



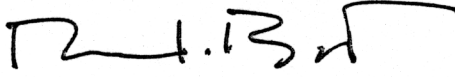
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

NATIONAL OFFICE OF NATIVE AMERICAN PROGRAMS

JUN 15 2005

Section 184 Letter 2005-1

MEMORANDUM FOR: All Participating Lenders

FROM: Roger J. Boyd, Deputy Assistant Secretary for Native American Programs
SUBJECT: Section 184 Loan Policy Changes and Underwriting Updates

The purpose of this letter is to inform lenders of policy changes and underwriting guideline updates under the Section 184 Indian Housing Loan Guarantee Program. These changes are effective immediately and will be included in the next revision to the February 2003 Processing Guidelines.

The changes will impact the following subject areas:

1. Administrative Procedures
2. Tribal Approval
3. Land Status and Jurisdiction Form
4. Increased Loan Limits in Alaska
5. Infrastructure Costs as a Percentage of Total Development Cost
6. Contingency Reserve Funds for Manufactured or Modular Housing
7. Assignment of Loans on Fee Simple Land
8. Cash-out Refinance Transactions
9. Cash-out Refinance Transactions Underwritten by Direct Guarantee Lenders
10. Final Release of Holdback on Single Close Construction Loans

1. Administrative Procedures (Processing Guidelines: Appendix 1-1)

The Office of Loan Guarantee (OLG), which is responsible for the underwriting and guarantee functions of the Section 184 program, is now located within the main Department of Housing and Urban Development (HUD) office in Denver. Because we have been experiencing some difficulties with receipt of loan packages at this new address, we are asking that all lenders be sure to address their envelopes as follows **and** include the enclosed mailing notice attached to the front of each file (Attachment 1):

HUD – Program Office of Native American Programs
Section 184 Office of Loan Guarantee – Jan Cummins/Deanna Lucero
1670 Broadway, 23rd Floor
Denver, CO 80202

2. **Tribal Approvals** (Processing Guidelines: Chapter 1, Paragraph 1.5 d. HUD Responsibilities)

Due to the recent changes within the OLG, the responsibility for review of tribal eligibility (approval of foreclosure, eviction and leasing procedures) now lies with the six Area Office of Native American Programs (ONAP) Field Offices. The field offices are located in Chicago (Eastern/Woodlands) ONAP, Oklahoma City (Southern Plains) ONAP, Denver (Northern Plains) ONAP, Phoenix (Southwest) ONAP, Seattle (Northwest) ONAP and Anchorage (Alaska) ONAP. For direct contact information, please visit the official website for the Office of Native American Programs at:

<http://www.hud.gov/offices/pih/ih/codetalk/onap/index.cfm>.

The responsibility for approval of tribes designating an Indian Area off the reservation lies with the Director, Office of Loan Guarantee, in Washington, D.C. (see above website for address and contact information).

3. **Land Status and Jurisdiction Form** (Processing Guidelines: Chapter 2, Paragraph 2.7 Land Status Notification and Chapter 5, Paragraph 5.23c (7) Land Status and Jurisdiction Form)

PIH Notice 2004-19 (Attachment 2) introduced the concept of "Expanded Service Area or Indian Area" solely for the purposes of Section 184 lending activity. The notice established the criteria for approval of an expanded service area and created the tribal application process. The OLG has determined that a Land Status and Jurisdiction form is no longer required for "fee simple" transactions that occur off reservation when the entire state has been designated an Indian area for the Section 184 program. (Enclosure 3 is a List of Participating Tribes with their approved areas.)

4. **Increased Loan Limits in Alaska** (Processing Guidelines: Chapter 4, Paragraph 4.3 Modest Housing and Chapter 5, Paragraph 5.1 b (2))

The OLG is authorized to apply the loan limits established under Section 214 of the National Housing Act for Section 184 mortgage applications in the State of Alaska. The loan limits are published annually and can found on the FHA Mortgage Limits web page for Alaska: <https://entp.hud.gov/idapp/html/hicost1.cfm>. The chart below gives the current loan limits for the Section 184 program in the State of Alaska:

SECTION 184 LOAN LIMITS FOR THE STATE OF ALASKA ONLY

One-family	Two-family	Three-family	Four-family
\$469,342.00	\$600,822.00	\$726,232.00	\$902,538.00

5. **Infrastructure Costs as a Percentage of Development Cost** (Processing Guidelines: Chapter 4, Paragraph 4.14 (c) Off-Site infrastructure improvements)

Due to the high cost of developing infrastructure to support affordable housing development in geographically isolated areas surrounding tribal lands and reservations, the OLG has identified the need to increase the amount of off-site infrastructure money eligible for recapture when a home site receives financing through the Section 184 program. The new policy will allow the **lesser** of: (a) the actual pro-rata portion of those costs to be included in the cost of the individual home or (b) up to **15 percent** of the cost to construct the subject house.

6. **Contingency Reserve Funds for Manufactured or Modular Housing** (Processing Guidelines: Chapter 7, Paragraph 7.3 b. (3) Contingency Reserve)

If the borrower is building a manufactured or modular home, there is no longer a contingency required on the cost of the dwelling. A 10 percent contingency will be required on all other construction costs. This change in policy relieves Section 184 new construction borrowers building a manufactured or modular home from the burden of funding the contingency for a prefabricated structure with a fixed purchase price.

7. **Assignment of Loans on Fee Simple Land** (Processing Guidelines: Chapter 8, Paragraph 8.6 (l) Claim Options)

Due to the recent expansion of the Section 184 Indian Loan Guarantee Program into fee simple areas not contiguous to the reservation, it is no longer in the best interest of the Department to allow assignment of mortgages on fee simple land. Because of limited staff, likely delays in foreclosure, and the possible deterioration of the property, the Department is discontinuing this procedure. In these cases, the lender must now handle the foreclosure in a timely manner and convey the property with clear title in order to file a claim for payment. Fees and expenses incurred during the foreclosure process will be paid as part of the lender claim. Any loans in process as of the date of the Mortgagee Letter will be able to continue the previous process (this includes those loans in which case numbers have been issued).

It is important to note that the Department **will continue** to accept assignments for all loans located on **tribal trust land, individual allotted trust land and fee simple land within an Indian reservation**. This is necessary to encourage lending on reservation land. As in the past, in these situations the lender may assign the loan to the Department, the claim will be paid, and HUD will handle the foreclosure.

8. **Cash-Out Refinance Transactions** (Processing Guidelines: Chapter 11, Paragraph 11.4 b. Credit Qualifying, Cash Back Refinances with an Appraisal)

Qualified tribes or THDE/IHAs may also now apply for cash-out refinance loans when using these funds to carryout additional affordable housing activities. In addition, qualified owner-occupant borrowers who are purchasing their Mutual Help homes (payments made for one year or more) may now apply to payoff their existing debt and obtain cash-out depending on the value of the property.

9. **Cash-Out Refinance Transactions Underwritten by Direct Guarantee Lenders** (Processing Guidelines: Chapter 11, Paragraph 11.4 b.7)

Cash-out refinance loans for owner-occupant borrowers are now eligible for Direct Guarantee processing. Tribal or TDHE/IHA loans must still be underwritten by OLG.

10. **Final Release of Holdback – Single Close Construction Loans** (Processing Guidelines: Chapter 7, Paragraph 7.6n, Final Release Notice)

The lender may authorize release of the 10 percent holdback to the builder after receipt of the final inspection, signed Warranty of Substantial Completion and Mortgagor's Letter of Completion without OLG's signature. The Final Release of the contingency and any change orders will continue to be approved by the OLG upon receipt of the complete package. Direct Guarantee lenders may continue to handle the entire process.

You may contact the OLG in Denver, Colorado, at 1-800-561-5913 or in Washington, D.C. at 202-401-7914 with any questions concerning the Section 184 Loan Guarantee Program and the information provided above.

Attachments
Mailing Notice
PIH Notice 2004-19
List of Participating Tribes and Approved Areas