

CHAPTER 6
HOTEL DEVELOPMENT FUND

- §6101. Purpose.
- §6102. Definitions.
- §6103. Functions of the Authority
- §6104. Purpose.
- §6105. Eligibility.
- §6106. Application and Approval Procedures.

NOTE: Rule-making authority cited for the formulation of the Hotel Development Fund Regulations 12 GCA Chapter 70.

The hotel development fund regulations are reprinted here in form as exact as possible to those filed with the Legislative Secretary. The substance of the regulations has not been changed. However, for the purpose of uniformity and ease of use, a new system of numbering has been adopted by the Editor. It is hoped that the revised numerical system will eventually be substituted for that formulated by the Department.

The underlying law was extensively revised by P.L. 23-135.

§6101. Purpose. The purpose is to prescribe Administrative rules that will assist in the administration of the Hotel Development Act, P.L. 16-87, relative to the functions of the Guam Economic Development Authority in the development of hotel facilities (12 GCA, Chapter 70).

§6102. Definitions. As used or referred to in these Guidelines, the following terms shall have these respective meanings unless a different meaning clearly appears in the context:

(a) *Authority* means the Guam Economic Development Authority, created by P.L. 8-80, as amended (Eighth Guam Legislature). The word *Corporation* is synonymous with Authority when used in these Rules and Regulations.

(b) *Board* means the Board of Directors of the Guam Economic Development Authority.

(c) *Governor* means the Governor of Guam.

(d) *Legislature* means the Legislature of Guam.

(e) *Hotel Development Act* is P.L. 16-87, enacted for the purpose of enhancing the tourist industry by assisting and promoting growth in the hotel industry and related facilities and services to create more jobs to aid Guam's ailing job market.

(f) *Hotel or accommodations* means first-class hotel rooms, motel rooms, or other type of lodging constructed

to accommodate tourists and other visitors while on Guam.

(g) *Related Facilities and Services* means restaurants, nightclubs, retail shopping areas, service areas, or any other services to be provided and/or facility to be located in/or adjacent to a Hotel that the Authority deems necessary or incidental to fulfilling the accomplishment of its purpose.

(h) *Construction* means the building of a hotel and/or related facility; payment of costs or expenses incidental to any contract deemed by the Authority to be necessary or useful and convenient for a hotel development or in connection therewith.

(i) *Infrastructural Cost* means the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water, sewer, power, communications transmission facilities and/or other improvements; the cost of machinery, furnishings and equipment, improvement and extension of pollution control equipment, other devices or equipment; the cost of lands, rights in lands, easements, privileges, agreements, franchises, utility extension, disposal facilities, access roads and site development deemed by the Authority to be necessary or useful and convenient for a hotel development or in connection therewith.

(j) *Hotel Development Fund or fund* means the fund established by the Authority and administered by the Authority for the purposes set forth in 12 GCA Article 8.

(k) *Person* includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, or other group or combination acting as a unit.

(l) *Tax Commissioner* means the person performing the duties of Commissioner of Revenue and Taxation for the government of Guam.

(m) *Taxpayer* means any person against whom a tax is levied, or who is liable for payment of any tax, or who is required to file a return under the Guam Tax Laws.

§6103. Functions of the Authority. The functions of the Authority in administering the Hotel Development Act shall be:

(a) To promote the construction and operation of new hotels and expansion of existing hotels and related facilities.

(b) To establish a Hotel Development Fund and administer as follows:

(1) Deposit the fund in a bank authorized to do business in the territory of Guam.

(2) Maintain the fund separate and apart from other funds of the Authority.

(3) Conduct regular and periodic audits of the fund.

(4) Submit at least annually to the Governor and the Legislature reports on the financial condition of the fund.

(c) To prepare reports to the Governor and the Legislature in accordance with 12 GCA §70102.

(d) To make available information on Guam's tourist industry and the financial incentives for the development of the industry to interested persons.

(e) To assist persons interested in building hotels or expanding hotel accommodations by:

(1) Collecting and disseminating information concerning Guam's tourist industry and the financial incentives available.

(2) Obtaining information from government agencies, public corporations and federal agencies fulfilling functions set forth in (e)(1) above.

(3) Providing information regarding financing available through private and public sources.

(4) Providing administrative and financing available through private and public sources.

(5) With prior consent of the Legislature by resolution, leasing government owned land at less than fair market value or selling land acquired by the Corporation.

(6) Preparing or having prepared assessments of infrastructure facilities or services required for construction and support of additional hotels

and/or expansion of existing hotels and related facilities.

(7) Making loans and/or guaranteeing loans in accordance with the Hotel Development Act and these Rules and Regulations.

(8) Subsidizing construction costs for hotels and related facilities to a maximum of ten percent (10%) of the cost of development of any such facility upon approval by the Legislature through adoption of a resolution or by failure to adopt a resolution of disapproval within forty-five (45) days after receipt of written request for resolution from the Board.

(f) The Authority may grant certificates of exemption to qualified persons under 12 GCA §70108 in accordance with §5101 of the rules and regulations governing the issuance of qualifying certificates and the Hotel Development Fund Rules and Regulations.

§6104. Purpose. The purpose of these Rules and Regulations is to establish, pursuant to 12 GCA §70108 further standards and criteria for the granting of certificates of exemption by the corporation.

§6105. Eligibility. (a) Any person planning to enter or who has entered into an agreement for the construction of a hotel and related facilities and/or payment of cost of construction of infrastructure in connection with a hotel and related facilities, or for incidental and necessary service useful and convenient for a hotel development or in connection therewith is eligible:

(1) Persons seeking assistance should first consult with a staff member to determine whether a project is eligible for consideration by the Board of the Authority. Following this consultation, an applicant must complete a written application for exemption certification, and submit this to the Authority's staff or review.

(2) Once the staff has determined a project is eligible for assistance, the applicant will be informed by the Authority of such findings and determination concerning eligibility which will permit an applicant to make expenditures on the project, or enter into contracts in connection with the project.

(b) If an applicant has made expenditures on a project prior to an official approval by the Authority, such expenditures may be eligible for consideration provided evidence or proof is submitted and a determination that such expenditure in not being included will have an adverse effect on the financial feasibility of an entire project proposal.

§6106. Application and Approval Procedures. (a)

A pre- application for exemption certificates must be submitted for the Authority to determine eligibility on the proposed project and project contracts:

(1) Applications by the project owner/developer identifying the project contract dollar amounts, and the names of the taxpayers, together with this tax identifying number, of whom certificates of exemptions are being requested must be received and filed with the Authority.

(2) Only upon verification of project contract expenditures and certification received by the project applicant on the eligible project contract costs disbursed subject to the terms and conditions of the outstanding contract agreements will the certificates of exemptions be issued.

(3) Certificates of exemptions will be valid for one (1) year from the date of issuance, which will be the specified date of which the materials, supplies, labor or supervision were furnished and paid.

(b) Only project contracts which have been reviewed and approve by GEDA's Board of Directors through a resolution granting exemption certification will be eligible for certificates of exemption.

PRE-APPLICATION FOR EXEMPTION CERTIFICATE
 GUAM ECONOMIC DEVELOPMENT AUTHORITY
 HOTEL DEVELOPMENT PROGRAM

1. Briefly describe the proposed project, its location and area.

2. Has the financing for construction of the facilities been obtained?

_____yes _____no. If no, has a financial commitment been made?

_____yes _____no. Attach any copies of loan agreements, commitment letters, approved construction contract, one set of plans and specifications, increment payments and schedules, and any other information required which will represent and warrant the enforceability and validity of the project contracts.

3. Describe in detail the principal uses by the occupant of the facilities to be constructed. Please respond to this item as completely and precisely as possible. Attach separate sheet if needed.

4. (a) Total amount of construction contract(s).\$_____.

(b) Number of Contract(s) _____.

Contract Gross Receipts to be exempted 4% Tax for:

4 %

TAX

Building Materials	\$_____	
\$_____		
Building Supplies	\$_____	\$_____
Labor	\$_____	
\$_____		
Supervision	\$_____	
\$_____		
TOTAL	\$_____	
\$_____		

5. Has the contract agreements been made to reflect the 4% GRT exemption if the contract is approved?

_____Yes _____No

6. How is the contract(s) to be awarded? (i.e., competitive bid; lowest bid; special bid; or other)

7. Dates for commencement/completion of construction contract(s).

8. Total project costs.

Land	\$ _____
Buildings (New Construction)	\$ _____
Buildings (Purchase)	\$ _____
Equipment, Machinery	\$ _____
Furniture, Fixtures	\$ _____
Utilities, Road and Appurtenant Facilities	\$ _____
Engineering & Architecture Fees	\$ _____
Other (Specify)	\$ _____
TOTAL COST	\$ _____

9. Attachments Required:

NOTE: The application will not be considered complete unless the following items are submitted with the pre-application form(s):

- A. Certified copy of Articles of Incorporation, By-Laws of the Corporation and a copy of Business License.
- B. Job Descriptions. Please provide a description of the specific occupational titles that correspond to the new permanent jobs to be created as a result of the project, together with estimated annual wages to be paid for each title. Please be specific. Identify hours per week, number of weeks per year.
- C. (4) Copies of Certificate of Application(s) for each taxpayer for whom Certificate(s) of exemption are to be issued.
- D. Attach all documents needed as per item 2.

CERTIFICATION:

PLEASE NOTE: Eligibility for Projects and contracts is determined by the information presented in the application and in the required attachments. Any changes in the status of the proposed project and contracts from the facts presented herein could disqualify the project from eligibility. Please contact the staff of the Authority before taking any action which would change the status of the project as reported herein.

I hereby represent and certify that the foregoing information to the best of my knowledge is true and complete and accurately and fairly describes the proposed project and contracts being applied for exemption under 12 GCA §70108.

The undersigned authorizes the Guam Economic Development Authority to verify any answer(s) contained herein through a search of its records, or records to which it has access and to release the results of said research.

/s/ _____
 Name (Print) _____
 Title _____
 Date _____

Sworn and Subscribed before me this ____ day of _____, 1982.

Notary Public

(GEDA/HD-1)

FOR INTERNAL USE ONLY

Project _____

Application No. _____

CERTIFICATE OF APPLICATION

Use Tax Certificate of Exemption

Name of taxpayer:

Nature of Capital Expenditure	Amounts
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Total Expenditures	\$ _____
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4% or Total Use Tax Exemption being applied	\$ _____
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PLEASE NOTE: Certificates of exemption will only be issued upon delivered and verification of actual dollar amounts of any use tax liabilities on approved projects.

CERTIFICATION:

PLEASE NOTE: Eligibility for Projects and contracts is determined by the information presented in the application and in the required attachments. Any changes in the status of the proposed project and contracts from the facts presented herein could disqualify the project from eligibility. Please contact the staff of the Authority before taking any action which would change the status of the project as reported herein.

I hereby represent and certify that the foregoing information to the best of my knowledge is true and complete and accurately and fairly describes the proposed project and contracts being applied for exemption under 12 GCA §70108.

The undersigned authorizes the Guam Economic Development Authority to verify any answer(s) contained herein through a search of its records, or records to which it has access and to release the results of said research.

/s/ _____

Name (Print) _____

Title _____

Date _____

Sworn and Subscribed before me this ____ day of _____, 1982.

Notary Public

(GEDA/HD-2)

FOR INTERNAL USE ONLY

Project _____

Application No. _____

CERTIFICATE OF APPLICATION
GRT Certificate of Exemption

A. Name of taxpayer:

Address:

Telephone No.:

B. Description of Contract Cost 4 % G R T
Amount

Building Materials \$ _____ \$ _____

Building Supplies \$ _____ \$ _____

Labor \$ _____ \$ _____

Supervision \$ _____ \$ _____

TOTAL \$ _____ \$ _____

C. Attachments Required:

NOTE: This application will not be considered complete unless the following items are submitted with the application form.

- (1) Job Description: Please provide a description of the specific occupational titles that correspond to the construction jobs being created as a result of this contract, together with the estimated annual wages to be paid for each title. Please be specific (i.e., 3 crane operators @ \$7,800 per year; etc.). Identify hours per week and number of weeks per year for each job.
- (2) Copy of the contract agreement entered/to be entered into for the project application (the owner of the project).
- (3) Certificate(s) of corporate good standing for each party issued by Department of Revenue and Taxation.

CERTIFICATION OF PROJECT APPLICANT

I hereby represent and certify that the foregoing information to the best of my knowledge is true and complete and accurately and fairly describes the (proposed) contract agreement.

The undersigned authorizes the Guam Economic Development Authority to verify any answer(s) contained herein through a search of its record or records to which it has access and to release said research.

/s/ _____

Name (Print) _____

Title _____

Date _____

Sworn and Subscribed before me this _____ day of _____, 1982.

Notary Public

(GEDA/HD-3)