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CH. 10 APPRENTICESHIP PROGRAMS**

**CHAPTER 10
APPRENTICESHIP PROGRAMS**

2015 NOTE: With the recent enactment of the Apprenticeship Act of Guam by P.L. 32-230 (Dec. 30, 2014), the Compiler codified two laws addressing apprenticeship programs at Chapter 10, pursuant to the authority granted by 1 GCA § 1606. Article 1 is the Guam Registered Apprenticeship Program, formerly codified as Chapter 44, and Article 2 is the Apprenticeship Act of Guam added by P.L. 32-230.

- Article 1. Guam Registered Apprenticeship Program.
- Article 2. Apprenticeship Act of Guam.

**ARTICLE 1
GUAM REGISTERED APPRENTICESHIP PROGRAM**

SOURCE: This article was added as Chapter 44 by P.L. 28-142:2 (July 18, 2006), and codified by the Compiler to Article 1 of Chapter 10, pursuant to the authority granted by 1 GCA § 1606.

- § 10101. Short Title.
- § 10102. Definitions.
- § 10103. Guam Registered Apprenticeship Program.
- § 10104. Apprenticeship Program Occupations Approved for the Guam Registered Apprenticeship Program.
- § 10105. Authorization to Enter into Apprenticeship Agreements.
- § 10106. Eligibility of Apprentices.
- § 10107. Administration of the Guam Registered Apprenticeship Program.
- § 10108. Tax Credit for Apprenticeship Program Participants.
- § 10109. Implementation of Tax Credit by Tax Commissioner.
- § 10110. Participation Requirements for Apprentices.
- § 10111. Cooperative Programs Authorized.
- § 10112. Effective Date.
- § 10113. Tax Credit Sunset Provision.
- § 10114. Reporting Requirements.
- § 10115. Building Guam's Trades Scholarship Program.

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§ 10101. Short Title.

This Article *shall* be cited as the “*Guam Registered Apprenticeship Program Law.*”

§ 10102. Definitions.

As used in this Article:

(a)(1) *Apprentice* means an employee of a business participating in the Guam Registered Apprenticeship Program who is at least sixteen (16) years of age, except when a higher minimum age is otherwise fixed by law, and who is employed to learn a skilled trade.

(2) *Pre-apprentice* means a person receiving training in preparation to enter an apprenticeship.

(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 the 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) *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.

(e) *DOL* means the Department of Labor of the government of Guam.

(f) *Director* means the Director of Labor.

(g) *Employer* means a business employing an apprentice whether or not such business has an apprenticeship agreement with the apprentice.

(h) *Institution of higher education* means the Guam Community College, the University of Guam, licensed post-

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secondary institutions, or licensed post-secondary training programs.

(i) *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, also known as Guam Demand Occupation Listing.

(j) *Program* means the Guam Registered Apprenticeship Program, an occupationally driven apprenticeship 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 Article applies.

(k) *Program participant* means an employer that employs apprentices who receive training through a program provider of a registered apprenticeship program.

(l) *Program Provider* means a business or institution of higher education that conducts a registered apprenticeship program recognized by the United States Department of Labor (USDOL), Office of Apprenticeship (OA). A business with a registered apprenticeship program may be both a program participant and a program provider.

(m) *Tax Commissioner* means the Tax Commissioner of Guam, the Director of Revenue and Taxation.

(n) *Tax credit* means an offset to business privilege 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.

(o) *Trade* means the skilled practice of an occupation.

(p) *USDOL* means the United States Department of Labor.

(q) *Skilled trainer* means a journeyman or journeyworker.

SOURCE: Added by P.L. 28-142:2 (July 18, 2006). Subsection (a)(2) added by P.L. 35-103:2 (Oct. 30, 2020) as (a)(1). Subsection (q) added by P.L. 35-103:3 (Oct. 30, 2020)

2020 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

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§ 10103. Guam Registered Apprenticeship Program.

There is hereby established the Guam Registered Apprenticeship Program to be administered by the Director. The purposes of the Program are to reduce the shortage of highly skilled workers; to encourage employers to hire and train apprentices in highly skilled trades and occupations; to authorize tax credits for certain long term apprenticeship training expenses; and to ensure that apprentices continue to pay income taxes and participate in the economy.

§ 10104. Apprenticeship Program Occupations Approved for the Guam Registered Apprenticeship Program.

Each year, the Director *shall* establish a list of skilled occupations and trades approved for the Program. All occupations listed in the USDOL-OA listing are eligible apprentice occupations for the Program. The Director may conduct a public hearing, from time to time, to receive opinions and recommendations from local businesses and the general public to determine other areas needing additional professional and skilled technical trade workers. Regardless of whether this public hearing is conducted, the Director *shall* also consider new program participant applications and agreements as they are submitted for review, and *shall* emphasize occupations in the fields of *CHamoru* cultural practices, human resources development, office technology, medical coding and billing, information technology, website coding and development, finance and accounting, cosmetology, automotive, engineering, agriculture, and aquaculture, as well as industrial work, construction, and technical trades. The Director may then amend the existing occupational list.

§ 10105. Authorization to Enter into Apprenticeship Agreements.

The Director, with the approval of *I Maga'hågan Guåhan*, may contract with program providers to prescribe the manner, terms, and conditions of DOL cooperation with the provider in meeting the Program's objectives. The contracts *shall* be with program providers having a registered and approved

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apprenticeship training program that complies with Title 29 C.F.R. Parts 29 and 30.

§ 10106. Eligibility of Apprentices.

An apprentice must be a bona fide resident of Guam for a continuous period of not less than three (3) years before becoming an apprentice, must be a United States citizen or a permanent resident alien, and must agree to the terms and conditions of the Program and § 10110 of this Article.

§ 10107. Administration of the Guam Registered Apprenticeship Program.

(a) The Director *shall* administer the Guam Registered Apprenticeship Program and *shall* establish rules and regulations necessary to implement this Article, pursuant to the Administrative Adjudication Law, within ninety (90) days after the enactment hereof.

(b) The Director *shall* ensure proper educational accreditation standards are met and maintained by program providers, using educational classes provided by an institution of higher education or approved educational learning resources identified in the standards.

(c) Program participants having apprentices in training *shall* adopt and register with the Director a written Affirmative Action Plan and Selection Procedure according to Title 29 C.F.R. Part 30. Program participants may set their own minimum requirements, qualifications, and credentials for apprentices, subject to approval by the Director, provided that said requirements are fair, nondiscriminatory, and comply with all applicable Program requirements and USDOL-OA standards.

(d) DOL is authorized to collect a processing fee in order to defer the cost of administering the Program. The fee *shall* be equal to two and one-half percent (2.5%) of the amount of tax credit approved by the Director on each application for certification of tax credit, and shall be due upon release of the certification.

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(1) Such fees *shall* be deposited in the Manpower Development Fund to be used exclusively for the operations of DOL's apprenticeship activities.

§ 10108. Tax Credit for Apprenticeship Program Participants.

Any business that employs apprentices duly enrolled and registered under the terms of the Program is entitled to a tax credit against its business privilege tax liability equal to fifty percent (50%) of the eligible costs paid or incurred by the business, provided that:

(a) the apprenticeship training program teaches an approved occupation under § 10104 of this Article;

(b) the apprentice completes a training stage of an apprenticeship program as determined by DOL following USDOL-OA standards. No tax credit shall be claimed by a program participant for an apprentice unless the apprentice satisfactorily completes the current level of training;

(c) the eligible costs were paid or incurred during the apprentice's participation in the Program;

(d) the eligible costs were paid or incurred within the previous three (3) calendar years from the date the costs are submitted to DOL for certification. Costs paid or incurred earlier than the three (3) calendar years preceding the date the costs are submitted to DOL *shall not* be certified as eligible costs;

(e) no business or program participant holding a Qualifying Certificate (QC) shall claim tax credits pursuant to this Section. The Guam Economic Development Authority *shall* assist the Director in determining whether a participant may claim the credit;

(f) the apprentice must work a minimum of one hundred twenty (120) hours per month at the trade;

(g) the apprentice must be paid the prevailing wage required by the Program, which *shall* be a graduated

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percentage of journeyman wages as outlined in the apprenticeship standards;

(h) pre-apprentices are not counted as apprentices and wages earned by pre-apprentices are not eligible for this tax credit; and

(i) apprenticeship training costs paid by Workforce Innovation and Opportunity Act (WOIA) funds, Department of Labor Manpower Development Fund (MDF) funds, Hotel/Restaurant Industry Training Program funds, and any training costs paid by the government of Guam or federal funding *shall not* be eligible Program costs and *shall not* be applied as a tax credit.

A program participant may only carry forward the tax credit if allowed by the Guam Department of Revenue and Taxation procedures.

§ 10108.1. Tax Credit for Pre-Apprenticeship Program Participants.

Any business that provides skilled trainers to the Eligible Training Provider List (ETPL) or to a non-profit organization working with a registered ETPL on Guam and employs skilled trainers shall be entitled to a tax credit against its business privilege tax liability equal to one hundred percent (100%) of the eligible costs paid or incurred by the business; provided, that:

(a) the apprenticeship training program teaches an approved occupation under § 10104 of this Article;

(b) the apprentice completes a training stage of an apprenticeship program as determined by DOL following USDOL-OA standards. No tax credit shall be claimed by a program participant for an apprentice unless the apprentice satisfactorily completes the current level of training;

(c) the eligible costs were paid or incurred during the apprentice's participation in the Program;

(d) the eligible costs were paid or incurred within the previous three (3) calendar years from the date the costs are submitted to DOL for certification. Costs paid or incurred

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earlier than the three (3) calendar years preceding the date the costs are submitted to DOL shall not be certified as eligible costs;

(e) no business or program participant holding a Qualifying Certificate (QC) shall claim tax credits pursuant to this Section. The Guam Economic Development Authority shall assist the Director in determining whether a participant may claim the credit;

(f) the apprentice must work a minimum of one hundred twenty (120) hours per month at the trade;

(g) the apprentice must be paid the prevailing wage required by the Program, which shall be a graduated percentage of journeyman wages as outlined in the apprenticeship standards;

(h) pre-apprentices are not counted as apprentices, and wages earned by pre-apprentices are not eligible for this tax credit;

(i) apprenticeship training costs paid by Workforce Innovation and Opportunity Act (WIOA) funds, Department of Labor Manpower Development Fund (MDF) funds, Hotel/Restaurant Industry Training Program funds, and any training costs paid by the government of Guam or federal funding shall not be eligible Program costs and shall not be applied as a tax credit;

(j) skilled trainers must provide training in all apprenticeable occupations, as defined in the Occupational List prioritized by the United States Department of Labor, to participants who are unemployed and unskilled, unemployed and underskilled veterans, participants of residential substance abuse treatment programs, participants of the Temporary Assistance for Needy Families Federal Benefits Program, participants of the Able-Bodied Without Dependents Program, or eligible participants of the Work Credit program authorized in 9 GCA § 81.10;

(k) the application of the one hundred percent (100%) tax credit as described in this Section shall apply only when

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a minimum of ten (10) pre-apprentice applicants are qualified as described in Subsection (j) of this Section, and the pre-apprentice applicants, as defined herein, are registered with an approved training ETPL or non-profit organization; and

(l) the term of the pre-apprentice cycle shall extend up to a term of no less than six (6) months for participating non-profit and for-profit organizations with Workforce Innovation Opportunity Act (WIOA) agreements.

A program participant may only carry forward the tax credit if allowed by the Guam Department of Revenue and Taxation procedures.

SOURCE: Added by P.L. 35-103:4 (Oct. 30, 2020).

§ 10109. Implementation of Tax Credit by Tax Commissioner.

The Tax Commissioner of Guam *shall*, no later than ninety (90) days after the enactment hereof, in cooperation with the Director, develop procedures to implement the tax credit authorized by this Article, and to that end *shall*:

- (a) enact such requirements for claimants as may be necessary to implement this Article;
- (b) promulgate forms and publications to assist eligible businesses claiming the tax credit;
- (c) develop procedures to facilitate the off-set of tax credits against business privilege tax liabilities; and
- (d) coordinate with the Director relative to verifying eligible business privilege tax credits. The Director *shall* certify eligible training costs paid or incurred pursuant to the Program.

§ 10110. Participation Requirements for Apprentices.

An apprentice *shall* sign an agreement with the respective employer and DOL that stipulates that, in exchange for the training, the apprentice will remain and work on Guam for a period of one (1) year for each year of participation in the Program.

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§ 10111. Cooperative Programs Authorized.

(a) The Director may contract with government agencies, departments and instrumentalities, public or private organizations, firms, companies, businesses, program providers or individuals to provide technical or skilled training programs. Said contracts *shall* provide for specialized training in needed skills not otherwise available through the Program. If this specialized training is not part of an accessory government of Guam or federally funded program, the program participant *shall* pay the training cost.

(b) Government of Guam agencies, departments, and instrumentalities, including autonomous agencies, *shall* provide to the Program, on a timely basis, technical support and training required by the Director to perform the duties under this Article.

§ 10112. Effective Date.

This Article *shall* be effective upon enactment.

§ 10113. Tax Credit Sunset Provision.

(a) §§ 10108, 10109, and 10110 of this Article *shall* remain in effect until December 30, 2024. Any Guam Registered Apprenticeship Program tax credits certified for a period expiring after December 30, 2019, but *no later than* December 30, 2024, *shall* remain in full force and effect until the period expires or the credit is canceled on other grounds.

(b) Tax credits that have *not* been applied to business privilege tax liability that remains after the effective date of Subsection (a) hereof may be carried forward until such tax credit is exhausted for the tax year if any part of the tax year falls before December 30, 2024.

§ 10114. Reporting Requirements.

The Director *shall* make a full written report to *I Liheslatura* and post the report on the Department's website within thirty (30) days after the close of each fiscal year. The report *shall* describe accurately the names of all program participants; the total amount of tax credits claimed by each program participant in the preceding fiscal year; a list of

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apprentices for every program participant with each corresponding occupational trade; the amount of tax credits claimed by every program participant for each apprentice during the preceding fiscal year; DOL's occupational list, including the total number of apprentices trained for each Program trade; and such statistical and other information in such form and detail as *Liheslatura* may prescribe. If the Director fails to make said report or to post it on the DOL website within thirty (30) days after the report is due, all tax credits *shall* immediately be discontinued until the Director submits and posts the report.

§ 10115. Building Guam's Trades Scholarship Program.

(a) There is hereby created the *Building Guam's Trades Scholarship Program* (Program).

(b) Administration of Program. The Director *shall* administer this Program and *shall* promulgate rules and regulations necessary to carry out the intent of this Section.

(c) Selection Committee. There *shall* be annually established an Evaluation and Selection Committee (Committee) composed of the following:

- (1) the Director of the Department of Youth Affairs, or his designee;
- (2) the Director of the Department of Labor, or his designee; and
- (3) the Guam Workforce Investment Board.

The Committee *shall* conduct interviews for the purpose of selecting scholarship recipients for the Program listed within this Section. The passing of the oral interviews, the meeting of established entrance and academic requirements for enrollment in a Guam institution of higher education, and a demonstrated financial need shall constitute the primary criteria for selection of scholarship recipients. The Committee may prescribe additional qualifications for admission to the scholarship programs.

Applications for the *Building Guam's Trades Scholarship Program* *shall* be received by April 30 of every year, and

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applicants *shall* be interviewed at a time and place designated by the Committee prior to June 30. Awards *shall* be granted prior to July 30 in a written notice to the selected applicant, and the applicant's school administrator, if applicable.

(d) Scholarships. The *Building Guam's Trades Scholarship Program shall* consist of students who have declared their intention to attend a Guam institution of higher education. Scholarships may be awarded to eligible students who meet all of the following criteria:

(1) are bona fide residents of Guam;

(2) are citizens or permanent resident aliens of the United States, or a nonimmigrant alien admitted under the Compact of Free Association between the United States and the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau;

(3) are seniors or graduates of an accredited high school with a cumulative grade point average of not less than 2.0 on a 4.0 scale, or its equivalent;

(4) have been admitted to a Guam institution of higher education in accordance with its admissions policies; and

(5) the applicant must be in financial need, which *shall* be determined by completing a "Free Application for Federal Student Aid" (FAFSA) form as documentary evidence of need.

(e) Same: Benefits. Students entitled to scholarships pursuant to Subsection (d) of this Section *shall* receive the following benefit: a scholarship in the amount of Five Thousand Dollars (\$5,000), issued in two (2) equal installments of Two Thousand Five Hundred Dollars (\$2,500) each, with each installment payable at the beginning of the semester, or other applicable training period.

(f) Reporting Requirements. A report *shall* be submitted to the Speaker of *I Liheslaturan Guåhan* no later than three (3) weeks after the start of each semester which, at the very least, *shall* contain the following information: the total number of recipients for that semester, sorted by new and

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continuing recipients; the total number of recipients that completed their degree program in the prior semester; the total amount expended for the prior semester for any activity related to the Program; and any other information that *I Liheslatura* will deem helpful in the review of the Program.**SOURCE:** Added by P.L. 31-180:2 (Feb 3, 2012). Moved by the Compiler to Article 1 of Chapter 10, pursuant to the authority granted by 1 GCA § 1606. Amended by P.L. 35-039:2 (Oct. 14, 2019).

**ARTICLE 2
THE APPRENTICESHIP ACT OF GUAM**

SOURCE: This entire chapter was added by P.L. 32-230:1 (Dec. 30, 2014) as 22 GCA, Chapter 10, §§ 10101-10108. Codified by the Compiler as Article 2 of Chapter 10, §§ 10201-10208, pursuant to the authority granted by 1 GCA § 1606.

- § 10201. Title.
- § 10202. Statement of Public Policy.
- § 10203. Definitions.
- § 10204. Guam State Apprenticeship Council.
- § 10205. Powers and Duties of Director.
- § 10206. Administrative Procedures, Guidelines and Regulations.
- § 10207. Territorial-Federal Cooperation.
- § 10208. Severability.

§ 10201. Title.

This Chapter shall be known as The Apprenticeship Act of Guam.

§ 10202. Statement of Public Policy.

(a) Skilled manpower constitutes a great resource on Guam. Registered apprenticeship programs, through supervised training and education, develop skilled journeyworkers and help meet the increasing needs for such workers in the traditional labor force. The continuing development of skilled manpower is essential for individual self-realization and for an expanding industrial

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economy. This Act recognizes that all citizens of Guam, regardless of race, color, religion, national origin, or gender, are a potential aspect of a reliable workforce. Moreover, an individual's physical and/or behavioral health challenge shall not prevent him or her from participating in programs authorized through this Chapter, as every attempt shall be made by the Guam Department of Labor to ensure that apprenticeship programs are supportive of Title 17 GCA § 41210, relative to the employment of individuals with severe disabilities. To these ends, it is the declared public policy of Guam to develop sound apprenticeship training standards and to encourage industry and labor to institute training programs allowing all citizens of Guam the opportunity to work and earn a responsible wage to support themselves and their families.

(b) This Chapter shall apply to a person, firm, corporation, or craft only after such person, firm, corporation, or craft has voluntarily elected to conform with its provisions, for the purpose of participating in registered apprenticeship programs.

§ 10203. Definitions.

(a) Agency means the Guam Department of Labor, Division of Apprenticeship.

(b) Department means the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship.

(c) Director means the Director, Guam Department of Labor.

(d) Apprentice means a worker at least sixteen (16) years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn an apprenticeable occupation.

(e) Apprenticeship agreement means a written agreement between an apprentice and either the apprentice's program sponsor, or an apprenticeship committee acting as an agent for the program sponsor(s), which contains the terms and conditions of the employment and training of the apprentice.

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2015 NOTE: Subsection designations added to adhere to the Compiler's alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

§ 10204. Guam State Apprenticeship Council.

(a) There is established within the Guam Department of Labor, Division of Apprenticeship, the Guam State Apprenticeship Council (GSAC). The GSAC shall be comprised of five (5) members to be appointed by *I Maga'lahi* (the Governor) with the recommendation of the Director. Four (4) of the members of the GSAC shall be persons knowledgeable with apprenticeship occupations, with an equal number of representatives of employer and of employee organizations. The Director shall serve as one (1) member of the GSAC. With the exception of the Director, the four (4) members appointed by *I Maga'lahi* shall serve for a term of three (3) years; provided, however, that of the members first appointed, two (2) shall be appointed for a term of one (1) year and two (2) shall be appointed for terms of two (2) years. Three (3) members of the GSAC shall constitute a valid quorum for all purposes. Ex-officio members may be added to the GSAC, but shall have no vote.

(b) The GSAC:

(1) shall advise the Director or his designee on apprentice training matters, including the matters of related and supplemental instruction;

(2) may recommend suggested standards for apprenticeship agreements;

(3) shall maintain a close and effective liaison with governmental and nongovernmental agencies which are concerned with skilled manpower development and problems; and

(4) may recommend research projects on facts and trends relating to apprenticeship training and the supply of and needs for skilled manpower.

2015 NOTE: Subsection designations in (b) were altered to adhere to the Compiler's alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

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§ 10205. Powers and Duties of Director.

The Director shall:

(a) establish standards for apprenticeship agreements in conformity with this Chapter;

(b) provide assistance for the development of on-the-job learning programs in national apprenticeable occupations or local apprenticeable occupations;

(c) encourage and promote the making of apprenticeship agreements conforming to the standards established by this Chapter;

(d) register such apprenticeship agreements as are in the best interest of apprenticeship, and which conform to the standards established by this Chapter;

(e) keep a record of apprenticeship agreements and upon determination thereof issue either an interim credential or a certificate of completion of apprenticeship;

(f) terminate or cancel any apprenticeship agreements in accordance with the agreements;

(g) bring about the settlement of differences arising out of the apprenticeship agreement where the differences cannot be otherwise adjusted locally;

(h) issue such rules and regulations as may be necessary to carry out the intent and purpose of this Chapter;

(i) appoint personnel as are necessary to execute the functions required under this Chapter;

(j) perform other duties as are necessary to carry out the intent and purpose of this Chapter; and

(k) submit all proposed modifications in legislation, regulations, policies and/or operation procedures planned or anticipated by the Agency, either at the time of application for recognition or subsequently, to the Department for review and obtain the Department's concurrence prior to implementation.

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§ 10206. Administrative Procedures, Guidelines and Regulations.

The provisions incorporated in Title 29, Code of Federal Regulations (CFR) Part 29 (also known as the Labor Standards for the Registration of Apprenticeship Programs) and Part 30 (also known as Equal Employment Opportunity (EEO) in Apprenticeship), as amended, *shall* serve as the basic set of procedures, guidelines, and regulations governing the application of the Registered Apprenticeship Program in Guam, and are hereby adopted as guidelines and procedures of the Agency (Guam Department of Labor) to the extent not inconsistent with Guam law, subject to later amendment or repeal by the Director.

§ 10207. Territorial-Federal Cooperation.

The Agency may promote the administration of this Chapter by accepting and utilizing information, services, and facilities made available to it by the Department.

§ 10208. Severability.

If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.
