

1 **SECTION 184 INDIAN HOUSING LOAN GUARANTEE PROGRAM POLICY**
2 **HANDBOOK**

3 **Chapter I – Doing Business with the Office of Loan Guarantee**

4 **Subsection C – Lender Applicants; Types of Program Approvals; Participation Options and**
5 **Requirements**

6

7 **I. WORKING WITH THE OFFICE OF LOAN GUARANTEE**

8 **C. LENDER APPLICANTS; TYPES OF PROGRAM APPROVALS; PARTICIPATION**
9 **OPTIONS AND REQUIREMENTS**

10 Subsection C addresses financial institutions interested in obtaining and maintaining approval
11 to participate in the Section 184 Program. This section discusses the types of Program
12 Approval, Participation Options, application procedures and requirements to maintain
13 approval.

14 **1. Types of Program Approvals**

15 The Office of Native American Program (ONAP) approval may be obtained through
16 one of two paths. Lender Applicants must be approved by HUD under path (a) or (b)
17 below.

18

19 **a. Statutory Approval.** The following Lender Applicants are deemed approved
20 by Section 184 of the Housing and Community Development Act of 1992, as
21 amended:

22

23 **i.** Any mortgagee approved by HUD for participation in the single-family
24 mortgage insurance program under Title II of the National Housing
25 Act;

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27 **ii.** Any Lender Applicant whose housing loan under Chapter 37 of Title
28 38, United States Code are automatically guaranteed pursuant to
29 3702(d) of such title;

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31 **iii.** Any Lender Applicant approved by the U.S. Department of Agriculture
32 to make Guaranteed Loans for single family housing under the Housing
33 Act of 1949; and

34

35 **iv.** Any other Lender Applicant that is supervised, approved, regulated, or
36 insured by any other Federal agency of the United States, including but
37 not limited to Community Development Financial Institutions.

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1 **b. Secretarial Approval.** Lender Applicants who are not deemed approved under
2 the Statutory Approval requirement, must obtain ONAP approval to
3 participate.
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5 **2. Participation Options.** In addition to identifying the Section 184 program approval
6 path the Lender Applicant is eligible for, the Lender Applicant must select one or more
7 Participation Options they are interested in.
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9 There are three participation options: (a) Non-Direct Guarantee (Non-DG) Lender, (b)
10 Direct Guarantee (DG) Lender and (c) Servicers. Lender Applicants must choose at
11 least one Participation Option.
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13 If the entity is approved under one Participation Option and wishes to change to
14 another or additional Participation Option, the Lender Applicant must complete the
15 application process applicable to the desired Participation Option.
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17 **a. Non-Direct Guarantee Lender.** Non-DG Lenders may only originate loans.
18 Non-DG Lenders may not underwrite, close, service, purchase, hold or sell
19 Section 184 Guaranteed Loans. Non-DG Lenders, also known as Sponsored
20 Entities, must be sponsored by a DG Lender, also known as the Sponsor.
21

22 **b. Direct Guarantee Lender.** DG Lenders may originate, underwrite, close,
23 service, purchase, hold, and sell Section 184 Guaranteed Loans.
24

25 DG Lenders may sponsor other ONAP approved entities. For example, DG
26 Lenders may sponsor Non-DG Lenders or other DG Lenders. However,
27 underwriting must be performed by the Sponsoring DG Lender. All loans must
28 be closed in the name of the Sponsoring DG Lender who underwrites the loan.
29 HUD will issue a Loan Guarantee Certificate (LGC) in the name of the
30 Sponsoring DG Lender for loans originated in accordance with Section 184
31 Program guidelines.
32

33 Additional information regarding sponsored relationships can be found in
34 Section 8 of this Chapter.
35

36 **c. Servicers.** Entities wishing to service Section 184 Guaranteed Loans must
37 apply to ONAP for approval. Chapter 1, Section D, outlines the Servicer
38 application and participation requirements.
39

40 **3. Program Ineligibility.** An entity may be deemed ineligible for Section 184 Program
41 participation when HUD becomes aware that the entity or any officer, partner,
42 director, principal, manager or supervisor, loan processor, loan underwriter, or loan
43 originator of the entity was:

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- a. suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under 2 CFR part 2424, or under similar procedures of any other Federal agency;
 - b. indicted for, or have been convicted of, an offense that reflects adversely upon the integrity, competency, or fitness to meet the responsibilities of the Lender Applicant, DG Lender, or Non-DG Lender to participate in the Title I or Title II programs of the National Housing Act, or Section 184 Program;
 - c. found to have unresolved findings as a result of HUD or other governmental audit, investigation, or review;
 - d. engaged in business practices that do not conform to generally accepted practices of prudent Lender Applicants, Direct or Non-Direct Guarantee Lenders or that demonstrate irresponsibility;
 - e. convicted of, or have pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry during the 7-year period preceding the date of the application for licensing and registration, or at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust or money laundering;
 - f. in violation of provisions of the Secure and Fair Enforcement Mortgage Licensing Act of 2008 (12 U.S.C. 5101, et seq.) or any applicable provision of Tribal or State law; or
 - g. in violation of 12 U.S.C. 1715z-13a.

29 If a Sponsor becomes aware its Sponsored Entities meets any of the ineligibility
30 criteria listed above, the Sponsor must notify ONAP within 24 hours following the
31 knowledge of the ineligibility via email at 184LenderApproval@hud.gov.

32 Sponsorship relationships are further discussed in Section 8 of this Chapter.

33 34 **4. Standard Application and Participation Requirements**

35 This section describes the Standard Application and Participation Requirements
36 applicable to all Lender Applicants, regardless of the Program Approval path and
37 Participation Option.

38 *These requirements continue even after the Lender Applicant is approved by HUD to*
39 *participate as a Non-DG, DG Lender, or Servicer.*

1 Beyond the Standard Application and Participation Requirements, additional
2 requirements for the Lender Applicant apply, depending on the Program Approval
3 path and Participation Option selected. These Supplemental Application
4 Requirements are outlined in Section C.5 to C.7.

5 *These Supplemental Application Requirements continue even after the entity is*
6 *approved by HUD to participate as a Non-DG or DG Lender.*

7 The Standard Application and Participation Requirements are:

- 8 a. Lender Applicant’s Business Formation Name and fictitious or “Doing Business
9 As” (DBA) Name
- 10 b. Business Formation
- 11 c. Business License or Registration
- 12 d. Office Facilities
- 13 e. Personnel Requirements
- 14 f. Restricted Participation
- 15 g. Quality Control Plan

16 *PRO TIP: The Office of Loan Guarantee provides a complete Lender Applicant*
17 *Checklist. The checklist is available at XXXXXXXXX.*

18 **a. Lender Applicant Name**

19
20 **i. Definitions**

21 **a. Institution Name**

22 The institution’s name is the legally registered name associated
23 with the entity’s home office.

24
25 **b) Fictitious or “Doing Business As” Name**

26 The fictitious or “Doing Business As” (DBA) name is any
27 registered name or alias that the Lender Applicant, Non-DG,
28 and DG Lender has a legal right to use.

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30
31 **ii. Standard.** The Lender Applicant must use as its institution name
32 shown on its Business Formation Documents or DBA name for which it
33 has received approval from its state. The Lender Applicant is prohibited
34 from using any restricted word in, or as part of, its institution or DBA
35 name in a manner that would violate the Helping Families Save Their
36 Homes Act of 2009 (Public Law 111–22) or 18 U.S.C. § 709, which
37 places restrictions on “federal,” “government,” or “national” and related
38 words, unless the Lender Applicant, Non-DG and DG Lender is exempt
39 from these statutory prohibitions.

40
41 The Lender Applicant’s institution name and all DBA names used by a
42 Lender Applicant for conducting Section 184 business must be

1 registered with ONAP. The Lender Applicant must use only those
2 names that are registered with ONAP in advertising and promotional
3 materials related to the Section 184 Program.
4

5 **iii. Required Documentation.** The Lender Applicant must submit
6 documentation from the State showing:

7 **a)** its a legally approved Business Formation name; and
8

9 **b)** all approved fictitious names or DBA name(s) from all
10 applicable States.

11 **b. Unique Entity Identifier**
12

13 **i. Standard.** Lender Applicants seeking to be a DG Lender must register
14 for and obtain an active Unique Entity Identifier (UEI) through the US
15 General Services Administration’s System for Award Management
16 (SAM) at www.sam.gov. The registration data must include the tax
17 identification number, institution name, and home office geographic
18 address. The UEI must be provided as a part of the Lender Applicant’s
19 application and must be maintained as long as the entity is a DG
20 Lender. The UEI registration data must match the tax identification
21 number, institution name, and home office geographic address provided
22 in the application.

23 **c. Business License or Registration**
24

25 **i. Standard.** The Lender Applicant must ensure that its home office and
26 each physical branch office has all licenses, registrations, or approvals
27 required for the types of Lender Applicant functions or activities
28 performed by these offices for the jurisdiction(s) in which that office or
29 offices is/are located. A Lender Applicant that has been refused a state
30 license or has been sanctioned by any state in which it will originate
31 Section 184 loans must disclose the circumstances of the refusal or
32 sanction and the resolution to ONAP.
33

34 **ii. Required Documentation.** The Lender Applicant must submit a copy
35 of its state license, registration, or equivalent approval for the state in
36 which the home office is located. The Lender applicant, through a
37 Corporate Officer, must certify at application that it has not been
38 refused a license or been sanctioned by any state in which it will
39 originate Section 184 loans.
40

41
42 If the Lender Applicant has been subject to an adverse action against its
43 license, registration, or equivalent approval, and it is unable to certify, it
44 must follow the Unable to Certify procedures.
45

1 The Unable to Certify procedures are as follows:
2

3 If an applicant is unable to certify any of the certification statements,
4 the applicant must submit a detailed explanation for each certification
5 that it is unable to complete. The document must:
6

- 7 a) explain in detail the reason(s) why the applicant is unable to
8 certify;
- 9
- 10 b) be on applicant's letterhead;
- 11
- 12 c) be dated;
- 13
- 14 d) be signed by the Corporate Officer who signs the application;
- 15
- 16 e) contain language certifying that, if approved, the lender
17 applicant will comply with all Section 184 Program
18 requirements; and
- 19
- 20 f) where applicable, provide evidence of an acceptable resolution
21 (such as reinstatement or subsequent approval of a license,
22 payment of sanctions or fines, or similar documentation).
23

24 **iii. Exception for Lender Applicants Exempt from State Licensing**
25 **Requirements.** If the Lender Applicant is exempt from state licensing
26 requirements, the Lender Applicant must submit documentation of the
27 applicable exemption.
28

29 **d. Business Formation**

30
31 A Lender Applicant must be organized in one of the acceptable business forms
32 listed below. A sole proprietorship is not an acceptable business form. The
33 Lender Applicant must submit its Business Formation Documents with the
34 application.
35

36 **i. Corporation**

- 37 **a) Definition.** A Corporation is an entity chartered in the United
38 States or its territories.
- 39
- 40 **b) Standard.** The corporation must be organized in accordance
41 with Tribal, federal and state laws regarding corporations and
42 must provide for permanent succession.
- 43
- 44 **c) Required Documentation.** The corporation must submit
45 copies of its Articles of Incorporation, bylaws and Tax
46 Identification Number (TIN) with its application.

1
2 **ii. Limited Liability Company**

3 **a) Definition.** A Limited Liability Company (LLC) is organized
4 under applicable Tribal or state law which creates a legal entity
5 with a combination of the legal and tax attributes of
6 corporations and partnerships.

7
8 **b) Standard.** The LLC must:

- 9 • consist of two or more members, unless its single member is
10 a corporation or LLC consisting of two or more persons or
11 members;
12 • ensure each natural person is of legal age as recognized by
13 the state of incorporation at the time such natural person
14 becomes a member;
15 • have a minimum term of existence of 10 years from the date
16 of application; and
17 • provide for succession and continuance in the event of the
18 withdrawal or death of a member.

19
20 **c) Required Documentation.** The LLC must submit its Articles
21 of Organization and operating agreement with its application.
22 The Articles of Organization and operating agreement must
23 contain language addressing the requirements listed above. The
24 application must include the names and TINs of all members.
25

26 **iii. Partnership**

27 **a) Definition.** A Partnership is a for-profit business operation
28 between two or more entities that share ownership and
29 management responsibilities.

30
31 **b) Standard.** The partnership must:

- 32 • be organized in accordance with relevant Tribal or state law;
33 • have a term of existence that continues for a minimum term
34 of 10 years from the date of application;
35 • be structured to continue to exist even if a partner
36 withdraws; and
37 • must be a corporation or other chartered institution
38 consisting of two or more individuals.

39
40 **The partnership must designate a managing general**
41 **partner, who:**

- 42 • has as its principal activity the management of one or more
43 partnerships, all of which are Lender Applicants, lenders, or
44 property improvement or Manufactured Housing loan
45 lenders; and

- has exclusive authority to deal directly with the Secretary or its designee on behalf of each partnership.

c) Required Documentation. The partnership must submit its partnership agreement. The partnership agreement must contain language addressing the requirements listed in the section above. The partnership must submit the names and TINs of all general partners as well as the names and TINs of all officers and directors of the managing general partner.

iv. Nonprofit

a) Definition. A nonprofit is a charitable organization or corporation, civic league, social welfare organization, or local employee association organized for purposes other than profit.

b) Standard. The nonprofit must be recognized as exempt from taxation by the Internal Revenue Service (IRS) under Internal Revenue Code (IRC) Section 501(a) as an entity described in Sections 501(c)(3) and (4). A nonprofit organized as a Corporation, LLC, or Partnership must also comply with all requirements for the applicable business form.

c) Required Documentation. The nonprofit must provide a copy of its IRS exemption letter. The nonprofit must submit all Business Formation Documents required of its business form.

e. Office Facilities

i. Definitions

a) Home Office. Lender Applicant’s Home Office is the main office from which it manages its Section 184 Program business.

b) Branch Offices. Branch Offices are all other offices from which the Lender Applicant conducts Section 184 Program business.

ii. Standard

a) Home Office. A Lender Applicant must designate a headquarters or “home office” for its Section 184 Program business. A Lender Applicant’s home office does not have to be its corporate office.

The Lender Applicant’s home office must have a staff of at least two full-time employees. The Lender Applicant may not rely on a shared receptionist to satisfy this full-time employee requirement.

1 **b) Standard.** The Lender Applicant must verify that no Corporate
2 Officers are suspended, debarred, or otherwise excluded from
3 participation in HUD programs (see Restricted Participation).
4 The Lender Applicant must ensure its Corporate Officers only
5 represent a single Non-DG or DG Lender, unless the following
6 criteria are met:

- 7 • the entities represented have some or all the same Corporate
8 Officers or Principal Owners; and
- 9 • there is a clear and effective separation of the entities, and
10 Borrowers know at all times exactly which entity is being
11 represented and with whom they are conducting business.

12
13 Corporate Officers must be full-time, exclusively employed by
14 the Lender Applicant and has at least three years of experience
15 in the specific lender functions or activities that the Lender
16 Applicant is approved to perform. A Corporate Officer's
17 experience in real estate sales or brokerage does not qualify.

18
19 **c) Documentation.** The Lender Applicant must:

- 20 • Identify all Corporate Officers listed above who will be
21 directly involved in managing, overseeing, or conducting
22 Section 184 business.
- 23 • Provide resumes for Corporate Officers.
- 24 • Provide the following certifications:
 - 25 ○ All Employees who will sign applications for
26 Guaranteed Loans on behalf of the Lender Applicant
27 shall be Corporate Officers or shall otherwise be
28 authorized to bind the Lender Applicant in the
29 origination of the transaction.
 - 30 ○ Lender Applicant shall not and have not pay anything of
31 value, directly or indirectly, in connection with any
32 Guaranteed Loan to any person or entity if such person
33 or entity has received any other consideration from the
34 seller, builder, or any other person for services related to
35 such transaction or related to the purchase or sale of the
36 property, except that consideration, approved by HUD,
37 may be paid for services actually performed.
 - 38 ○ Lender Applicant shall not and has not paid a referral fee
39 to any person or organization.
 - 40 ○ Lender Applicant has not been sanctioned by any Tribal,
41 Federal, State, or other authority related to any lending
42 activity.

43

1 **ii. Officer in Charge**

2 **a) Definition.** The Officer in Charge is the Corporate Officer
3 designated to manage and direct the Lender Applicant’s Section
4 184 operations, including authorizing person(s) to report to
5 HUD on guarantees, purchases, and sales of Guaranteed Loans
6 for the purpose of obtaining or transferring guarantee coverage.
7

8 **b) Standard.** The Lender Applicant must designate as the Officer
9 in Charge a full-time Corporate Officer who is exclusively
10 employed by the entity and has at least three years of experience
11 in the specific Lender Applicant functions or activities that the
12 Lender Applicant is approved to perform, including:

- 13 • Originating or Servicing, where applicable, Section 184
14 Loans; or
- 15 • Managing other individuals performing these services.

16
17 A Corporate Officer’s experience in real estate sales or
18 brokerage does not qualify.

19
20 **c) Required Documentation.** The Lender Applicant must
21 designate the Officer in Charge and submit a current resume
22 covering the most recent seven-year period detailing the
23 individual’s relevant experience in the online application.
24

25 **iii. Employees**

26 **a) Definition.** Employees are individuals under the direct
27 supervision and control of the Lender Applicant.
28

29 **b) Standard.** The Lender Applicant must not employ any
30 individual who will participate in Section 184 transactions if the
31 individual is suspended, debarred, under a Limited Denial of
32 Participation (LDP), or otherwise excluded from participation in
33 Government programs (see Section C.3, Program Ineligibility).
34

35 **iv. Personnel Licenses**

36 **a) Standard.** The Lender Applicant must ensure that its Corporate
37 Officers and employees conducting Section 184 business for or
38 on behalf of the Lender Applicant have all Tribal, state, and
39 federal licenses and registrations, required for the Lender
40 Applicant functions or activities that such individuals will
41 perform. The Lender Applicant must verify that all employees
42 participating in HUD programs for or on behalf of the Lender
43 Applicant are registered with the National Mortgage Licensing

1 System and Registry (NMLS), unless excluded from NMLS
2 requirements by law or regulation.

3
4 **b) Required Documentation.** The Lender Applicant must
5 provide the names of all Corporate Officers and employees with
6 their corresponding corporate role, relating to loan origination,
7 servicing and claims, and their licensing numbers (Nationwide
8 Multistate Licensing System and Registry (NMLS)), and certify
9 that it meets this requirement as part of its application.

10
11 **v. Personnel Compensation.** The Lender Applicant must not
12 compensate employees who perform underwriting or Quality Control
13 (QC) activities on a commission basis.
14 The Lender Applicant must report all employee compensation in
15 accordance with IRS requirements.

16
17 **vi. Dual Employment.** The Lender Applicant must require its employees
18 to be its employees exclusively, unless the entity has determined that
19 the employee's other outside employment, including any self-
20 employment, does not create a prohibited conflict of interest.

21
22 **vii. Conflicts of Interest.** Employees are prohibited from having multiple
23 roles in a single Section 184 transaction. Employees are prohibited
24 from having multiple sources of compensation, either directly or
25 indirectly, from a single Section 184 transaction

26 **viii. SAFE Act Compliance.** The Lender Applicant must ensure that it and
27 its employees comply with the requirements of the Secure and Fair
28 Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) (12
29 U.S.C. § 1501 et seq.), including the licensing and registration of its
30 employees in the NMLS.

31
32 **ix. Restricted Participation.** The Lender Applicant must confirm it
33 verified, through each of the following systems, that the designated
34 employees listed below are permitted to participate in the Section 184
35 Program. If any of the designated employees are found to be ineligible,
36 they are restricted from participating in the Section 184 Program.
37 Checks to verify employee eligibility must be conducted at least
38 semiannually.

39
40 **a) Excluded Parties List.** The Lender Applicant must verify
41 employee eligibility for all officers, partners, directors,
42 principals, managers, supervisors, loan processors, loan
43 underwriters, loan originators, and all other employees
44 participating in U.S. Department of Housing and Urban

1 Development (HUD) programs for or on behalf of the Lender
2 Applicant, using the System for Award Management (SAM)
3 (www.sam.gov) Excluded Parties List.
4

5 **b) Limited Denial of Participation.** The Lender Applicant must
6 verify employee eligibility for all officers, partners, directors,
7 principals, managers, supervisors, loan processors, loan
8 underwriters, loan originators, and all other employees
9 participating in HUD programs for or on behalf of the Lender
10 Applicant, using the [Limited Denial of Participation \(LDP\)](#) list.
11

12 **c) National Mortgage Licensing System (NMLS) and Registry.**
13 Employees who are required to be registered with NMLS by
14 law or regulation, that do not have a current NMLS registration
15 are not eligible to participate in the Section 184 Program.
16

17 **d) Required Documentation.** Lender Applicants must maintain
18 documentation that supports each employee's eligibility.
19

20 **g. Quality Control Plan**
21

22 **i. Standard.** A Lender Applicant must have a Quality Control (QC) Plan
23 that meets ONAP's requirements, as described in Quality Control,
24 Oversight, and Compliance Chapter of the Handbook.

25 **ii. Required Documentation.** The Lender Applicant must submit a copy
26 of its QC Plan to ONAP in accordance with Section XXX.
27

28 **iii. Additional Documentation Requested by Sponsor.** Where there is a
29 proposed sponsorship agreement between a Sponsor and Sponsored
30 Entity, as part of the Sponsor's due diligence, the Sponsor may request
31 to review additional documentation from the proposed Sponsored
32 Entity beyond what is listed in this Section C.4. Any additional
33 documentation that the Sponsor receives from proposed Sponsored
34 Entity must be provided to HUD, as part of the Sponsor's submission
35 package to ONAP regarding the proposed sponsorship relationship.
36 Additional guidance on sponsorships can be found in Section 1.C.9 of
37 this Chapter.
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SUPPLEMENTAL APPLICATION AND PARTICIPATION REQUIREMENTS		
Approval Type	Participation Level	Review Section
Statutory Approval	Non-DG Lender	5
Secretarial Approval	Non-DG Lender	6
Statutory Approval	DG Lender	7
Secretarial Approval	DC Lender	7

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1 **5. Supplemental Requirements: Statutory Approval – Non-Direct Guarantee**
2 **Lender Application.**

3 Lender Applicants eligible for approval by Statute and electing the Non-DG Lender
4 participation option, must submit the documentation required in the Standard
5 Application section above, and must also submit the documentation stated in this
6 subsection.

7 **a. Evidence of Statutory approval**

8 **i. Standard.** The Lender Applicant/Non-DG Lender (Statutory
9 Approval) must have received approval from a Federal Agency under
10 Section 1.a.

11
12 **ii. Documentation.** A certified true copy of the signed and dated
13 approval letter from the approving Federal Agency under Section 1.a.

14 If the approving Federal Agency provided the Lender Applicant with a
15 conditional approval letter, the Lender Applicant must also include a
16 copy of the signed and dated final approval letter.

17 **b. Letter of Good Standing**

18 **i. Standard.** The Lender Applicant must be in good standing with the
19 approving Federal Agency’s mortgage insurance or lending program or
20 is otherwise in good standing with respect to the approved Federal
21 Agency’s supervision or regulation of the Lender Applicant.

22
23 **ii. Documentation.** A certified true copy of the Lender Applicant’s letter
24 of good standing from the approving Federal Agency, dated not more
25 than 60 days prior to the submission to HUD. Alternatively, if the
26 approving Federal Agency does not provide letters of good standing,
27 then the Lender Applicant must submit:

28
29 a) where applicable, a copy of the Lender Applicant’s most recent
30 complete annual recertification submission to the approving
31 Federal Agency;

32
33 b) certification that the document is the most recent complete
34 annual recertification to the approving federal agency; and

35
36 c) evidence that the Lender Applicant is on the federal agency’s
37 list of approved lenders. The evidence may be a printout from
38 the federal agency’s website showing website address, date of
39 printout, and the name of the Lender Applicant, or other dated
40 federal agency document.
41

1 **c. Additional Information/Documentation Requested by Sponsor**

2
3 The Lender Applicant shall provide any additional information or
4 documentation requested by the prospective Sponsor, to allow the prospective
5 Sponsor to fully review the Lender Applicant prior entering into the
6 sponsorship agreement.
7

8 CONTINUE ON TO SECTION 8

9
10 **6. Supplemental Requirements: Secretarial Approval – Non – Direct Guarantee**
11 **Lender Application**

12
13 Lender Applicants eligible for Secretarial Approval and electing the Non-DG Lender
14 participation option, must submit the documentation required in the Standard
15 Application section above, and must also submit the documentation stated in this
16 subsection.
17

18 **a. Institutional Creditworthiness**

19 **i. Definition.** A Lender Applicant must demonstrate that it is a
20 creditworthy institution.
21

22 **ii. Standard.** A Creditworthy Institution is a Lender Applicant with a
23 credit background for the seven-year period preceding the lender
24 application or the lifespan of the institution if less than seven years that:

25
26 a) reflects no delinquent accounts or collections and no legal
27 actions; or

28
29 b) reflects legal actions that have been adequately resolved, and/or
30 delinquent accounts or collections that have been adequately
31 resolved or that have an acceptable explanation.
32

33
34 **iii. Required Documentation.** A Lender Applicant must submit a
35 commercial credit report not more than 90 days old from the
36 date of the application. The Lender Applicant must provide
37 written explanations for all negative items disclosed on the
38 credit report.
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1 **b. Individual Creditworthiness**

2 **i. Definition.** A Lender Applicant must demonstrate that its Principal
3 Owners and Corporate Officers are creditworthy individuals.

4
5 **ii. Standard.**

6 a) A creditworthy individual is a person whose credit background
7 for the seven-year period preceding the application or for the
8 length of the individual’s credit history if less than seven years.

9
10 b) Reflects no delinquent accounts or collections and reflects no
11 legal actions that would impair the individuals’ credit, such as a
12 foreclosure action, judgment, lien, or bankruptcy.

13
14 c) Reflects legal actions that have been adequately resolved, and/or
15 delinquent accounts or collections that have been adequately
16 resolved or that have an acceptable explanation.

17
18 **iii. Required Documentation.** A Lender Applicant must submit a
19 personal credit report for each of its principal owners and corporate
20 officers with its application. The personal credit report must be a
21 Residential Mortgage Credit Report (RMCR) or a Tri-Merged Credit
22 Report (TRMCR) not more than 90 days old from the date of
23 application. The Lender Applicant must submit a written explanation
24 from the relevant Principal Owner of Corporate Officer for any
25 negative item disclosed in the credit report. A Non-DG (with
26 Secretarial Approval) and DG Lender must provide evidence of its
27 creditworthiness upon HUD’s request.

28
29 **c. Financial Requirements**

30 **i. Standard.** Lender Applicants must meet the following financial
31 requirements at all times.

32
33 a) Positive Net Income. The profit and loss statement must show a
34 positive net income.

35
36 b) Net Worth. The DG Lender Applicant must have a minimum of
37 net worth of \$25,000.

38
39 c) Liquid Assets. The DG Lender Applicant must have a minimum
40 liquid asset of \$25,000.

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1 **ii. Required Documentation**

2 **a) Audited Financial Statements**

- 3 • The Lender Applicant must provide audited financial
4 statements when they routinely engage a CPA to perform
5 this action annually.
- 6
- 7 • A Lender Applicant’s audited financial statements must
8 cover the most recent fiscal year and provide a year-over-
9 year comparison.
- 10
- 11 • For Lender Applicants operating for fewer than 12 months,
12 the audited financial statements must cover all months of
13 operation for the Lender Applicant’s fiscal year. The end
14 date of the audited financial statements must align with the
15 Lender Applicant’s fiscal year end period at the time of
16 application.
- 17
- 18 • If the end date for the most recent fiscal year audited
19 financial report is more than six months old, the Lender
20 Applicant must also submit unaudited financial statements
21 for the most recent interim accounting period ending less
22 than three months prior to submission of the application.
- 23
- 24 • All audited fiscal year and unaudited interim financial
25 statements must be certified by a Corporate Officer to be
26 true and accurate and signed.

27

28 **b) Unaudited Financial Statements**

- 29
- 30 • If the Lender Applicant does not routinely engage a CPA to
31 annually provide audited financial statements may engage in
32 a CPA to submit audited financial statements or elect to
33 provide unaudited financial statements.
- 34
- 35 • The Lender Applicant must provide unaudited financial
36 statements covering the most recent fiscal year and provide
37 a year-over-year comparison.
- 38
- 39 • If the end date for the most recent fiscal year unaudited
40 financial report is more than six months old, the Lender
41 Applicant must submit unaudited financial statements for
42 the most recent interim accounting period ending less than
43 three months prior to submission of the application.

- The unaudited financial statement must contain at a minimum: Profit and Loss Statement, Balance Sheet, and a Statement of Cash Flows. All unaudited fiscal year and interim financial statements must be certified by a Corporate Officer to be true and accurate and signed.

c) **Accounting and Auditing Standards.** The Lender Applicant must have prepared its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and had its audit performed in accordance with Generally Accepted Auditing Standards (GAAS).

d) **Additional Information/Documentation Requested by Sponsor.** The Lender Applicant shall provide any additional information or documentation requested by the prospective Sponsor, to allow the prospective Sponsor to fully review the Lender Applicant prior entering into the sponsorship agreement.

CONTINUE ON TO SECTION 8

7. Supplemental Requirements: Statutory and Secretarial Approval, Direct Guarantee Lender Application

Lender Applicants eligible for Statutory or Secretarial Approval and electing the DG Lender participation option, must satisfy the requirements stated in the Standard Application Requirements above, and must also satisfy the requirements stated in this subsection.

a. Evidence of Statutory approval

i. **Standard.** The Lender Applicant/Non-DG Lender (Statutory Approval) must have received approval from a federal agency under Section 1.a.

ii. **Documentation.** A certified true copy of the signed and dated approval letter from the approving federal agency under Section 1.a. If the approving federal agency provided the Lender Applicant with a conditional approval letter, the Lender Applicant must also include a copy of the signed and dated final approval letter.

1 **b. Letter of Good Standing**

2 **i. Standard.** The Lender Applicant must be in good standing with the
3 approving federal agency’s mortgage insurance or lending program or
4 is otherwise in good standing with respect to the approved federal
5 agency’s supervision or regulation of the Lender Applicant.
6

7 **ii. Documentation.** A certified true copy of the Lender Applicant’s letter
8 of good standing from the approving Federal Agency, dated not more
9 than 60 days prior to the submission to HUD. Alternatively, if the
10 approving federal agency does not provide letters of good standing,
11 then the Lender Applicant must submit:
12

13 a) where applicable, a copy of the Lender Applicant’s most recent
14 complete annual recertification submission to the approving
15 federal agency;
16

17 b) certification that the document is the most recent complete
18 annual recertification to the approving federal agency; and
19

20 c) evidence that the Lender Applicant is on the federal agency’s
21 list of approved lenders. The evidence may be a printout from
22 the federal agency’s website showing website address, date of
23 printout, and the name of the Lender Applicant, or other dated
24 federal agency document.
25

26 **c. Financial Requirements**

27 **i. Standard.** Net Worth and Liquidity: Lender Applicants and DG
28 Lenders must meet the following financial requirements at all times.
29

30 a) Positive Net Income. The profit and loss statement must show a
31 positive net income.
32

33 b) Net Worth. The DG Lender Applicant must maintain a net
34 worth of no less than \$1,000,000.
35

36 c) Liquidity. The DG Lender Applicant must hold no less than
37 \$200,000 in liquid assets.
38

39 **ii. Documentation**

40 **a) Audited Financial Statements**

- 41 • The Lender Applicant must provide audited financial
42 statements when they routinely engage a CPA to perform
43 this action annually.

- A Lender Applicant’s audited financial statements must cover the most recent fiscal year and provide a year-over-year comparison.
- For Lender Applicants operating for fewer than 12 months, the audited financial statements must cover all months of operation for the Lender Applicant’s fiscal year. The end date of the audited financial statements must align with the Lender Applicant’s fiscal year end period at the time of application.
- If the end date for the most recent fiscal year audited financial report is more than six months old, the Lender Applicant must also submit unaudited financial statements for the most recent interim accounting period ending less than three months prior to submission of the application.
- When interim unaudited financial statements are provided, the Lender Applicant must also provide: most recent filed business tax returns, most recent business tax return transcripts, and most recent business bank statements covering at least a three-month period.
- All audited fiscal year and interim audited financial statements must be certified by a Corporate Officer to be true and accurate and signed.

b) Accounting and Auditing Standards. The Lender Applicant must have prepared its financial statements in accordance with Generally Accepted Accounting Principles (GAAP) and had its audit performed in accordance with Generally Accepted Auditing Standards (GAAS).

d. Funding Program

- i. Standard.** A Lender Applicant that originates loans intended for the Section 184 Program must maintain a warehouse line of credit or another mortgage-funding program acceptable to HUD. Lender Applicant must have a minimum \$1,000,000 warehouse line of credit or funding program and must ensure the funding program or warehouse line of credit is sufficient to fund the DG Lender’s average 60-Day origination operations. The DG Lender’s average 60-Day origination operations refer to loans closed and funded, and/or purchased by the DG Lender during the DG Lender’s highest 60-Day period by mortgage amount over the past 12 months.

1 **ii. Documentation.** A Lender Applicant must submit evidence of the
2 following:

3
4 **a)** Lender Applicant’s monthly origination volume in dollars over
5 the last 12 month-period showing the 60-Day average for the
6 12-month period; and

7
8 **b)** a line of credit issued directly to the Lender Applicant and/or an
9 agreement with a financial institution to fund the Lender
10 Applicant that meets or exceeds the average 60-Day origination
11 volume in dollars under section 7.d.(i).
12

13 **e. Proposed Direct Guarantee Underwriter**

14
15 Lender Applicants must have on staff a have an underwriter ready to enter the
16 Section 184 DG Underwriter Test Case Approval Process or have a Section
17 184 approved DG Underwriter previously approved by HUD.
18

19 When the DG Lender no longer employs the Proposed DG Underwriter, the
20 DG Lender’s Conditional DG Lender Approval is immediately suspended,
21 regardless of whether ONAP has been notified. The Conditional DG Lender
22 must contact ONAP at 184LenderApproval@hud.gov.
23

24 **i. Definition.** A Proposed DG Underwriter is an underwriter designated
25 by the Lender Applicant who is recommended to go through the
26 Section 184 DG Underwriter training and test case process.
27

28 **ii. Standard.** The Proposed DG Underwriter must meet the following
29 qualifications:
30

31 **a)** meets all applicable Personnel Requirements outlined in
32 Chapter I, section 4.d;
33

34 **b)** is not managed by and do not report to any individual who
35 performs Section 184 origination activities;
36

37 **c)** has two years of experience underwriting manual loans
38 guaranteed or insured by an agency of the federal government;
39 and
40

41 **d)** is authorized to obligate the Lender Applicant on matters
42 involving the origination of loans.
43

1 **iii. Documentation.** The Lender Applicant must include the following:
2

3 **a)** Resume(s) of the designated DG Test Case Underwriter(s). The
4 resume(s) must cover the most recent seven-year period, list the
5 current employer, and list any relevant prior employment. The
6 resume(s) must identify the designated DG Underwriter(s)'
7 experience level underwriting loans guaranteed or insured by an
8 agency of the Federal Government.
9

10 **b)** The designated DG Test Case Underwriter(s)'s contact and
11 other relevant information. The information must include:

- 12 • full legal name;
- 13 • work telephone number;
- 14 • work email address; and
- 15 • licensing information, including but not limited to the DG
16 Test Case Underwriter's NMLS number.
17

18 **f. Previously ONAP-approved Section 184 DG Underwriter**
19

20 **i. Definition.** A previously ONAP-approved Section 184 DG
21 Underwriter (DG Underwriter) is the individual who has completed the
22 training and test case process, has been assigned DG Underwriter
23 designation and number, and is seeking to transfer his or her DG
24 Underwriter approval to the Lender Applicant seeking DG status.
25

26 **ii. Standard.** The ONAP-approved DG Underwriter has documented
27 experience manually underwriting Section 184 loans in the past two
28 years. The ONAP-approved DG Underwriter must:
29

- 30 a) meet all applicable Personnel Requirements outlined in Chapter
31 I, Section 4.d;
- 32 b) not be managed by and does not report to any individual who
33 performs Section 184 origination activities;
- 34 c) be authorized to obligate the DG Lender Applicant on matters
35 involving the origination of loans; and
36 d) be registered with ONAP as a Section 184 DG Underwriter.
37 The registration must be associated with the Section 184 DG
38 Underwriter's prior employment.
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1
2 **iii. Documentation.** The Lender Applicant must provide the following:

- 3
4 a) A copy of the DG Underwriter's approval letter(s).
5
6 b) The resume(s) of the DG Underwriter must cover the most
7 recent seven-year period, list the current employer, and list any
8 relevant prior employment. The resume(s) must identify the
9 designated DG Underwriter(s)' experience level underwriting
10 loans guaranteed or insured by an agency of the Federal
11 Government.
12
13 c) A list of at least eight Section 184 loans underwritten by the
14 Section 184 DG Underwriter in the past 2 years. Two of the
15 eight loans must be Trust Land Loans. The list should include
16 Section 184 case numbers. DG Underwriters who cannot meet
17 this requirement must re-enter the DG Test Case Underwriter
18 process.
19
20 d) *The DG Lender Applicant may request an exception to the*
21 *above conditions and ONAP shall make a determination on a*
22 *case-by-case basis.*

23
24 **g. HUD Approval of the selection of the DG Test Case Underwriter/DG**
25 **Underwriter Previously Approved by ONAP**

26
27 ONAP will review the documentation submitted under Section 7.e or f and
28 provide written approval of the DG Test Case Underwriter or approval of the
29 DG Underwriter previously approved by ONAP when all requirements are met.

30
31 **8. Sponsorship Process and the Responsibilities of the Sponsor and Sponsored Entity**

32 Lender Applicants seeking Non-DG Lender status, Non-DG Lenders, and DG Lenders
33 intending to enter a sponsorship relationship or have entered into a sponsorship
34 relationship must carefully review and adhere to the guidance in this subsection.

35 This Section describes the sponsorship process and the responsibilities of the Sponsor
36 and Sponsored Entity.

37 **a. Definition**

- 38 **i. Sponsorship.** A Sponsorship is an ONAP-approved contractual
39 relationship between a Sponsor and a Sponsored Entity.

1
2 **ii. Sponsor.** A Direct Guarantee Lender, acting as the Sponsor, enters a
3 relationship with a Non-Direct Guarantee Lender or another Direct
4 Guarantee Lender (Sponsored Entity), whereby the Sponsor provides
5 underwriting, closing, purchasing, and holding of Section 184
6 Guaranteed Loans and may provide servicing.
7

8 **iii. Sponsored Entity:** A Non-Direct Guarantee or Direct Guarantee
9 Lender, acting as the Sponsored Entity, enters a relationship with DG
10 Lender (Sponsor), whereby the Sponsored Entity Originates Section
11 184 Guaranteed Loans in accordance with their Sponsorship
12 Agreement.
13

14 **b. Standard.** Only DG Lenders may be Sponsors. Non-DG or other DG Lenders
15 may be the Sponsored Entity. The Sponsor is authorized to Originate,
16 underwrite, close, service, purchase, hold, or sell Section 184 Guaranteed
17 Loans. The Sponsor is responsible for all Section 184-related actions of the
18 Sponsored Entity. Sponsors may have relationships with more than one
19 Sponsored Entity. Sponsored Entities may have relationships with more than
20 one Sponsor. ONAP approval is required for all sponsorship relationships.
21

22 **c. Documentation.** An executed sponsorship agreement is required for each
23 ONAP approved sponsorship relationship. Additional documentation is
24 required depending on the type of sponsorship relationship. See Section 8.d.i
25 and ii below.
26

27 **d. Initiating the Sponsorship Relationship**

28 **i. Lender Applicants Seeking Statutory or Secretarial Non-DG**
29 **Lender Status with no prior ONAP approval.**
30

31 **a) Standard.** Lender Applicants seeking to be a Sponsored Entity
32 through an approved Section 184 Sponsor, must identify a DG
33 Lender they would like to work with.
34

35 **b) Documentation.** After identifying the DG Lender and if the
36 entities agree upon the intended sponsorship relationship, the
37 entities intending on the sponsorship relationship must follow
38 the application process, as prescribed in Chapter 1, Section
39 C.9.a.
40
41
42
43

1 **ii. Non-DG Lenders and DG Lenders with Current ONAP Approval.**

2
3 **a) Standard.** Sponsored Entities previously approved by ONAP
4 to participate in the Section 184 Program and currently have a
5 Sponsorship Agreement with one or more Sponsors may add
6 additional Sponsors. The Sponsored Entity must continue to
7 meet all requirements outlined in Chapter 1, Section C.5 or C.6.
8

9 **b) Documentation.** The Sponsored Entities must provide their
10 Approval Letter from ONAP to the DG Lender indicating the
11 Sponsored Entity’s prior approval to participate in the Section
12 184 Program and any additional documentation requested by the
13 Sponsor.
14

15
16 **g. Application Process; HUD Review and Determination.** The entities
17 interested in the sponsorship relationship must follow the application process
18 as prescribed in Section 1.C.9.a. The HUD review and determination process
19 is explained in Section 1.C.9.c
20

21 **h. Responsibilities of Sponsor and Sponsored Entity.** Following completion of
22 the HUD Review and Determination, as outlined in Section 1.C.9.XX, if
23 approved, the Sponsor and Sponsored Entities have the following
24 responsibilities.
25

26 **i. Responsibilities of Sponsor**

27 **a)** The Sponsor must ensure all employees of the Sponsored Entity
28 complete ONAP-approved training and continuing education as
29 prescribed by Section 184 Program Guidance, before
30 originating Section 184 Guaranteed Loans. The Sponsor must
31 ensure the Sponsored Entity is knowledgeable on the Section
32 184 program and can provide quality customer service to Native
33 borrowers. Further guidance on training requirements
34 applicable to the Sponsor and Sponsored Entity may be found in
35 Section 1.C.12.b.
36

37 **b)** A Sponsor must ensure that a Sponsored Entity complies with
38 all Section 184 regulations and Program requirements, including
39 but not limited to records retention requirements, and any other
40 Tribal, Federal, or State law requirements.
41

- 1 c) The Sponsor shall be responsible to ONAP for the actions of its
2 Sponsored Entity in Originating Loans. If Tribal or State law
3 requires specific knowledge by the Sponsor or the Sponsored
4 Entity, ONAP shall presume the Sponsor had such knowledge
5 and shall remain liable.
6
- 7 d) The Sponsor is responsible for, among other things,
8 underwriting and closing the Loan, even when the Sponsored
9 Entity is a DG Lender. A sponsored DG Lender may not close
10 a loan underwritten by the Sponsoring DG Lender.
11
- 12 e) The Sponsor is responsible for conducting Quality Control
13 reviews of the Sponsored Entity's loan origination and Loan
14 performance to ensure the Sponsored Entity's compliance with
15 all applicable Section 184 requirements (insert reference to QC
16 chapter).
17
- 18 f) The Sponsor must notify HUD in writing within ten days when
19 it becomes aware of any changes to the Sponsored Entity's
20 business structure, operational status, or any related issues.
21
- 22 g) The Sponsor must notify HUD of changes in the sponsorship
23 relationship within ten days.
24
- 25 h) The Sponsored Entity must provide reports and information
26 relevant to the Section 184 Program to HUD, as may be
27 requested.
28
- 29 i) The Sponsor shall provide written notification to HUD within
30 10 days of receipt of any required reports from a Sponsored
31 Entity.
32
- 33 j) In cases where there is a Sponsorship Agreement, the DG
34 Lender/Sponsor must ensure the Sponsored Entity is not
35 disqualified due to any Program Ineligibility conditions stated in
36 Section C.3 and is not otherwise disqualified to participate 24
37 CFR part 1005 or Section 184 Program Guidance. When a
38 Sponsored Entity reports to the DG Lender/Sponsor it is
39 disqualified due to any of the ineligibility criteria under Section
40 C.3 the DG Lender must provide written notice to ONAP within
41 24 hours of receiving the report from the Sponsored Entity.
42 Written notice must be emailed to
43 184LenderApproval@hud.gov.

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- k) The Sponsor shall provide a list of Sponsored Entities it is currently sponsoring under another Federal loan program. This list shall include the following information for each Sponsored Entity:
- contact information, including mailing address, phone number, and email address for corporate officers for each Sponsored Entity;
 - the federal tax identification number (TIN) for each Sponsored Entity; and
 - names and Nationwide Multistate Licensing System and Registry (NMLS) numbers for each Sponsored Entity, loan originators, licensed processors, and other applicable employees who will participate in the Section 184 Program.

19
20

ii. Responsibilities of the Sponsored Entity

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- a) The Sponsored Entity must comply with all applicable Section 184 regulations, program requirements, and any other Tribal, Federal, or State law requirements.
- b) All employees of the Sponsored Entity must complete ONAP-approved training and continuing education as prescribed by Section 184 Program Guidance, before originating Section 184 Guaranteed Loans. This will ensure the Sponsored Entity is highly knowledgeable on the Section 184 program and can provide quality customer service to Native borrowers.
- c) The Sponsored Entity must provide reports and information relevant to the Section 184 Program to the Sponsor or HUD as requested.
- d) In cases where there is a Sponsorship Agreement, and the Sponsored Entity is aware it is disqualified due to any of the ineligibility criteria under Chapter 1, Section C.3 the Sponsored Entity must notify its Sponsor within 24 hours.

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i. Annual Documentation Submission from Sponsored Entity to Sponsor.

Sponsored Entities must annually submit the Required Documentation to their Sponsor(s).

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- i. Required Documentation.** The Required Documentation is dependent on whether the Non-DG Lender received Statutory Approval or Secretarial Approval.
- ii. Statutory Approval:** Non-DG Lenders with Statutory Approval must provide:

 - a)** a copy of a Statement of Good Standing from the approving or supervising agency(s) as described in Section C.1.
 - b)** upon request, the most recent renewal documents submitted to the approving or supervising agency/agencies.
- i. Secretarial Approval:** Non-DG Lenders with Secretarial Approval are required to submit their most recent audited financial statement, including the audit report (not older than 15 months at the time of application), **or** all the following:

 - a)** most recent filed business tax returns;
 - b)** most recent business tax return transcripts;
 - c)** most recent unaudited financial statements signed by an officer of the company (not older than 15 months); and
 - d)** most recent business bank statements covering at least a three-month period.
- ii. Due Date:** All Sponsored Entities, whether holding Statutory Approval or Secretarial Approval, must submit the above documentation to the Sponsor on the date prescribed by their Sponsorship Agreement.
- iii. Responsibilities of the Sponsor:** Sponsors must collect and review all annual submission documents from its Sponsored Entities. Sponsors must determine if the Sponsored Entity continues to meet Chapter 1, Sections C.4, and Sections C.5 or 6, as applicable. If the Sponsor determines the documents do not meet Section 184 Program requirements, this information must be submitted to ONAP, and the Sponsored Entity’s status may be suspended pending ONAP’s review. If a Sponsor has questions regarding the annual documentation submission from a Sponsored Entity, the DG Lender may email 184LenderApproval@hud.gov.

1 **iv. Document Retention:** DG Lenders must retain documentation related
2 to the continued eligibility of their Sponsored Entities for a period of
3 five years from the date of ONAP’s approval of the Sponsor’s annual
4 recertification.

5
6 **v. Exception for Recent Approvals.** If a Sponsored Entity was recently
7 approved by HUD as a new Non-DG Lender, the Sponsored Entity is
8 exempt from the annual documentation submission to its Sponsor. Up
9 to the end of the first calendar year of approval, the Sponsored Entity is
10 not required to submit an annual recertification to its Sponsor.
11 However, each subsequent year, the Sponsored Entity must provide the
12 annual recertification to its Sponsor.

13
14 **j. Sponsor’s Annual Recertification to ONAP**

15 Sponsors must comply with the annual recertification requirements outlined in
16 Section 1.C.12.1. Where the Sponsor has questions or concerns related to the
17 annual documentation submission from the Sponsored Entity, the Sponsor may
18 escalate the concerns to 184LenderApproval@hud.gov.

19
20 **9. Application Process; HUD review and Determination.**

21 The Lender Applicant’s application process is based on the participation path the
22 entity has selected. This Section provides guidance to the Lender Applicant regarding
23 the application submission process.

24 **a. Lender Applicant Seeking Non-Direct Guarantee Lender Status**

25 **i. Documentation.** The Lender Applicant seeking Non-DG Lender status
26 must submit the Lender Application and the following documentation:

27
28 **a) the Standard Application and Participation Requirements,**
29 as prescribed under Chapter 1, Section C.4.a.; and

30
31 **b) the Supplemental Application Requirements,** as prescribed
32 under Chapter 1, Section C.5 or 6.

33
34 **ii. Submission to DG Lender.** A Lender Applicant must submit its
35 application to a DG Lender of their choosing that will act as their
36 Sponsor. The Lender Applicant may have more than one Sponsor. The
37 Lender Applicant may apply to multiple Sponsors.

38
39 **iii. DG Lender Review of Submission Review of the**
40 **Application/Document Submission.** The DG Lender must review the

1 application and documentation submission from the Non-DG Lender
2 Applicant or Non-DG/DG Lenders intending to be a Sponsored Entity.
3 The Sponsoring DG Lender must determine if the application and
4 documentation support the eligibility of the entity.
5

6 **iv. DG Lender Submission of Lender Applicant**

7 **Application/Documentation to ONAP and Recommendation.**

8 If the DG Lender's review of the application/documentation leads to a
9 decision for the DG Lender's agreement to sponsor the Non-DG Lender
10 Applicant, the DG Lender must prepare a written recommendation to
11 ONAP, and it must be submitted to 184LenderApproval@hud.gov. The
12 DG Lender must include all required documentation identified in
13 Chapter 1, Section C.4 and, 5 or 6, as applicable, in addition to the draft
14 Sponsorship Agreement.
15

16 **v. Denial of Sponsorship Request.** If the DG Lender does not choose to
17 pursue a sponsorship relationship agreement or to recommend the
18 Lender Applicant to be a Non-DG Lender or terminates the review
19 prior to the completion of the application review, the DG Lender must
20 notify ONAP. The DG Lender must provide the basis for the denial or
21 not completing the application review. The notice to ONAP must
22 include the following information:
23

- 24 a) name and Tax Identification Number of Lender Applicant;
- 25
- 26 b) explanation why the request was not recommended for
27 approval; and
- 28
- 29 c) the DG Lender must also provide written notification of the
30 denial to the entity.
31

32
33 **b. Direct Guarantee Lender's Review of Documentation from an active**
34 **ONAP approved Non-DG or DG Lender seeking to be the Sponsored**
35 **Entity.**
36

37 Non-DG or DG Seeking Sponsorship. If the Sponsoring DG Lender's review
38 of the application/documentation leads to a decision for the DG Lender's
39 agreement to sponsor the Non-DG or DG seeking Sponsorship, the DG Lender
40 must prepare a written recommendation to ONAP, and it must be submitted to
41 184LenderApproval@hud.gov.
42

1 The DG Lender must include all required documentation identified in Section
2 1.C.7, in addition to the draft Sponsorship Agreement.

3 If the DG Lender does not choose to pursue a sponsorship relationship
4 agreement with a Non-DG or DG Lender seeking sponsorship, the DG Lender
5 must notify ONAP. The DG Lender must provide the basis for the denial or
6 not completing the application review. The notice to ONAP must include the
7 following information:

- 8 i. name and Tax Identification Number of Non-DG or DG Lender;
- 9
- 10 ii. explanation of why the request was not recommended for approval.
11 The DG Lender must also provide written notification of the denial to
12 the entity; and
- 13
- 14 iii. the DG Lender must submit their recommendation and Lender
15 Applicant's application and supporting documentation to
16 184LenderApproval@hud.gov.

17 **c. Lender Applicant Seeking Direct Guarantee Lender Status**

- 18 i. **Documentation.** The Lender Applicant seeking DG Lender status must
19 submit the Lender Application and the following documentation:
20
 - 21 a) the **Standard Application and Participation Requirements**,
22 as prescribed under Section C.4.a.; and
 - 23
 - 24 b) the **Supplemental Application Requirements**, as prescribed
25 under Section C.7.
 - 26
- 27 ii. **Submission.** A Lender Applicant must submit its application to
28 184LenderApproval@hud.gov.
- 29

30 **d. HUD Review and Determinations**

31 Applications and supporting documentation received under Chapter 1, Section
32 8.a.i or ii shall be reviewed by ONAP to determine whether the application is
33 complete and meets the requirements for approval.

- 34
- 35 i. **Deficient applications.** If ONAP determines the application is
36 deficient, ONAP will notify the Lender Applicant or DG Lender in
37 writing of the specific actions or items needed to cure the deficiency.
38 The Lender Applicant or DG Lender will have 45 days to respond and
39 to cure the deficiencies before the application process is suspended.
40

1 **ii. Approval**

2 **a) Lender Applicants Seeking Non-DG Lender Status.** When
3 ONAP determines the Lender Applicant meets the qualification
4 requirements to participate in the Section 184 program under the
5 sponsorship relationship with the DG Lender, ONAP will issue a
6 letter of approval to the sponsoring DG Lender. The sponsoring
7 DG Lender will send a copy of the ONAP approval letter to the
8 Non-DG Lender Applicant with the DG Lender’s approval and
9 Welcome package.

10
11 **b) Lender Applicants Seeking DG Lender Status.** If ONAP
12 determines that the DG Lender Applicant meets the qualification
13 requirements to participate in the Section 184 program, ONAP will
14 issue an approval letter to the new DG Lender.

15 The names of the Underwriter(s) selected by the DG Lender Applicant
16 to enter the Section 184 Test Case process will be listed on the
17 Conditional DG Lender Approval Letter issued by HUD and further
18 described in Section 9.

19 **iii. Denial.** If ONAP determines the Lender Applicant does not meet the
20 qualification requirements, a Lender Applicant may be denied approval
21 to participate in the Section 184 Program. ONAP will provide written
22 notification of denial, and that decision may be appealed in accordance
23 with the procedures set forth in § 1005.909 and Chapter XXX.
24

25 **10. Direct Guarantee Conditional and Final Approval**

26 HUD may grant Conditional or Final Direct Guarantee Approval to Lender
27 Applicants.

28
29 **a. Conditional DG Lender Approval**

30 **Definition.** Conditional DG Lender Approval is a written notice from ONAP
31 stating the Lender Applicant has been Conditionally Approved to be a DG
32 Lender, subject to the following:

33 **i.** DG Lender Conditional Approval is conveyed specifically to the
34 Lender Applicant named and cannot be shared with or extended to
35 other entities, such as a parent or subsidiary, or any Affiliates of the
36 Lender Applicant.
37

38 **ii.** The Lender Applicant executes an agreement to comply with the
39 requirements of 24 CFR part 1005, any applicable Section 184 Program
40 Guidance, and Tribal, Federal, or State law.

- 1
2 **iii.** DG Lender Conditionally Approved will operate only in Section 184
3 Approved Program Areas, in accordance with the entity’s State
4 licensing.
5
6 **iv.** DG Lender Conditionally Approved may not Sponsor Non-DG Lenders
7 until Final Approval has been given in writing by ONAP.

8 Prior to originating loans, the Conditionally Approved DG Lender and staff
9 shall complete HUD-approved training on the originating loans for the Section
10 184 Program.

11 Prior to underwriting loans, the designated DG Test Case Underwriter(s) shall
12 complete HUD-approved training on the Section 184 Program’s underwriting
13 requirements.

14 The Conditionally Approved DG Lender is subject to the Test Case
15 Requirement (Citation for this Chapter).

16
17 **b. Test Case Requirements**

- 18
19 **i.** Each DG Test Case Underwriter must acceptably underwrite and close
20 no less than 8 test cases within a 2-year period.
21
22 **ii.** At least one of the test cases must be for a Trust Land property and
23 determined by ONAP to be acceptable underwriting and closing. The
24 Test Case Underwriter will be required to continue submitting Trust
25 Land property Test Cases until they have successfully met the
26 minimum acceptable case.
27

28 *The DG Lender may request an exception to the above condition of at*
29 *least one test case must be for Trust Land property and ONAP shall*
30 *make a determination on a case-by-case basis.*

- 31
32 **iii.** Each DG Test Case Underwriter’s submission must comply with
33 applicable Section 184 Program underwriting, closing, and
34 endorsement requirements and any applicable Tribal, Federal, and state
35 law.
36
37 **iv.** The DG Lender Conditionally Approved shall not accept loans from
38 any Sponsored Entity or another DG Lender, as part of the test case
39 submission.

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- v. When the DG Test Case Underwriter is unable to satisfactorily complete the test case process in the prescribed 2-year period, the DG Test Case Underwriter approval will be terminated. ONAP will provide written notice to the DG Lender Conditionally Approved of the termination and provide the basis for ONAP's decision. An individual terminated from the DG Test Case Underwriter approval process may re-enter the Test Case process following remedial training and/or assurances from the DG Lender Conditionally Approved that the organization will be able to provide an adequate supply of originations to move the Test Case Underwriter forward in the Test Case process.
 - vi. If a DG Lender Conditionally Approved no longer employs an ONAP Approved DG underwriter in the DG Test Case process, the DG Lender Conditionally Approved must immediately cease underwriting Section 184 loans.

18

19

c. Final DG Lender Approval

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- 26
- i. **Definition.** A Final DG Lender Approval is a written notice from ONAP indicating the entity has been fully approved to be a DG Lender.
 - ii. **Standard.** Final DG Lender Approval is granted upon successful completion of the Section 184 training requirements and passing the prescribed test cases for at least one underwriter.

27

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31

Additional underwriters entering the test case process must follow the same Approval and Test Case process established in this Chapter. Additional underwriters in the Test Case process do not revert the Final DG Lender Approval back to Conditional Approval, unless there are no ONAP approved DG Underwriters remaining on the entity's staff.

32

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A Final DG Lender Approval is conveyed to the specific DG Lender and cannot be shared with or extended to other entities, such as a parent or subsidiary, or any affiliates of the Lender.

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A Final DG Lender Approval authorizes the DG Lender to originate, close, service, purchase, hold, and sell Section 184 Guaranteed Loans. A Final DG Lender Approval further authorizes the DG Lender to underwrite loans without further submission of test cases to HUD from any underwriter with full DG underwriting approval from HUD.

40

41

42

A Final DG Lender Approval authorizes the DG Lender to enter into sponsorship agreements with Non-DG Lenders (known as Sponsored

1 Entities) and review the entity’s application to be a Non-DG Lender.
2 Further details about a DG Lender’s responsibilities as a Sponsor are
3 outlined in Section C.8. When a DG Lender enters into a Sponsorship
4 Agreement with a Sponsored Entity, with ONAP approval, the DG
5 Lender must monitor and provide oversight for all its registered
6 Sponsored Entities, to ensure compliance with all Section 184 Program
7 statutory, regulatory, and administrative requirements, and any
8 applicable Tribal, Federal, or State law.
9

10 **iii. Documentation.** If ONAP determines that the Conditionally Approved
11 DG Lender meets the qualification requirements to participate in the
12 Section 184 program and has an underwriter on staff having
13 successfully completed the Test Case process, ONAP will issue a Final
14 Direct Guarantee Approval Letter to the new fully approved DG
15 Lender.
16

17 **11. Direct Guarantee Underwriter Staffing, Registration, Reporting and Training** 18 **Requirements**

19
20 This section applies to DG Lenders with ONAP Approved DG Underwriters.
21

22 **a. General Requirements**

23
24 The DG Underwriter must underwrite loans in accordance with Section 184
25 statutory, regulatory, and administrative requirements, including but not
26 limited to Section 184 Program Guidance.
27

28 **b. Section 184 Direct Guarantee Underwriter Staffing**

- 29
- 30 **i.** A DG Lender must have at least one DG Underwriter on its permanent
31 staff at all times.
 - 32
 - 33 **ii.** When any of the following conditions occur, the DG Lender’s approval
34 status is immediately suspended, regardless of whether ONAP has been
35 notified.
 - 36
 - 37 **a)** The DG Lender no longer employs any Section 184 DG
38 Underwriters.
 - 39
 - 40 **b)** The only remaining DG Underwriter has been re-assigned to
41 another job function and will no longer underwrite loans
42 intended for the Section 184 Program.
43

- 1 c) The only remaining DG Underwriter no longer meets licensing
2 and/or registration requirements under Section 4.f.iv.
3

4 If the Final DG Lender Approval is suspended, but the DG Lender has
5 another underwriter currently in the Test Case process, the DG
6 Lender’s status reverts to Conditional Approval until all test cases have
7 been completed and the underwriter has received final approval from
8 ONAP.
9

10 However, if the DG Lender hires an underwriter who is already an
11 active ONAP Approved DG Underwriter (as described below in
12 Chapter 1.C.4.e.ii.3), ONAP must be notified. If the newly hired
13 underwriter meets ONAP requirements under Section 9.b. ONAP may
14 reinstate the DG Lender’s final approval status.
15

16
17 **c. Section 184 DG Underwriter Registration**
18

19 All Section 184 DG Underwriters must be registered with ONAP.
20

- 21 **i. Adding a Section 184 Direct Guarantee Underwriter, previously**
22 **approved by ONAP.** When a DG Lender seeks to employ a Section
23 184 DG Underwriter, previously approved by ONAP, the DG Lender
24 must submit a written request to ONAP that includes:
25

26 a) all documentation required under 7.e.2 ; and
27

28 b) a list of at least eight Section 184 loans underwritten by the
29 Section 184 DG Underwriter in the past 2-years, from the
30 date of the DG Lender employing the Section 184 DG
31 Underwriter. Out of the eight loans, at least one must be a
32 Tribal Trust Loan. The list must include Section 184 case
33 numbers.

34 *The DG Lender may request an exception to the above condition of at*
35 *least one test case must be for Trust Land property and ONAP shall*
36 *make a determination on a case-by-case basis.*

37
38 The information must be emailed to 184LenderApproval@hud.gov;
39 with the Subject Line of “Adding Additional Underwriter.”
40

1 **ii. HUD Review.** ONAP will review and verify the information
2 submitted by the DG Lender to determine if the DG Underwriter is
3 eligible to continue participation as a DG Underwriter.
4

5
6
7
8
9 **iii. HUD Determination.**

10 **a) Approval.** ONAP will provide written notice of the DG
11 Underwriter’s approval to be added to the DG Lender’s roster.
12 Upon DG Lender’s receipt of ONAP’s approval, the registered
13 DG underwriter is authorized to underwrite loans for the Section
14 184 Program for the new DG Lender.
15

16 **b) Denial.** If HUD determines the DG Underwriter is ineligible to
17 continue participation, HUD will provide written notice of the
18 participation denial and basis of the disapproval to the DG
19 Lender.
20

21 The DG Lender may have the option of allowing the individual to enter
22 the DG Test Case Underwriter process. The DG Test Case Underwriter
23 must then complete test cases in accordance with Section 7.e.
24 Successful completion of the requirements may allow the DG Test Case
25 Underwriter to be reinstated, in accordance with 10.c.
26

27 **iv. Adding a Section 184 Direct Guarantee Underwriter, no prior**
28 **ONAP approval or prior ONAP termination or suspension.** Where
29 a DG Lenders seeks to add an underwriter that has never been approved
30 by ONAP, or approved by ONAP, but subsequently suspended or
31 terminated from participation, the DG Lender must adhere to the
32 provisions under:
33

34 **a)** 7.e (“DG Test Case Underwriter Selection”);

35
36 **b)** 7.f (“HUD approval of the selection of the DG Test Case
37 Underwriter(s)”); and
38

39 **c)** 10.b (“Test Case Requirements”).
40

41
42 **d. Duty to Report DG Underwriter Changes**
43

1 i. The DG Lender must notify ONAP within 3 business days of any of the
2 following changes:

3 a) The DG Underwriter’s employment is terminated, suspended, or
4 is no longer employed by DG Lender.

5
6 b) The DG Underwriter has been re-assigned to another job
7 function and will no longer underwrite loans intended for the
8 Section 184 Program.

9
10 c) The only remaining DG Underwriter no longer meets licensing
11 and/or registration requirements under Section 4.f.iv.

12 The DG Lender must notify ONAP within ten business days the DG
13 Underwriter’s work email address, telephone number, or legal name.

14 ii. Notice must be emailed to 184LenderApproval@hud.gov, under the
15 Subject Line “DG Underwriter Change”.

16
17 e. **Section 184 Underwriter Training Requirements.** DG Lenders must ensure that
18 each DG Test Case Underwriter or DG Underwriter completes training(s) related
19 to underwriting, as made available by ONAP. See Sections 12.b and m for training
20 and training reporting requirements.

21
22 i. **Mandatory Annual DG Underwriter training.** Failure to comply; if
23 you miss the annual event, ONAP may provide a make-up event within
24 the same calendar year; if you miss the make-up event, your DG
25 Underwriter approval will be automatically suspended, until completion
26 of the next Underwriter training.
27

1 **12. Post-Approval Operations**
2

3 **a. Operating Requirements and Restrictions.** Non-DG and DG Lenders must
4 comply with the following operating requirements and restrictions for its
5 Section 184 business operations in addition to continuing to operate in full
6 compliance with the applicable eligibility requirements outlined in this
7 Handbook XXXX.
8

9 **b. Training.** Non-DG and DG Lenders must ensure that all staff involved in the
10 Section 184 Program are trained.
11

12 **i. Training.** All Non-DG and DG Lender employees engaged in the
13 Section 184 origination process must receive training from HUD.
14

15 **ii. Training Records.** The Non-DG and DG Lender are responsible for
16 keeping records of all training completed of each required employee
17 and the Sponsored Entity’s employees. At minimum, the Non-DG and
18 DG lender must:
19

- 20 a) record the date of training completion;
- 21
- 22 b) record the name of each employee who completed the training;
- 23
- 24 c) maintain such training records for at least five years;
- 25
- 26 d) make such records available to HUD upon request; and
- 27
- 28 e) submit a certification by the Non-DG or DG Lender’s officer
29 that the training records are accurate and true.
30

31 **c. Duty to Report Changes.** DG Lenders must report changes to HUD within 10
32 business days of the change. All changes must be sent to
33 184LenderApproval@hud.gov, with a cover letter signed by a Corporate
34 Officer summarizing the change and including all supporting documents.
35 Changes that must be reported to HUD include but is not limited to:
36

37 **i.** Changes in the Direct Guarantee Lender or Sponsored Entity’s legal
38 structure, including, but not limited to, mergers, acquisitions,
39 terminations, name, location, control of ownership, and character of
40 business.
41

42 **ii.** Changes in the Direct Guarantee or the Sponsored Entities’ Corporate
43 Officers, Officers in Charge, DG Underwriters, Sub-servicers or

1 Contractors, and any other senior leadership involved in the origination,
2 servicing, and claims of Section 184 Guaranteed Loans, including any
3 Employees of the Sponsored Entities.
4

- 5 **iii.** Any sanctions against the DG Lender or the Sponsored Entity by
6 another supervising entity.
7
- 8 **iv.** Changes in the DG Lender or Sponsored Entity’s licensing in any State
9 in which it has operated or will be adding to its operating area.
10
- 11 **v.** Filing of a Chapter 7 bankruptcy petition by the Non-DG or DG
12 Lender. A DG Lender that files a bankruptcy petition under any other
13 chapter of the United States Bankruptcy Code must submit a notice to
14 HUD and submit with its notice, and quarterly thereafter, an internally
15 prepared balance sheet and a statement of net worth for as long as the
16 bankruptcy petition is active. The Non-DG and DG Lender must
17 submit a notice to HUD of each change of status in the bankruptcy.
18 HUD reserves the right to require the Non-DG and DG Lender to
19 submit additional information upon request to determine if the Non-DG
20 and DG Lender is eligible to maintain its Section 184 approval.
21

22 DG Lenders/Servicer must notify ONAP
23 whenever a merger or acquisition occurs so
24 ONAP can evaluate any impact on the DG
25 Lender/Servicer’s participation in the Section
26 184 Program. See section 12.d. below for
27 additional information and instructions on
28 reporting mergers and acquisitions.
29

- 30
- 31 **vi. Conservatorship, Receivership, or Transfer of Control.** The Non-
32 DG and DG Lender must submit a change request to HUD if it goes
33 into conservatorship, receivership, or is subject to a transfer of control
34 to a federal or state supervisory agency. The Non-DG and DG Lender
35 must submit a change request to HUD of a change of status in any of
36 these situations and HUD reserves the right to require the DG Lender to
37 submit additional information to determine if the DG Lender is eligible
38 to maintain its DG approval.
39
- 40 **vii. New Federal Taxpayer Identification Number.** If a DG Lender
41 receives a different federal TIN as a result of a business change, the DG
42 Lender must submit a new application for HUD Section 184 approval.
43 The old Section 184 approval will remain active for approximately 45

1 days to allow for completion of processing of Section 184 loan in
2 process under the prior TIN.

3
4 **viii. Cease Operations.** A DG Lender must notify HUD when it or a
5 Sponsored Entity ceases operations.

6
7 **ix. Unresolved Findings or Sanctions.** A DG Lender must submit a
8 notice to HUD and provide relevant documentation if it or any officer,
9 partner, director, principal, manager, supervisor, loan processor, loan
10 underwriter, or loan originator employed by the DG Lender is subject
11 to any Unresolved Findings or Sanctions or change in the status of the
12 Unresolved Findings or Sanctions.

13
14 **x. Change in Level of Participation.** A DG Lender must submit a change
15 request if requesting a change to its Level of Participation. DG Lenders
16 requesting to no longer participate as a DG Lender but maintain
17 approval as a Non-DG Lender will submit a change request to HUD.
18 The Non-DG status will not be considered active until HUD receives
19 the Non-DG sponsorship request from the new Sponsoring DG Lender.

20
21 **xi. Voluntary Withdrawal.** DG Lenders wishing to voluntarily
22 withdrawal approval from the Section 184 Program must submit a
23 change request to HUD.

24
25 **xii. Changes to any information that may have been provided to HUD**
26 **under sections 4, 5, 6 and 7 of this Chapter.**

27
28 **a)** Where the DG Lender is sponsoring a Non-DG Lender
29 (Sponsored Entity) any changes or actions described above by
30 the Non-DG Lender must be reported to HUD, by the DG
31 Lender;

32
33 **b)** The DG Lender must report any changes to the sponsorship
34 agreement between the DG Lender and the Non-DG Lender
35 (Sponsored Entity), including but not limited to the termination
36 of the sponsorship agreement between the parties.

37
38 **xiii. Changes to DG Underwriter.** Any changes related to the DG
39 Underwriter, as outlined in Section 11.c. Notwithstanding the 10-day
40 reporting requirement outlined in this section, the reporting deadlines
41 specific to Section 11.c. shall apply and be followed.
42
43

1 **d. Mergers and Acquisitions**

2 DG Lenders/Servicer must notify ONAP whenever a merger or acquisition
3 occurs so ONAP can evaluate any impact on the DG Lender/Servicer's
4 participation in the Section 184 Program.

5 **i. Duties of Non-surviving DG Lender/Servicer Standard**

- 6
- 7 **a)** A non-surviving DG Lender/Servicer that holds a portfolio of
8 Section 184 Guaranteed Loans must transfer those loans to a
9 DG Lender or Servicer, approved by ONAP to service Section
10 184 Guaranteed Loans.
- 11
- 12 **b)** If a surviving DG Lender/Servicer acquires all the non-
13 surviving DG Lender's outstanding Section 184 Guaranteed
14 Loans, all these loans will be transferred in NTV to the
15 surviving entity when the merger is processed.
- 16
- 17 **c)** A non-surviving DG Lender/Servicer remains responsible for
18 the payment of any applicable Up-Front and Annual Loan
19 Guarantee fees and compliance with all other obligations
20 associated with the Section 184 Guaranteed Loans until the
21 loans are transferred and the loan changes are reported
22 accurately to ONAP through NTV.
- 23
- 24 **d)** Once the non-surviving DG Lender/Servicer ceases to exist or
25 its approval is terminated, whichever comes first, the non-
26 surviving DG Lender/Servicer must not:
- 27 • where applicable, accept any new applications for Section
 - 28 184 loans;
 - 29 • hold Section 184 Guaranteed Loans;
 - 30 • service Section 184 Guaranteed Loans; or
 - 31 • submit claims to HUD.
- 32

33 **i. Duties of Surviving DG Lender/Servicer**

- 34
- 35 **a) Standard.** A DG Lender/Servicer that is the surviving entity in
36 a merger with a non-approved entity must notify ONAP of the
37 merger. Where applicable, the surviving DG Lender must
38 register each of the non-surviving entity's branch offices that
39 will remain open under the auspices of the surviving DG
40 Lender.
- 41

1 **b) Required Documentation.** A DG Lender/Servicer that is the
2 surviving entity in a merger with a non-approved entity must
3 submit a Change Request to ONAP containing the following:

- 4 • A letter, signed by a Corporate Officer, informing ONAP of
5 the merger. The letter must include information that
6 provides the name of the non-approved entity involved in
7 the merger and the date the merger occurred or will occur.
- 8 • A copy of the legal document evidencing the merger.
- 9 • If applicable, a copy of the letter from the Federal Banking
10 Agency that approved the merger.

11
12 **ii. Two or more DG Lenders Merge; Two or more Servicers Merge**

13 **a) Standard.** A DG Lender or Servicer that is the surviving entity
14 in a merger with another DG Lender or Servicer must notify
15 ONAP of the merger. Where applicable, the surviving DG
16 Lender must register each of the non-surviving DG Lender’s
17 branch offices that will remain open under the auspices of the
18 surviving DG Lender.

19
20 **b) Required Documentation.** A DG Lender/Servicer that is the
21 surviving entity in a merger with another DG Lender/Servicer
22 must submit a Change Request to ONAP containing the
23 following:

- 24 • A letter, signed by a Corporate Officer, describing the
25 merger.
- 26 • A copy of the legal document evidencing the merger.
- 27 • If applicable, a copy of the letter from the Federal Banking
28 Agency or other supervisory authority that approved the
29 merger.

30
31 **iii. Non- approved Entity that Survives a Merger with DG**
32 **Lender/Servicer**

33 **a) Standard.** A non-approved surviving entity must become a DG
34 Lender to originate, underwrite, close, endorse, service,
35 purchase, hold, or sell Section 184 Guaranteed Loans, or to
36 submit claims on Section 184 Guaranteed Loans to ONAP,
37 including those previously held by the non-surviving DG
38 Lender.

39
40 A non-approved surviving entity must become a Servicer if it
41 intends only to service Section 184 Guaranteed Loans, including

1 those previously held by the non-surviving DG Lender.

2
3 Where applicable, immediately after becoming approved, the
4 DG Lender must register each of the non-surviving entity's
5 branch offices that will remain open under the auspices of the
6 surviving DG Lender.

7
8 When the non-approved surviving entity is approved by ONAP
9 to be a DG Lender, the surviving DG Lender must cease
10 originating cases under the non-surviving DG Lender's name.

11
12 **b) Documentation.** A non-approved surviving entity must submit
13 an application along with the required documentation in
14 accordance with Section C of this Handbook for ONAP
15 approval to participate in the Section 184 Program.
16 Additionally, the non-approved surviving entity must also
17 submit with its application a letter signed by a Corporate Officer
18 that describes the merger, and, if applicable, the surviving
19 entity's intentions regarding the non-surviving DG Lender's
20 outstanding portfolio of Section 184 Guaranteed Loans and
21 indemnifications.

22
23 **iv. Non-DG Lender merger/acquisition with Non-DG Lender; Duties**
24 **of the Surviving Non-DG Lender**

25 **a) Standard.** The surviving and non-surviving Non-DG Lender
26 that is in a merger with another Non-DG Lender must notify its
27 Sponsor(s) of the merger.

28
29 **b) Documentation.** The surviving and non-surviving Non-DG
30 Lender that is in a merger with another Non-DG Lender must
31 submit a Change Request to its Sponsor containing the
32 following:

- 33 • A letter, signed by a Corporate Officer, informing ONAP of
34 the merger. The letter must provide the name of the non-
35 DG Lenders involved in the merger, the name of the non-
36 DG Lender which will be dissolved, and the date the merger
37 occurred or will occur.

- A copy of the legal document evidencing the merger and dissolution of the non-DG Lender.

The Sponsors are to forward the Change Request to ONAP.

e. Payment of Operating Expenses. Operating Expenses are the costs associated with equipment, furniture, office rent, overhead, and employee compensation. The Non-DG and DG Lender must pay all its own operating expenses, including the expenses of its home office and any branch offices where it conducts Section 184 business. The Non-DG and DG Lender must maintain all accounts for operating expenses in its name.

f. Prohibited Payments. The DG and Non-DG Lender, or any of the DG and Non-DG Lender’s employees, must not pay or receive, or permit any other party involved in a Section 184 Loan transaction to pay or receive, any fee, kickback, compensation, or thing of value to any person or entity in connection with a Section 184 Loan transaction, except for services performed and permitted by HUD. The DG Lender must not pay a referral fee to any person or entity. The DG Lender is not permitted to:

- i.** advance funds to a real estate agent, real estate broker or Non-DG Lender, as an advance of anticipated commissions on sales to be financed with a Section 184 Loan to be provided by the DG Lender;
- ii.** make low interest or no interest residential loans to a real estate broker, real estate agent, Non-DG Lender, builder, or any other party from whom the DG Lender accepts proposals involving Section 184 Loans; or
- iii.** pay a gratuity or make a Gift valued above items that are customarily distributed in the normal course of advertising, public relations, or as a general promotion device, to any person or entity involved in the DG Lender’s Section 184 Loan transactions.

g. Staffing. The Non-DG and DG Lender must employ sufficient, experienced staff or engage, as permitted, the contract support necessary to carry out the Non-DG and DG Lender’s Section 184 business.

The Non-DG and DG Lender are responsible for the actions of its staff that participate in Section 184 transactions. The Non-DG and DG Lender must ensure that its Corporate Officers exercise control over the management and supervision of such staff, which must include regular and ongoing reviews of staff performance and of the work performed.

1
2 The Non-DG and DG Lender are responsible for ensuring compliance with the
3 licensing and registration requirements applicable to individual loan originators
4 under the SAFE Act.
5

6 **h. Use of Contractors**
7

8 **i. Permissible Use.** The Non-DG or DG Lender may use contract
9 support for administrative, human resources, and clerical functions that
10 include:

- 11 **a)** clerical assistance;
12
13 **b)** mortgage processing (typing of mortgage documents, mailing
14 and collecting verification forms, ordering credit reports, and/or
15 preparing for endorsement and shipping Section 184 Loans to
16 the Purchasing Lender);
17
18 **c)** ministerial tasks in mortgage servicing (processing of a
19 foreclosure action, property preservation and protection, and/or
20 tax services);
21
22 **d)** legal functions;
23
24 **e)** Third Party Verification;
25
26 **f)** Quality Control; and
27
28 **g)** human resources services (payroll processing, payment of
29 employment taxes and the provision of employee benefits)
30 provided by a professional employer organization or a similar
31 entity.
32

33 Third Party Verification (TPV) refers to a process through which a
34 Non-DG or DG Lender may use a third-party vendor to independently
35 verify information in a loan application or otherwise required for loan
36 approval. TPV can be used to verify employment, income, assets,
37 credit, and occupancy.
38

39 **ii. Impermissible Use.** The Non-DG and DG Lender may not contract
40 with any entity or person that is suspended, debarred, under a Limited
41 Denial of Participation (LDP), or who is otherwise excluded from
42 participation in HUD transactions. A DG Lender must not contract out
43 management or underwriting functions.
44

1 **iii. Standard.** The DG Lender must ensure that the contracting out of
2 certain functions does not and will not materially affect underwriting or
3 servicing decisions or otherwise increase financial risk to ONAP.
4

5 The DG Lender remains responsible for the quality of its Section 184
6 Loans and must ensure that its contractors fully comply with all
7 applicable laws and ONAP requirements.
8

9 The DG Lender may own or have an ownership interest in a separate
10 business entity that offers such contract services. *The nature of the*
11 *relationship must be disclosed to ONAP in advance.*
12

13 Employees covered by a contract for human resources services
14 described above must remain under the direct supervision and control
15 of the Non-DG and DG Lender. ONAP considers the Non-DG and DG
16 Lender, the employer with respect to all activities related to Section 184
17 business, and the Non-DG and DG Lender retains full responsibility
18 and legal liability for the actions of employees covered by a contract for
19 human resources services with regard to all Section 184 regulations and
20 requirements.
21

22 **iv. Required Documentation.** The Non-DG and DG Lender and its
23 contractor must have a valid contractual agreement in place that specifies
24 the roles and responsibilities of each party.
25

26 **i. Fair Housing Notice.**
27

28 The Non-DG and DG Lender must prominently display a fair housing poster at
29 each office that participates in activities related to Residential Real Estate-
30 Related Transactions to be readily apparent to all persons seeking residential
31 real estate or brokerage services. The Non-DG and DG Lender must
32 prominently display the Equal Housing Opportunity logo on documents,
33 including both hard copy and electronic documents, distributed by the Non-DG
34 and DG Lender to the public.
35

36 **j. Advertising**
37

38 **i. Definitions**

39 **a) Advertising.** Advertising is any communication made to an
40 outside entity or individual that describes or calls attention to a
41 Non-DG or DG Lender's Section 184 services.
42

43 **b) Advertising Device.** An Advertising Device is a channel or
44 instrument used to solicit, promote, or advertise the Section 184
45 program. Advertising Devices are present in the entire range of
46 electronic and print media utilized by Non-DG and DG Lenders,

1 including, but not limited to, websites, website addresses,
2 business names, aliases, DBA names, domain names, email
3 addresses, direct mail advertisements, solicitations, promotional
4 materials, and correspondence.

5
6 **ii. Standard**

7 **a) Advertising.** A Non-DG and DG Lender must use its HUD-
8 registered business name in all advertisements and promotional
9 materials related to the Section 184 Program. HUD-registered
10 business names include any alias or “doing business as” (DBA)
11 on file with HUD.
12

13 A Non-DG or DG Lender is solely responsible for the content of
14 its advertising. This includes advertising abuses by employees
15 of the approved Section 184 Lender, and any violations
16 committed by employees of companies that advertise or
17 generate Section 184 program leads or on behalf of the Non-DG
18 or DG Lender. The Non-DG or DG Lender must ensure that all
19 its advertising communications and Advertising Devices, and
20 the communications and Advertising Devices of any Sponsored
21 Entity, comply with all applicable state licensing and regulatory
22 requirements.
23

24 **b) Advertising Device.** A Non-DG or DG Lender must not create
25 the false impression that any of its Advertising Devices are
26 official government forms, notices, or documents or that
27 otherwise convey the false impression that an Advertising
28 Device is authored, approved, or endorsed by HUD or ONAP.
29

30 The Advertising Device must be written, formatted, and
31 structured in a manner that clearly identifies the Non-DG or DG
32 Lender as the sole author and originator of the Advertising
33 Device. The Advertising Device must reflect the Non-DG or
34 DG Lender’s name, location, and appropriate contact
35 information.
36

37 **iii. HUD and FHA Names and Acronyms**

38 The use of the words “federal,” “government,” “national,” “U.S.
39 Department of Housing and Urban Development,” “Office of Native
40 American Programs,” “Section 184” and/or the letters “HUD” or
41 “ONAP,” either alone or with other words or letters, by a Section 184-
42 approved Non-DG or DG Lender or non-approved Section 184 Lender,
43 in a manner that falsely represents that the Non-DG or DG Lender’s
44 business services or products originate from HUD, ONAP, the
45 government of the United States, or any Tribal, federal, state or local
46 government agency is strictly prohibited.
47

1
2 **iv. HUD and ONAP Logos and Seals**
3

4 Other than permissible use of the official Equal Housing Opportunity
5 logo, a Non-DG or DG Lender must not use ONAP or HUD logos or
6 seals, any other official seal or logo of the U.S. Department of Housing
7 and Urban Development, or any other insignia that imitates an official
8 federal seal. No person, party, company, or firm, including Section
9 184-approved Non-DG or DG Lender, may use these logos or seals on
10 any Advertising Device.
11

12 **v. Required Documentation**
13

14 The Non-DG or DG Lender must retain copies of any Advertising
15 Device it produces that is related to the Section 184 program for a
16 period of two years from the date that the Advertising Device is
17 circulated or used for advertisement, educational, or promotional
18 purposes. Copies of Advertising Devices related to the Section 184
19 program may be kept in either electronic or print format and are to be
20 provided to HUD upon request.

21 Sponsored Entities are prohibited from engaging in any activity or
22 authoring or distributing any advertising device that falsely advertises,
23 represents, or otherwise conveys the impression that the Sponsored
24 Entity's business operations, products, or services either originate from
25 or are expressly endorsed by HUD, ONAP, OLG, the government of
26 the United States, or any federal, state or local government agency.

27 **k. Records Retention**
28

29 DG Lenders must maintain an endorsement case binder for a period of three
30 years beyond the date of satisfaction or maturity date of the Loan, whichever is
31 sooner. However, where there is a payment of Claim, the endorsement case
32 binder must be retained for a period of at least five years after the final Claim
33 has been paid.
34

35 Additional records retention time may be prescribed in Chapters XXX,
36 Servicing and Claims.
37

38 All Non-DG and DG Lenders must retain personnel files of employees for one
39 year beyond the employee's separation.
40

41 All Non-DG and DG must follow the applicable records retention requirements
42 imposed by applicable Tribal, Federal, and State laws.
43

1 Non-DG and DG Lenders must maintain the quality control plan records for a
2 period prescribed in Chapter XXX, Appeals.

3
4 **l. Minimum Level of Trust Land Lending on Trust Land**

5 Reserved.

6
7 **m. Loan Performance Reporting Requirements**

8 DG Lenders or Servicers must submit reports on Loan performance, including
9 reporting on Sponsored Entities, where applicable, and provide any additional
10 reports as may be requested or required by the Section 184 Program.

11 Specific guidance related to Servicing is provided in Chapter XXX, Servicing.

12 **n. DG Lender Annual Recertification**

13
14 This provision applies to DG Lenders, including DG Lenders acting as
15 Sponsors.

16 No later than April 30th of each year, DG Lenders must submit an executed
17 recertification on the [Form Name] with Required Documentation.

18 **i.** The required documentation includes:

- 19 **a)** most recent renewal documents from approving or supervising
20 agency/agencies;
- 21
22 **b)** statement of Good Standing from the approving or supervising
23 agency(s) dated within 12 months of submission of the
24 recertification;
- 25
26 **c)** list of all employees (full name, title, NMLS number) who are
27 trained and competent in Section 184 and/or 184A loans;
- 28
29 **d)** list of all Officers (full name, title, NMLS number, if
30 applicable) involved with Section 184 and/or 184A loans and
31 owners;
- 32
33 **e)** list of all Sponsored Entities currently under contract including
34 principal's full name, NMLS number, organization address, tax
35 ID, States authorized to originate Section 184 and/or 184A loans,
36 contact person, email address, phone number;
- 37
38 **f)** list of all DG Lender's branch offices originating Section 184
39 and/or Section 184A loans (address, phone, Branch Manager's
40 full name);

1
2 g) list of all Section 184 Program approved DG Underwriters (full
3 name, NMLS number, if applicable, FHA-DE Number, if
4 applicable, and Section 184 and/or Section 184A DG
5 Underwriter approval number.);

6
7 h) most recent audited annual financial statements, if not approved
8 under 24 CFR §1005.203.

- 9
10 ii. Sponsors must require all Sponsored Entities to submit their Annual
11 Recertification form and documentation to them in advance of the Sponsor’s
12 Annual Recertification filing deadline, to allow ample time for the Sponsor to
13 review and submit the Sponsored Entities information with the Sponsor’s
14 Annual Recertification.
- 15
16 iii. DG Lenders must submit the Annual Recertification form, and supporting
17 documents, if any, to 184LenderApproval@hud.gov, under the Subject Line:
18 “Annual Recertification.”
- 19
20 iv. DG Lenders may request an extension of the recertification deadline. The
21 written request must be submitted to HUD at least 30 days prior to the
22 recertification deadline.
- 23
24 v. HUD may request additional information and/or documentation regarding the
25 DG Lender’s Annual Recertification.
- 26
27 vi. HUD will provide written notice of approval to continue participation in the
28 Section 184 Program or a written denial. A denial may be appealed pursuant to
29 Chapter XXX, Appeals.
- 30
31 vii. If an Annual Recertification is not submitted by the prescribed deadline, ONAP
32 will issue a late submission warning to the DG Lender. DG Lenders’ continued
33 non-compliance may result in sanctions.
- 34
35

36 **13. Inactive Non-Direct Guarantee and Direct Guarantee Lenders**

37
38 DG Lenders that become inactive have the potential risk for providing stale or
39 inaccurate information to the Native American community. This may degrade the
40 confidence level of the people the program serves. To mitigate this potential, ONAP
41 will monitor the activity level of all approved DG and Non-DG Lenders.
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- a. Inactive DG Lenders.** If a DG Lender has not requested a Section 184 case number within a 24-month period:
 - i.** ONAP will send a written notification to the DG Lender informing the DG Lender of inactivity and a request for a response regarding anticipated activity.
 - ii.** If there is no acceptable response within 30 days, HUD will suspend the approval of the DG Lender.

- b. Inactive Non-DG Lenders.** Sponsors must monitor the participation of all its Sponsored Entities for the same 24-month period described in (a) above. If a Sponsor chooses to terminate a relationship with a Sponsored Entity due to inactivity, the Sponsor must notify HUD of the relationship termination.

If the Sponsored Entity has no other active sponsorship agreements, HUD will suspend the Sponsored Entity’s approval.

- c. Appeals.** DG and Non-DG Lenders whose participation approval has been suspended may appeal the suspension in accordance with Chapter X.