

17 GAR - Labor Relations  
Division 1- Department of Labor  
**FINAL DRAFT- FOR PUBLIC HEARING**

**CHAPTER 8**  
**GUAM REGISTERED APPRENTICE PROGRAM**

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**§8101. Authority.** Public Law 35-39 amended 22 GCA Chapter 10 on October 14, 2019, specifically §10107 requires the Guam Department of Labor to promulgate Rules and Regulations, which it may find necessary in order to carry out its responsibilities in the administration and enforcement of the provisions of the law as it relates to the Guam Registered Apprenticeship Program.

**§8102. Definitions.** The definitions set forth herein shall govern the construction and interpretation of this Chapter:

- a) “Apprentice” means an employee of a business participating in the Guam Registered Apprenticeship Program who is at least 16 years of age, except when a higher minimum age is otherwise fixed by law, and who is employed to learn a skilled trade.
- b) “Apprenticeship Program” or “Apprenticeship Training Program” means a comprehensive training program designed to teach an apprentice how to perform all duties in a recognized skilled craft or trade. at the journeyman level that is described by a plan containing all terms and conditions for qualification, recruitment, selection, employment and training of apprentices and a written apprenticeship agreement.

- c) "USDOL-OA" means the Office of Apprenticeship of the U.S. Department of Labor.
- d) "USDOL-OA Certification" shall mean evidence from the USDOL-OA that the program participant has a registered and approved apprenticeship training program.
- e) "Business" means a professional group, association, corporation, partnership, sole proprietorship, trust, foundation, or any other individual or organization carrying on any business whether or not operated for profit.
- f) "GDOL" and "Department" means the Guam Department of Labor.
- g) "Director" means the Director of the Guam Department of Labor.
- h) "Employer" means a business employing an apprentice whether or not such business has an apprenticeship agreement with the apprentice.
- i) "Instructor/Mentor" or "Journey Worker" means a worker who has attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation. (Use of the term may also refer to a mentor, technician, specialist or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training) or worker approved by the Director.
- j) "GRAP" shall mean the Guam Registered Apprenticeship Program, which provides tax credits for Registered Apprenticeship.
- k) "GRAP Certification" or "Guam Registered Apprentice Program Certification" shall mean a certification issued by the Director of Labor to the program participant and the Tax Commissioner, detailing the amount eligible for tax credit under this program.
- l) "Institution of Higher Education" means the Guam Community College, the University of Guam, licensed post-secondary institutions or licensed post-secondary training programs.
- m) "Occupational List" means a list of occupations prioritizing needed trades that corresponds with a USDOL-OA apprenticeship training program that lists the occupational trades approved for apprenticeship training within the Program.
- n) "Program" means Registered Apprenticeship , an occupationally driven training program meeting the standards of the U.S. Department of Labor, Office of Apprenticeship, that is recognized and approved as an occupational priority by DOL to which this Chapter applies.

- o) “Program Participant” or “Participant” means an employer that employs apprentices who receive training through a program provider of a registered apprenticeship program.
- (o) “Program Provider” means a business or institution of higher education that conducts a registered apprenticeship program recognized by the U.S. Department of Labor Office of Apprenticeship. A business with a registered apprenticeship program may be both a program participant and a provider program.
- (p) “Tax Commissioner” means the Tax Commissioner of Guam, the Director of Revenue and Taxation.
- (q) “Tax credit” means an offset to gross receipts tax owed by a business equal in amount to fifty percent (50%) of all eligible costs paid or incurred by a program participant to train an apprentice.
- (r) “Trade” means the skilled practice of an occupation.
- (s) “USDOL” means the United States Department of Labor.
- (t) “Quarter” means a three-month period in the Government of Guam's fiscal year. Such quarters are 1st quarter - October 1st to December 31st, 2nd quarter - January 1st to March 31st, 3rd quarter - April 1st to June 30th, and 4th quarter - July 1st to September 30th

### **§8103. Program Eligibility.** Program Participants must submit to GDOL:

- (a) an original and one copy of **GRAP Form 1** - Application for Guam Registered Apprenticeship Program Tax Credit, along with the following:
  - (1) USDOL-OA Certificate of Registration *or* the Approved Apprenticeship Standards, or other document acceptable to the Department.
  - (2) Affirmative Action Plan, subject to the Director’s discretion.
  - (3) Residency verification indicating that the apprentice is a resident of Guam not less than three years.
  - (4) Verification of US citizenship or permanent residency. (Use of I-9 form will satisfy this requirement.)
  - (5) Signed Apprenticeship Employment Contract which contains a stipulation that Apprentice will continue to work for the employer for an additional year for each year of training provided under the apprenticeship program.
  - (6) Proof of registration on the GDOL’s official online job bank.
  - (7) Proof of clearance from GDOL Wage and Hour Division and the Guam Economic Development Authority.
- (b) Applications will be reviewed for completeness and if any deficiencies are found, applications will be returned to program participant for correction. Upon receipt

of the completed GRAP Form 1, the Director will then approve or deny entry into the program.

- (c) Program participants are required to renew their application annually.
  - (1) Application must be submitted at least 30 days in advance of the anniversary date of the current approval
  - (2) Failure to submit a timely renewal will result in disqualification from the program, subject to the concurrence of the Director
  - (3) Renewal will be contingent on the updating of the employer's records in RAPIDS or the system being used to track apprenticeships by GDOL at the time of application.

**§8104. Approved Demand Occupations Listing.** In the first quarter of each fiscal year, the Director shall establish a list of skilled occupations and trades that correspond to recognized USDOL-OA apprenticeship programs. At this time, the Director may amend a prior year's occupational list by adding or removing select occupations. However, if no changes are necessary, the Director may adopt the previous year's list.

- (a) USDOL-OA approved apprentice occupations listing is automatically adopted each year.
  - (1) Approved occupations at October 1<sup>st</sup> of each year will be extracted from the appropriate USDOL source and inserted into the GRAP listing.
  - (2) Unique local occupations which were previously approved may be added or deleted as deemed appropriate by the Director
- (b) Adding new occupations not on USDOL-OA list –
  - (1) Any deviation of a particular apprenticeship from the approved standards shall be considered a new occupation and be given a unique name and be subject to addition to the Approved Demand Occupations Listing.
  - (2) Employer must submit an application to establish the new apprenticeable occupation
  - (3) The Director must approve the new occupation before it may be used in the program.
- (c) The Director shall not certify eligible training costs for the purposes of a tax credit for a new occupation until the list is approved by the Director pursuant to 22 GCA § 10104
- (d) Emphasis on Selected Industries- The Director will promote apprenticeship occupations mandated in 22 GCA § 10104 through written notices to each applicant seeking establishment of a new occupation. The Director will also

promote the establishment of such occupations whenever practical through public outreach or other appropriate efforts.

**§8105. GRAP Tax Credit Certification.** Active program participants may apply for a certification from the Director of Labor by submitting an application on **GRAP Form 2**.

- (a) Upon receipt of a completed GRAP form 2 and associated supporting documents, the Director or his authorized representative will review the request for reimbursement for completeness and compliance with the programs rules.
  - (1) Upon receipt, the application will be issued an official Filing Date.
  - (2) All claimed costs must fall within the previous three (3) calendar years
  - (3) Pursuant to 22 GCA §10108(e) the participant must demonstrate that they do not hold a Qualifying Certificate from the Guam Economic Development Authority to be eligible for GRAP tax credits. A clearance from GEDA shall be required to support eligibility upon request from the Department.
- (b) The Director may require supporting documents to verify requested reimbursements listed on GRAP Form 2. Original or certified copies of documents may be required at the discretion of the Director.
- (c) The Director will issue a certification within 90 calendar days. A notification that certification is impending shall be sent to the employer and shall, at a minimum, indicate:
  - (1) The employer name and appropriate taxpayer identification number
  - (2) The amount of training costs which are being approved for tax credit
  - (3) The amount of the 2.5% processing fee
  - (4) The due date for payment of the processing fee
- (d) Processing Fee
  - (1) Calculating the Processing Fee. The Department shall, after determining that all training costs claimed by the employer are allowable, calculate the amount of 50% of the eligible training costs claimed on the application for tax credit purposes. The Department will then assess a fee of 2.5% of the requested tax credit amount.
  - (2) The Department shall notify the employer in writing of the amount due from processing fees.
  - (3) The GRAP Processing Fee must be paid in the form of a Cashier's Check or Money Order made payable to the Treasurer of Guam at the time of the release of the GRAP certification.
  - (4) Payments must be submitted to the Guam Department of Labor
  - (5) Due dates for processing fee payment shall be set at 30 days from the Director's notification and any extension of that due date must be justified by the participant and approved by the Director.

- (6) Failure to pay the processing fee by the due date will result in the return of the employer's application, without action, and any resubmission shall be issued a new Filing Date and processed as a new application.
- (e) Claims for Costs Exceeding the 3 Year Limit- In the event that an employer claims costs which the department has determined do not fall into the three (3) calendar year limit, the Director shall notify the employer, in writing, that such costs are disallowed and shall give the employer the opportunity to amend their application without affecting their Filing Date.

**§8106. Denial of Tax Credit.** The Director may, after reviewing documents submitted by a program participant, elect to deny or disallow claimed training costs, in whole or in part.

- (a) Reasons for denial or disallowing costs are as follows:
  - (1) The claimed costs were not associated with the training of the apprentice.
  - (2) The program participant was not able to verify the claimed costs with acceptable documentation.
  - (3) The employer misrepresented material facts or engaged in fraud.
  - (4) The claimed costs were incurred within a period exceeding three (3) years from the official file date of the application.
  - (5) The program participant is not in compliance with the program rules.
  - (6) The program participant owes back wages to the apprentice or to any Instructor/Mentor or Journey Worker.
- (b) The Director shall issue and serve a detailed notice to the program participant explaining what costs were denied or disallowed and any corrective action, if applicable. The notice shall be served by mailing the notice to the address on the program participant's application or by email, provided that verbal confirmation is obtained by staff to verify that the email was received by a responsible party.

**§8107. Eligible Training Costs.** Eligible training costs are costs associated with the training and development of the apprentice and apprentice's Instructor/Mentor or Journey Worker

- (a) Eligible costs are as follows:
  - (1) Direct wages of apprentice
  - (2) Direct medical and dental benefits of apprentice
  - (3) Apprentice instructor/Mentor costs associated with subsection (a)(1) and (a)(2) of this section
  - (4) Costs associated with apprentice's related training instruction
  - (5) Personal protective equipment.
  - (6) Administration costs expended by the employer that are associated with administrative functions, oversight and monitoring of the Registered

Apprenticeship Program

(7) Other associated costs, not listed above, must be approved by the Director prior to application filing.

(A) Participants may request for pre-approval of eligible cost by submitting a written justification to the Director detailing how the cost relates to the training of the apprentice

(B) The Director shall respond to pre-approval requests in writing and may allow or disallow at his discretion.

(b) GRAP Tax Credit Certification: Reporting Requirements. Program participants shall submit all supporting documents as evidence that eligible training costs have been incurred including but not limited to: Invoices detailing the articles or services for which reimbursement is requested; payroll records; and attestations of costs.

**§8108. Cooperative Programs Authorized.** Pursuant to 22 GCA 10111, when necessary, the Director of the GDOL shall develop and enter into a memorandum of understanding (MOU) with other government agencies or instrumentalities or private organizations to provide specialized training in a particular field not available within the apprenticeship program.

**§8109. Electronic Filing of Documents.** Electronic filing of documents may be accepted at the discretion of the Director.

**§8110. Fraud and Abuse.** Should the Department determine that fraud or material misrepresentation has occurred in an effort to obtain GRAP tax credits, the employer will be disqualified for utilizing the program. Additionally, the matter may be referred to the Attorney General or the Department of Revenue & Taxation for investigation for appropriate action.

a) The Director or his authorized representative shall have full investigative powers to determine any fraud and abuse and may compel the production of records or testimony from the employer and failure of the employer to produce requested information may result in the assessment of civil penalties as allowed in 22 GCA Chapter 1.

**§8111. Disqualification Appeal.** The Director's decision to disqualify an employer may be appealed in writing to the Director within 15 days from the date of the issuance of a Disqualification Notice.

(a) The Director, who shall be the hearing officer, may opt to rescind, amend or uphold the disqualification after holding a hearing where the employer may present documents or testimony to refute fraud or misrepresentation findings of the Department. The employer shall have the right to legal counsel, however the conduct of the hearing shall not be bound by the legal rules of evidence.

(b) Should the employer still disagree with the Director's final decision, the employer may seek legal review through the judicial system.

**§8112. Technical Assistance Guide.** In order to provide program guidance, the director may develop a technical assistance guide (TAG).

**§8113. Petitions.** Any individual shall have the right to submit to the Director a petition for the establishment or modification of rules and regulations on subjects under the Authority of the Director, and shall have the right to request advisory rulings, consultations or declaratory rulings in relation to existing regulations. Such petitions and requests shall be submitted in writing and on a form provided by the GDOL, and shall be acted upon within 60 days by the Director. The Director shall respond to all petitions submitted under this Title in writing.

**§8114. Severability.** If any part of these Regulations is for any reason declared to be invalid by a court of law, the remaining regulations under this Title shall not be affected thereby, and shall remain valid and enforceable.