



To: APOs and CUPOs

AUD #25-29

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

From: Audits, State Purchasing Division

Date: December 31, 2024

Re: Audit of Exempt Purchases – POs issued in November 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 28% 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 November 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 358 POs that totaled \$113 million. These 358 POs represented 15% of all exempt POs for November 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 November 2024, 2,367 POs totaling \$119.6 million were coded exempt.¹ Of these POs, 358 POs were \$25,000 or more. These 358 POs totaled \$113.0 million, or 94% of all exempt POs issued in November 2024.

SPD Audits found that:

- 162 (45%) of the 358 POs sampled were exempt through the use of an exempt NIGP code on the PO. These POs that were exempt by NIGP code totaled \$16.2 million (14%) of the \$113.0 million of POs reviewed.
- 196 (55%) POs sampled did not use an exempt NIGP code on the PO. These POs totaled \$96.8 million (86%) of the \$113.0 million of POs reviewed.

¹ 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, 141 (72%) of the 196 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 \$86.5 million (89%) of the \$96.8 million of POs reviewed without an exempt NIGP code. Of the 141 POs where a specific exemption was claimed, SPD Audits found the following:

Non-Profit Entity

Fifty-six (40%) 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.

Technical Instruments

Forty (28%) 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

Thirteen (9%) of these POs 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.

Subaward

Thirteen (9%) of these POs claimed the “subaward” exemption. When awarding, sub-awarding, passing-through, distributing and distributing grants funds to another party - this activity is exempt. While the grant process itself may be competitive in nature, the distribution of grant funds by a state entity to another party, via a purchase order, is not subject to competitive bidding.

NIGP Code

Five (4%) of these POs claimed an NIGP Code as an exemption. The NIGP code cited on one PO was 28748 for microwave equipment and accessories, which is an exempt NIGP code. The NIGP code cited on one PO was 93862 for laboratory equipment and accessories, which is an exempt NIGP code. The NIGP code cited on one PO was 91506 for audio production services, which is not an exempt NIGP code. The NIGP codes cited on one PO was 96115 and 96337, the former of which was not an exempt NIGP code and the latter being an exempt NIGP code. The NIGP codes cited for one of the POs was 16515, 91065, 96246, and 96286, none of which are exempt NIGP codes.

USG Public Works

Four (3%) of these POs claimed the construction/public works exemption. 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.

Subscriptions

One (1%) PO claimed the “subscription” exemption. The services provided under this POs appear to fall under Section 1.2.4. of the GPM, which are exempt goods/services by NIGP code.

Other Exemptions Claimed

Nine (6%) of these POs claimed other exemptions not specifically listed in the GPM. These exemptions were as follows:

- Three POs were related to athletics associations affiliated with the university. These athletics associations were claimed as an exemption. 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.
- One PO was related to a Federal grant, which the grant was claimed as an exemption. The grant money in this PO was distributed to a non-profit organization. In this case, the non-profit exemption should have been claimed.
- One PO where a waiver to not use a mandatory statewide contract was claimed as an exemption. DOAS granted a waiver to a university not to use the mandatory statewide contract for security services. DOAS’ grant of a statewide contract waiver only authorizes the state entity to purchase outside of the mandatory statewide contract and does not create an exemption from any applicable competitive bidding rules.
- One PO where study abroad was claimed as an exemption. The NIGP code used on the PO is 99900, which is not a valid NIGP code. It appears that the services on the PO are exempt under the exempt NIGP code of 96288 for travel, non-local, provided by third party.
- One PO where consultant was claimed as an exemption. The NIGP code used on the PO is 91113, which is not an exempt NIGP code. It appears that the consulting referenced on the PO was related to the USG construction/public works exemption.
- One PO where engineering was claimed as an exemption. The NIGP code used on the PO is 92507, which is not an exempt NIGP code. It appears that the engineering services provided fall under the professional services exemption.
- One PO claimed O.C.G.A. 50-7-8 as the exemption. This is an exemption provided to the Department of Economic Development “to participate with public and private groups, organizations, and businesses in joint marketing projects that promote the economic and tourist development of the State of Georgia and make efficient use of state appropriated marketing funds.”

For the remaining 55 (28%) of the 196 POs, the exemption claimed was not stated in the PO comments field. These POs totaled \$10.2 million of the \$96.8 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 358 POs, SPD Audits also identified issues with PO types, which are summarized below.

PO types

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

- Intergovernmental agreements (IGA): Ten POs totaling \$1.1 million were issued to another government entity. In these instances, “IGA” for intergovernmental agreements should be used as the PO type.
- Construction contracts (CSN): One PO totaling \$122,250 was related to the USG construction/public works exemption.

Recommendations

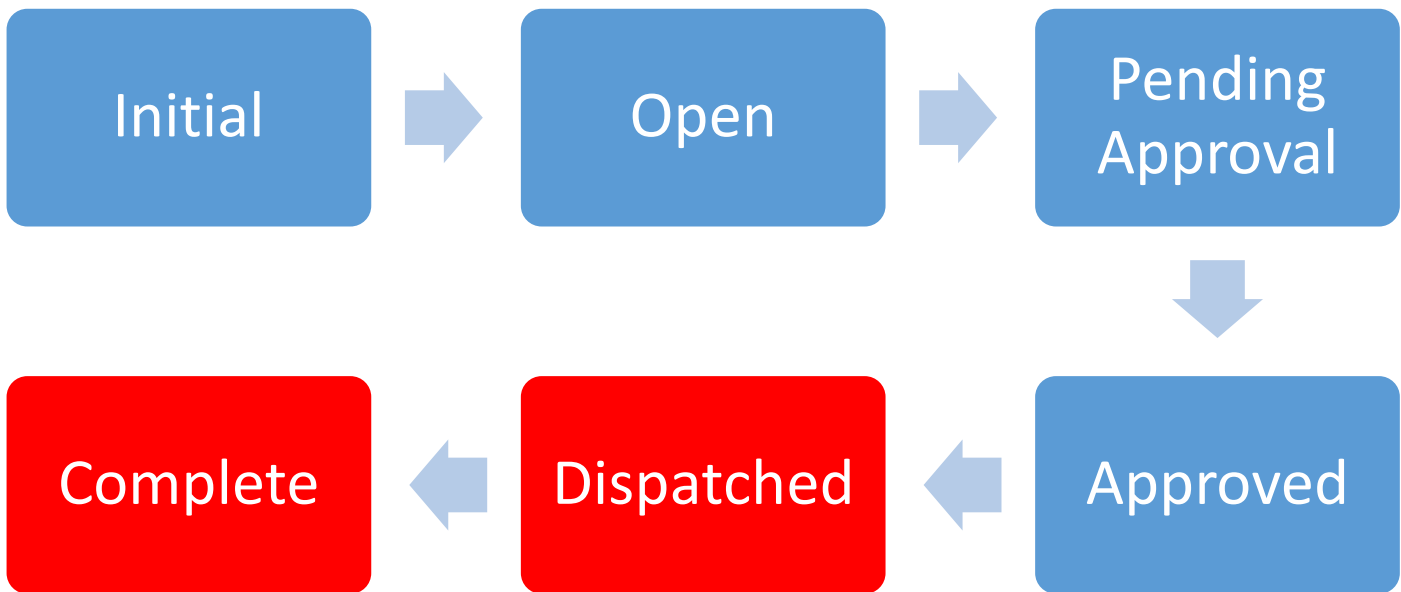
1. SPD will issue a communication for APOs/CUPOs regarding best practices with exempt POs and reiterate the importance of citing the exemption claimed in the PO comments field as required by section 6.3.1.2. of the GPM if an exempt NIGP code is not used on the PO.
2. State entities should periodically 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 November 2024 - PO dates between November 1, 2024, through November 30, 2024. The purchase type codes, PO amounts, and PO dates were current as of the date the PO queries were run, which was in December 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.