use an exempt NIGP code on the PO. These POs totaled \$29.1 million (23%) of the \$126.7 million of POs reviewed.

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

## **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, 83 (51%) of the 163 POs (that did not use an exempt NIGP code) had the exemption stated in the PO comments field or in documentation attached to the PO. These POs totaled \$10.5 million (36%) of the \$29.1 million of POs reviewed without an exempt NIGP code. Of the 83 POs where a specific exemption was claimed, SPD Audits found the following:

### Technical Instruments

31 (37%) 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.

### Direct Resale

20 (24%) PO claimed the direct resale exemption. Direct resales through a state entity operated service, such as, a bookstore or cafeteria are exempt from the State Purchasing Act.

### Non-Profit Entity

19 (23%) 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. After reviewing these POs, we determined the POs used a service NIGP code, i.e., a NIGP code beginning with 9, to indicate a service was provided. The POs reviewed were verified to be for the procurement of services as required per section 1.2.2. of the GPM.

### USG Public Works

Six (7%) of these POs claimed the construction/public works. Section 1.3.6.1. of the GPM allows University System of Georgia (USG) entities under the Board of Regents to have their construction and public works contracts to be exempt from the State Purchasing Act. The projects on these POs appeared to fall under this exemption.

### Other Exemptions Claimed

Six (7%) of these POs claimed other exemptions not specifically listed in the GPM. These exemptions were as follows:

- Accounting was claimed as an exemption on two POs. Accounting is an exempt service if provided by a certified public accountant or an accredited financial analyst providing an opinion of value. The NIGP codes used were not related to accounting but were 95352 for insurance and insurance services (not otherwise classified) and 97135 for land rental or lease. The POs were from an institution of the University System of Georgia to one of its non-profit foundations. The exempt reason listed should have been non-profit.
- Athletics was claimed as an exemption on two POs. Per O.C.G.A. 20-3-79, athletic associations are not state agencies and are not subject to limitations on state agencies and regulations. The fund types used for the athletic association had been authorized to be coded as exempt.
- Power/Utilities was claimed as an exemption on one PO. The PO was for electrical utility services, which do not require a PO under the State’s PO policy. This exemption seemed to be appropriate. Although the NIGP code used 96183 for utility services, electric is not an exempt NIGP code.

- Sponsorships was claimed as an exemption on one PO. The NIGP code used on the PO was 96377 for Sponsorships (all types), which is listed as an exempt NIGP code.

### NIGP Code

One (1%) PO claimed NIGP code as the exemption. The NIGP code used on the PO was 91510 for advertising, digital, which is a non-exempt NIGP. The exempt NIGP code of 91503 for advertising and public relations, including skywriting, may have been a better choice given the services provided and that the PO was classified as exempt.

For the remaining 80 (49%) of the 163 POs, the exemption claimed was not stated in the PO comments field. These POs totaled \$18.6 million of the \$29.1 million of POs reviewed without an exempt NIGP code. This requirement is important since, in most cases, it is known why the good or service is exempt.

### **Other issues noted**

In our sample of 538 POs, SPD Audits also identified issues with PO types, which are summarized below.

### PO types

There were multiple instances where a different PO type than exempt could have been used. Two POs totaling \$175,762 were issued to institutions under the University System of Georgia. In these instances, "IGA" for intergovernmental agreements should be used as the PO type. Two POs totaling \$167,241 were issued to an authority. In this instance, "IGA" for intergovernmental agreements should be used as the PO type. One PO totaling \$28,230 contained a Sole Source Justification Form as an attachment. In this instance, "SS" indicating a Sole Source should be used as the PO type.

### **Recommendations**

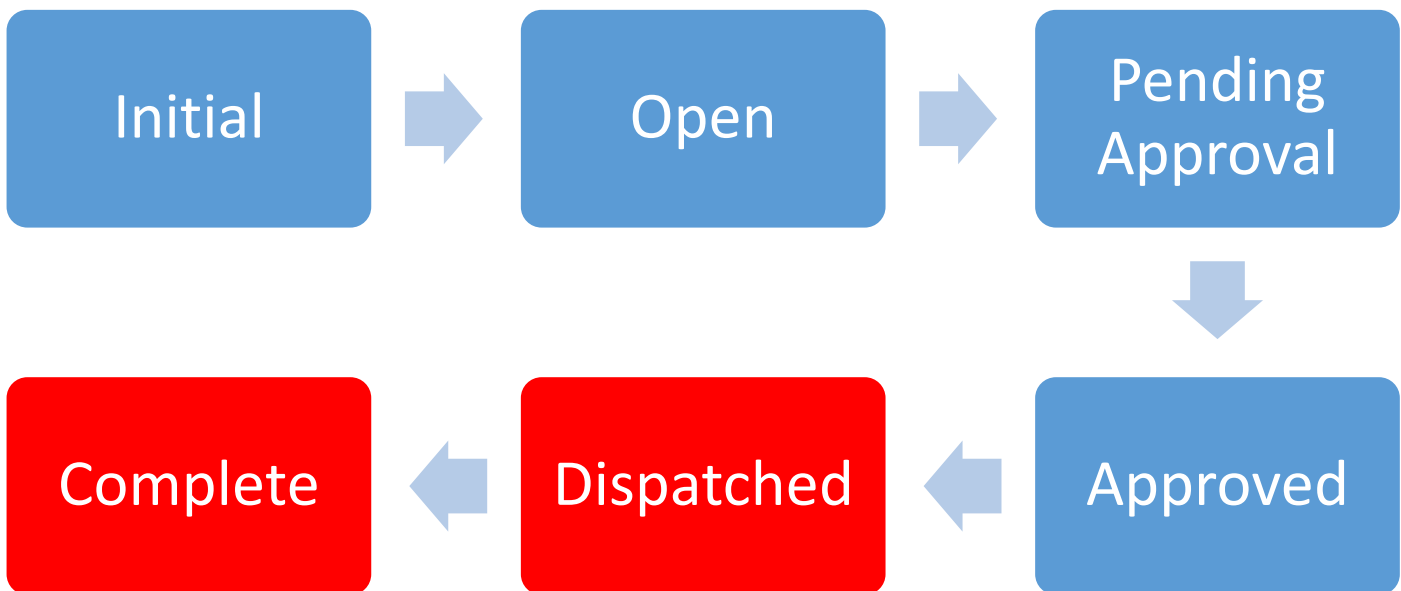
1. SPD will issue a communication for APOs/CUPOs regarding best practices with exempt POs and reiterate the importance of citing the exemption claimed in the PO comments field as required by section 6.3.1.2. of the GPM if an exempt NIGP code is not used on the PO.
2. State entities should periodically 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 July 2024 - PO dates between July 1, 2024, through July 31, 2024. The purchase type codes, PO amounts, and PO dates were current as of the date the PO queries were run, which was in August 2024. 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.