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DIV. 1 - DEPARTMENT OF ADMINISTRATION**

**CHAPTER 4
DEFINED CONTRIBUTION RETIREMENT SYSTEM**

SOURCE: These rules were submitted to the Legislature on March 30, 2017, and became effective on June 28, 2017, pursuant to the legislative decision to not act upon them pursuant to 5 GCA, Ch. 9, Administrative Adjudication Law.

P.L. 35-072:1 (Feb. 14, 2020) provided that the Defined Contribution Retirement System would be the default retirement plan for new employees commencing employment after January 1, 2018.

2020 NOTE: This Chapter was initially titled “Government Housing”; however, the Compiler’s Office has no record that these rules have ever been filed.

The rules and regulations codified in this Chapter reflect amendments to the Government of Guam Defined Contribution Retirement System Plan and Trust Agreement, a plan document identified as “Amendment No. 2017-1 to the Government of Guam Defined Contribution Retirement System Plan and Trust Agreement.” This plan document included the following prefatory language, which is not codified:

In accordance with Resolution No. _____ of the Board of Trustees of the Government of Guam Retirement Fund, the Government of Guam Defined Contribution Retirement System Plan and Trust Agreement (“Plan”) is amended as described below.

For purposes of codification in the Guam Administrative Rules and Regulations (GAR), the provisions of the plan document were renumbered by the Compiler pursuant to the authority of 1 GCA § 1606.

- § 4101. [Plan Amendment.]
- § 4102. Election to Participate in Alternative Plan.
- § 4103. [Contribution Rates.]

§ 4101. [Plan Amendment.]

The Plan is amended, effective as of January 1, 2018, by inserting the following new Article IA immediately following Article I:

**ARTICLE IA
COORDINATION WITH PARTICIPATION IN
GOVERNMENT OF GUAM
DEFINED BENEFIT 1.75 RETIREMENT SYSTEM**

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2020 NOTE: The plan document added a new “Article IA” but for purposes of codification, the provisions of the plan document were renumbered pursuant to the authority of 1 GCA § 1606.

§ 4102 Election to Participate in Alternative Plan.

Public Law No. 33-186, approved on September 14, 2016, establishes the “Defined Benefit 1.75 Retirement System” or “DB 1.75 Plan” as codified in Article 5, Chapter 8, Title 4 of the Guam Code Annotated (“GCA”) and the “Guam Retirement Security Plan” (“GRSP Plan”), both Plans which have been approved effective as of April 1, 2017. In accordance with Title 4 GCA Article 5, certain Participants under this Government of Guam Defined Contribution Retirement System may elect to participate in the DB 1.75 Plan effective as of various participation dates, at which time the Participants shall concurrently terminate active participation in this Defined Contribution System Plan and transfer a specified portion of their Accounts to the relevant DB 1.75 Plan.

(a) Election to Participate in Defined Benefit 1.75 Plan
In accordance with Article 1 of the DB 1.75 Plan, a Participant may elect to participate in the DB 1.75 Plan and terminate active participation in this Defined Contribution System as follows:

(1) New Employee Election. An Employee whose employment commences with the Government of Guam between April 1, 2017, and December 31, 2017, who would otherwise be treated as a Participant under this Defined Contribution System Plan and who makes a New Member Election as described in Article 1 of the DB 1.75 Plan [codified as Article 1, Chapter 4A of Title 2 of the Guam Administrative Rules and Regulations (GAR)], shall be eligible to participate in the DB 1.75 Plan effective as of January 1, 2018, and shall terminate active participation under this Defined Contribution System Plan as of January 1, 2018.

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(2) Active Member Election. An Employee who is an active Participant in this Defined Contribution Retirement System Plan on March 31, 2017, and who makes an Active Member Election as described in Article 1 of the DB 1.75 Plan [codified as Article 1, Chapter 4A of Title 2 GAR], shall be eligible to participate in the DB 1.75 Plan effective as of January 1, 2018, and shall terminate active participation under this Defined Contribution Retirement System Plan as of January 1, 2018.

(3) Reemployed Member Election. An Employee who is reemployed by the Government of Guam during the period commencing April 1, 2017, and ending on September 30, 2017, and who makes a Reemployed member Election as described in Article 1 of the DB 1.75 Plan [codified as Article 1, Chapter 4A of Title 2 GAR], shall be eligible to participate in the DB 1.75 Plan effective as of January 1, 2018, and shall terminate active participation under this Defined Contribution Retirement System Plan as of January 1, 2018.

(4) Late Reemployed Member Election. An Employee who is reemployed by the Government of Guam during the period commencing October 1, 2017, and ending on December 31, 2017, and who makes a Reemployed Member Election as described in Article 1 of the DB 1.75 Plan [codified as Article 1, Chapter 4A of Title 2 GAR], shall be eligible to participate in the DB 1.75 Plan effective as of January 1, 2018, and shall terminate active participation under this Defined Contribution Retirement System Plan as of January 1, 2018.

(5) Reemployed Disability Member Election. An Employee who receives disability benefits under 4 GCA § 8213 or Article 4, Chapter 8 of Title 4 of the GCA, on or

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before September 30, 2017, and is reemployed by the Government of Guam or terminates employment from the Government of Guam on or after January 1, 2018, and who makes a Reemployed Disability Member Election as described in Article 1 of the DB 1.75 Plan [codified as Article 1, Chapter 4A of Title 2 GAR], shall be eligible to participate in the DB 1.75 Plan effective as of the date of his or her reemployment or retirement or other termination of employment as applicable, and shall terminate active participation under this Defined Contribution Retirement System Plan as of the applicable date.

(b)[Repealed by P.L. 35-072:5 (Feb. 14, 2020)]

(c) Account Transfers to Defined Benefit 1.75 Plan or Guam Retirement Security Plan.

(1) New Employee Election. In the case of an Employee who makes a New Employee Election to participate in the DB 1.75 Plan as described in the above in this Section 4102, the Member's Account in this Defined Contribution Retirement System shall be transferred to the Retirement Fund as of January 1, 2018.

(2) Active Member Election.

(A) In the case of a Participant who makes an Active Member Election to participate in the DB 1.75 Plan as described in the above in this Section 4102, the Member's Account in this Defined Contribution System shall be transferred to the Retirement Fund in the amount equal to:

(i) the Member's Account balance as described in 4 GCA § 8209 (Employer Contribution Account); plus

(ii) the lesser of

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(i) the Member's Account balances as described in 4 GCA §§ 8208 (i.e., Member Pick Up Contribution Account) and 8209.1(a) (i.e., Rollover Account of Member Contribution Reserve from Existing Retirement System), or

(ii) the "Actuarial Cost of Credited Service".

(B) In the case that the Actuarial Cost of Credited Service is less than the Member's Account balances as described in 4 GCA §§ 8208 (i.e., Member Pre-Tax Pick-Up Contribution Account) and 8209.1(a) (i.e., Rollover After-Tax Account of Member Contribution Reserve from Existing Retirement System), then the "Actuarial Cost of Credited Service":

(i) first shall be funded from the Member's 4 GCA § 8209.1(a) Account (i.e., Rollover After-Tax Account of Member Contribution Reserve from Existing Retirement System); and

(ii) second any further amounts needed to fund up to the Actuarial Cost of Credited Service shall be funded from the Member's 4 GCA § 8208 Account (i.e., Member Pre-Tax Pick-Up Contribution Account).

(C) For purposes of this Defined Contribution System, the term "Actuarial Cost of Credited Service" shall be defined in accordance with the DB 1.75 Plan and, as so defined, such term means a percentage of historical base salary corresponding to the service for which a

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Participant's Account is credited with Employer Contributions under the Defined Contribution Retirement System through the date preceding the Participant's effective date of participation in the Defined Benefit 1.75 Retirement System. The applicable percentage shall be specified by the Board based on an actuarial review of the cost of credited service. The same percentage shall apply to all members within categories of similarly situated members, which categories may be determined at the sole and complete discretion of the Board.

(3) Reemployed Member Election. In the case of a Participant who makes a Reemployed Member Election to participate in the DB 1.75 Plan as described above in this Section 4102, the Member's Account in this Defined Contribution System shall be transferred to the Retirement Fund in the amount equal to that described in the above 4102 (c)(2) relating to the transfer applicable to an Active Member Election.

(4) Late Reemployed Member Election. In the case of a participant who makes a Late Reemployed Member Election to participate in the DB 1.75 Plan, the Member's Account in this Defined Contribution System shall not be subject to any transfer to the Retirement Fund.

(5) Reemployed Disability Member Election. In the case of a Participant who makes a Reemployed Disability Member Election to participate in the DB 1.75 Plan, the Member's Account in this Defined Contribution System shall be transferred to the Retirement Fund in the amount equal to that described in the above 4102 (b) relating to the transfer applicable to an Active Member Election.

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2020 NOTE: This provision is Section IA.1 of the plan document. Pursuant to the authority of 1 GCA § 1606, the provision was renumbered, and subsection designations were added/altered.

P.L. 35-072:2 (Feb. 14, 2020) repealed the Guam Retirement Security Plan, retroactive to January 1, 2018. Any reference to the GRSP have been removed. Prior to the repeal, subsection (b) stated:

(b) Election to Participate in the Guam Retirement Security Plan. In accordance with Article I of the GRSP Plan, a Participant may elect to participate in the GRSP Plan and terminate active participation in this Defined Contribution System as follows:

(1) New Employee Election. An Employee whose employment commences with the Government of Guam between April 1, 2017, and December 31, 2017, who would otherwise be treated as a Participant under this Defined Contribution System Plan and who makes a New Member Election as described in Article I of the GRSP Plan, shall be eligible to participate in the GRSP Plan effective as of January 1, 2018, and shall terminate active participation under this Defined Contribution System Plan as of January 1, 2018.

(2) Active Member Election. An Employee who is an active Participant in this Defined Contribution Retirement System Plan on March 31, 2017, and who makes an Active Member Election as described in Article I of the GRSP Plan, shall be eligible to participate in the GRSP Plan effective as of January 1, 2018, and shall terminate active participation under this Defined Contribution Retirement System Plan as of January 1, 2018.

(3) Reemployed Member Election. An Employee who is reemployed by the Government of Guam during the period commencing April 1, 2017, and ending on September 30, 2017, and who makes a Reemployed member Election as described in Article I of the GRSP Plan, shall be eligible to participate in the GRSP Plan effective as of January 1, 2018, and shall terminate active participation under this Defined Contribution Retirement System Plan as of January 1, 2018.

(4) Late Reemployed Member Election. An Employee who is reemployed by the Government of Guam during the period commencing October 1, 2017, and ending on December 31, 2017, and who makes a Reemployed Member

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Election as described in Article I of the GRSP Plan, shall be eligible to participate in the GRSP Plan effective as of the date of January 1, 2018, and shall terminate active participation under this Defined Contribution Retirement System Plan as of January 1, 2018.

(5) Reemployed Disability Member Election. An Employee who receives disability benefits under GCA 8213 or GCA Article 4, Chapter 8, on or before September 30, 2017, and is reemployed by the Government of Guam or terminates employment from the Government of Guam on or after January 1, 2018, and who makes a Reemployed Disability Member Election as described in Article I of the GRSP Plan, shall be eligible to participate in the GRSP Plan effective as of the date of his or her reemployment or retirement or other termination of employment as applicable, and shall terminate active participation under this Defined Contribution Retirement System Plan as of the applicable date.

§ 4103. [Contribution Rates.]

The Plan is amended effective as of January 1, 2018, by inserting the attached new Appendix A, “Current Employee and Employer Contribution Rates”, immediately following the end of the Plan document.

GOVERNMENT OF GUAM
DEFINED CONTRIBUTION RETIREMENT SYSTEM
PLAN AND TRUST AGREEMENT

APPENDIX A

CURRENT EMPLOYEE AND EMPLOYER
CONTRIBUTION RATES

(As of January 1, 2018)

Effective as of January 1, 2018, the required Employee Contributions and Employer Contributions under Article II of the Plan shall be as follows:

Employee Contribution Rate (As a percentage of base salary)	Employer Contribution Rate (As a percentage of base salary)
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6.2%	6.2%
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