

1 **2. Refinance**

2
3 **a. General**

4
5 **i. Definition**

6
7 A refinance transaction the use of a new Section 184 Guaranteed Loan
8 to fully extinguish an existing Section 184 Guaranteed Loan or non-
9 Section 184 Guaranteed Loan.

10
11 The three different types of refinance transactions are Rate and Term,
12 Cash-Out, and Streamline.

13
14 **ii. Required Documentation**

15 All refinance transactions require the following documentation.

16
17
18 • **Section 184 Mortgage Credit Analysis Worksheet (MCAW)**

19 DG Lenders must use the Section 184 MCAW.

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21
22 • **Net Tangible Benefit Worksheet**

23 DG Lenders must demonstrate the Net Tangible Benefit of the new
24 Section 184 Guaranteed Loan.

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26
27 • **Payoff Statements**

28 DG Lenders must obtain payoff statements for all existing liens to
29 evidence that liens will be extinguished prior to or at closing.

30
31 **iii. Payment History**

32 The Borrower's mortgage payment is considered late if not paid within
33 the month due.

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35
36 The Borrower must have made the payments for all Loans secured by
37 the subject property for the month due prior to disbursement of the
38 new Section 184 Guaranteed Loan.

39
40 If the Loan on the subject Property is not reported in the Borrower's
41 credit report or the subject Property is not in the name of the Borrower,
42 DG Lenders must obtain a Verification of Mortgage, bank statements,

1 or other documentation to evidence that all payments have been made
2 by the Borrower in the month due.

3 For guidance on payment history for loans that have forbearance or a
4 loan modification, please see Chapter II, Subsection D.

5 **iv. Occupancy Requirements**

6
7 DG Lenders must review the Borrower's employment or other
8 documentation, such as utility bills, to evidence that the Borrower
9 currently occupies the Property and confirm that the Borrower meets
10 the length of time occupancy requirements under the specific
11 Refinance transaction.

12
13 **v. Trust Land Requirements**

14
15 **Lease**

16
17 The Borrower's Trust Land lease must have a lease termination date
18 that exceeds the maturity date of the new Section 184 Guaranteed
19 Loan term by ten years.

20
21 **Exception**

22
23 Less than ten years remaining beyond the maturity date of the new
24 Section 184 Guaranteed Loan is permitted when the Borrower
25 provides a letter acknowledging that less than ten years will remain on
26 the lease after the maturity date of the new Section 184 Guaranteed
27 Loan and that the Borrower does not anticipate this to be a hardship to
28 the Borrower.

29
30 **b. Rate and Term Refinance**

31
32 **i. Definition**

33
34 A Rate and Term Refinance is the extinguishing of the existing loan
35 for the purpose of changing the interest rate or term of a loan without
36 advancing new funds on the loan with the exception of Allowable
37 Costs (explained in subsection F.2.b.vi.1).

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39 **ii. Standard**

40
41 Rate and Term refinance must meet the requirements outlined in
42 subsection F.2.b.

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iii. Reduction in Monthly Payment and Exceptions

The new loan must result in a reduction in regular monthly payments by the Borrower. The term reduction is measured by comparing the new loan term to the remainder of the term on the existing loan.

Exceptions

A reduction in regular monthly payments by the Borrower under the new loan is not required when:

- The new loan results in a shorter term;
- The new loan is paying off a construction loan or loans;
- The Borrower is removing a borrower; or
- The new loan is consolidating subordinate lien.

iv. Occupancy Requirement

The property must have been the Borrower’s principal residence for a minimum of twelve (12) months prior to the date of the Section 184 Case Number assignment.

Exception

- The property is new construction (less than twelve (12) months since the Certificate of Occupancy or equivalent was issued).
- The property was inherited within the last twelve (12) months and is now the Borrower’s primary residence.

v. Payment History

The DG Underwriter must examine a Borrower’s Payment History for twelve (12) months prior to the Section 184 Case Number assignment. To be eligible for a Rate and Term Refinance, the Borrower must be current on all housing expenses during the twelve (12) months prior to the Section 184 Case Number assignment.

1 **vi. LTV and Base Loan Amount Limits**

2 The base loan amount for a Rate and Term refinance is the lesser of:

3 **a) Allowable Costs:**

4 The sum of the Loan payoff, unpaid principal balance of
5 purchase money subordinate liens, seasoned subordinate liens,
6 interest, closing costs, prepaid expenses, reasonable discount
7 points, unpaid principal balance of any unpaid PACE
8 obligation, Spouse or Co-owner equity (as described below in
9 **Removal of Co-owner or Spouse**), Annual Loan Guarantee
10 Fee or Mortgage Insurance Premiums due, escrow shortages,
11 prepayment penalties assessed, late charges and Borrower
12 upfront paid repairs required by the appraisal;

13 **b) 97.75% of the appraised value of the property (or 98.75 percent**
14 **if the value of the property is \$50,000 or less); or**

15 **c) the Section 184-Loan Limits in effect as of the date of case**
16 **number assignment**

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18
19 **vii. Maximum Cash to Borrower**

20
21 DG Lenders may utilize estimates of existing debts and costs to
22 calculate the maximum Loan amount so that the actual debts and
23 expenses do not result in the Borrower receiving more than \$500 cash
24 back at Loan Disbursement.

25
26 Cash to the Borrower resulting from the refund of Borrowers' unused
27 escrow balance from the previous housing lien and closing costs paid
28 in advance must not be considered in the \$500 cash back limit whether
29 received at or subsequent to Loan Disbursement.

30 **Excess Cash Back**

31 When the estimated costs utilized in calculating the maximum Loan
32 amount result in greater than \$500 cash back to the Borrower at Loan
33 Disbursement, Loans may reduce the Borrower's principal balance on
34 the subject loan to satisfy the \$500 cash back requirement. The DG
35 Lender must submit the Loan for endorsement at the reduced principal
36 amount.

1 **viii. Short Payoffs**

2
3 DG Lenders may approve a Rate and Term refinance where the
4 maximum loan amount is insufficient to extinguish the existing
5 housing debt, provided the existing Note holder writes off the amount
6 of the indebtedness that cannot be refinanced into the new Section 184
7 Loan.
8

9 **ix. New Home Construction Completed Prior to Closing**

10 When a Rate and Term Refinance is used to pay off a mortgage for the
11 construction of a new home, the new loan must be in an amount not to
12 exceed the unpaid principal balance plus loan closing charges and
13 allowable fees approved by HUD, plus, at Borrower's option,
14 additional construction costs paid in cash by the Borrower, that were
15 not included in the original construction contract.

16 **x. Building on Own Land**

17
18 The Direct Guarantee Underwriter must obtain and review the
19 following documentation:
20

- 21 a) Construction payoff statement, including accrued interest and
22 the origination date of the construction loan;
23
24 b) Receipts, bank statements, and credit card statements of
25 additional costs paid by the borrower that were not included in
26 the original construction loan;
27
28 c) Closing Disclosure Statement showing original loan amount
29 and all costs to construct the home;
30
31 d) Termite treatment (if state required);
32
33 e) Builder's Certification (HUD-XXXXXX);
34
35 f) A one-year (1) warranty (HUD-XXXXXX);
36
37 g) Health authority approval on well and septic (if applicable);
38
39 h) Flood Certificate and, as applicable, any other pertinent flood
40 zone determination related documents;
41

1 i) Conform with the energy performance requirements for new
2 construction established by HUD under section 526(a) of the
3 National Housing Act ([12 U.S.C. 1735f-4\(a\)](#)) and;

4
5 j) One of the following:

6
7 (1) copies of the building permit (or equivalent) and CO (or
8 equivalent); or

9
10 (2) three (3) inspections (footing, framing and final)
11 performed by the local authority with jurisdiction over
12 the Property or an ICC certified RCI or CI (for Modular
13 Housing, footing and final only); or

14
15 (3) in the absence of such ICC certified RCI or CI, the DG
16 Lender may obtain three (3) inspections (footing,
17 framing and final) performed by a disinterested third
18 party, who is a registered architect, a structural
19 engineer, or a qualified trades person or contractor, and
20 has met the licensing and bonding requirements of the
21 state in which the Property is located.

22
23 **xi. Removal of Co-owner or Spouse**

24
25 A Rate and Term Refinance may be used to buy out the equity of a co-
26 owner or spouse. The specified equity to be paid is considered
27 property-related indebtedness and is eligible for inclusion in
28 calculating the new Loan. A divorce decree, settlement agreement, or
29 other legally enforceable equity agreement must document the equity
30 awarded to the title holder.

31
32 **xii. Refinancing to Pay off Recorded Land Contracts**

33
34 When the purpose of the new Loan is to pay off an outstanding
35 recorded land contract, the unpaid principal balance will be deemed
36 the outstanding balance on the recorded land contract.

37
38 **xiii. Subordinate Liens**

39
40 Borrowers seeking a Rate and Term Refinance may pay off an existing
41 subordinate lien on the subject property by including the lien in the
42 Rate and Term Refinance, or a Borrower may subordinate the junior
43 lien with the approval of the junior lien holder.

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a) Payoff of a Subordinate Lien

A Rate and Term Refinance permits the payoff of a subordinate lien that meets the following requirements.

- The subordinate lien that will be paid in full must meet a twelve (12) month seasoning requirement.
- Any cash advance in the past twelve (12) months on a subordinate lien, including a line of credit, may be included if the Borrower provides evidence (e.g., canceled checks and paid invoices) that the proceeds were used for the repair or rehabilitation of the subject property.

Any funds in excess of \$1,000 advanced within the past twelve (12) months and for a purpose other than repairs and rehabilitation of the subject property are not eligible for inclusion in the Rate and Term Refinance.

b) Subordination of a Junior Lien

A Rate and Term Refinance permits the subordination of a junior lien, including a line of credit, regardless of when originated. The combined loan-to-value (CLTV) ratio of the Rate and Term Refinance and all other liens cannot exceed 100 percent (100%) of the appraised value of the subject property. The DG Lender must use the maximum credit limit of any existing subordinate lien or line of credit to calculate the CLTV ratio.

c) Closing Cost Assistance Lien

DG Lender must obtain the original Closing Disclosure Statement for the existing Lien to verify if closing cost/down payment assistance was provided. Tribal approval is required prior to closing for the payoff or subordination of this type of lien.

1 **c. Cash-Out Refinance**

2
3 **i. Definition**

4
5 A Cash-Out Refinance transaction is when the new Section 184 Loan
6 is made for an amount larger than the existing Section 184 Guaranteed
7 Loan or non-Section 184 Guaranteed Loan’s unpaid principal balance,
8 utilizing the property’s equity.

9
10 Properties owned free and clear are also eligible for Cash-Out
11 Refinancing.

12
13 **ii. Standard**

14
15 A Cash-Out refinance must meet the requirements outlined in
16 subsection F.2.c.

17
18 **iii. Occupancy Requirement**

19
20 The property must have been owned by and occupied by at least one
21 Indian Family Borrower as his or her principal residence for a
22 minimum of twelve (12) months before the Section 184 Case Number
23 assignment date.

24
25 **Exception**

26
27 In the case of inheritance, a Borrower is not required to occupy the
28 Property for a minimum period of time before applying for a cash-out
29 refinance, provided the Borrower has not treated the subject Property
30 as an Investment Property at any point since inheritance of the
31 Property.

32
33 If the Borrower rented out the Property to a tenant following an
34 inheritance, the Borrower is not eligible for cash-out refinance until
35 the Borrower has occupied the Property as a Principal Residence for at
36 least twelve (12) months.

37
38 The Occupancy Requirement does not apply when the Borrower is a
39 Tribe or TDHE.
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1 **iv. Payment History**

2
3 DG Underwriters must examine a Borrower’s Payment History for
4 twenty-four (24) months prior to the Section 184 Case Number
5 Assignment. To be eligible for a Cash-Out Refinance, the Borrower
6 must meet the following conditions.

- 7
8 **a)** A minimum of six (6) months of Mortgage Payments on the
9 current loan;
- 10
11 **b)** No late payments in the past twenty-four (24) months on all
12 Mortgage payments;
- 13
14 **c)** No late payments in the past twelve (12) months on all
15 installment loans and no more than two thirty (30) Day late
16 payments in the past twenty-four (24) months;
- 17
18 **d)** No more than one ninety (90) Day late payment or three or
19 more payments greater than sixty (60) Days after the due date
20 in the previous twelve (12) months on all credit cards;
- 21
22 **e)** No bankruptcy, judgment, or liens opened or revolving
23 accounts converted to collections in the past twenty-four (24)
24 months.

25
26 **v. Non-Occupant Co-Borrower**

27
28 A non-occupant co-Borrower may not be added to a Cash-Out
29 Refinance transaction for qualifying purposes.

30
31 Any Borrower added to the note must be an occupant of the property
32 encumbered by the Section 184 Guaranteed Loan.

33
34 **vi. LTV and Base Loan Amount**

35
36 The base loan amount allowable for a Cash-Out Refinance is limited
37 to:

- 38
39 **a)** 85% of the appraised value of the property or the Section 184
40 Loan Limits in effect as of the date of the Section 184 Case
41 Number assignment, whichever is less, when the cash to
42 Borrower is \$25,000 or less;

43

1 b) 80% of the appraised value of the property or the Section 184
2 Loan Limits in effect as of the date of the Section 184 Case
3 Number assignment, whichever is less, when the cash to
4 Borrower is \$25,001 or more
5

6 **vii. Maximum Cash in Hand to Borrower**
7

8 A Cash-Out Refinance that also includes a cash distribution directly to
9 the Borrower, not including payoffs on Closing Disclosure.
10

11 **viii. Closing Cost Assistance Lien**
12

13 DG Lender must obtain the original Closing Disclosure Statement for
14 the existing loan to verify if closing cost/down payment assistance was
15 provided.
16

17 Junior Lienholder approval is required before closing for the payoff or
18 subordination of this type of lien.
19

20 **ix. Payments to Creditors**
21

22 All payments to third parties must be documented in the Closing
23 Disclosure Statement.
24

25 **x. Subordination of a Junior Lien**
26

27 A Cash-Out Refinance permits the subordination of a junior lien,
28 including a line of credit. The CLTV ratio of the Cash-Out Refinance
29 and all other liens cannot exceed eighty-five (85%) percent of the
30 subject property's appraised value. DG Lenders must use the
31 maximum approved credit limit of the existing subordinate lien to
32 calculate the CLTV ratio.
33

34 **xi. Properties Owned Free & Clear**
35

36 Properties owned free and clear are eligible for Cash-Out Refinance.
37

38 **xii.** If the subject Property includes an Accessory Dwelling Unit (ADU),
39 rental income from the ADU cannot be used as Effective Income to
40 qualify for a cash-out refinance.
41
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1 **d. Streamline Refinance**

2
3 **i. Definition**

4
5 A Streamline Refinance transaction refers to the refinance of an
6 existing Section 184 Guaranteed Loan. A Streamline Refinance
7 requires limited Borrower credit documentation and underwriting.
8

9 **ii. Standard**

10
11 A Streamline Refinance must meet the requirements outlined in
12 subsection F.2.d.
13

14 **iii. Seasoning Requirements**

15
16 On the date of the Section 184 Case Number assignment:
17

- 18 • At least six (6) full months must have passed since the first
19 payment due date of the Loan that is being refinanced; and
20
- 21 • The Borrower must have made at least six payments on the
22 Section 184 insured Loan that is being refinanced (where the
23 Section 184 insured Loan has been modified, the Borrower
24 must have made at least six (6) payments under the
25 modification agreement).
26

27 **iv. Appraisal**

28
29 An appraisal is not required.
30

31 **v. Payment History**

32
33 The payment history on the subject property must be reviewed for 12
34 months prior to case number assignment. There must be:
35

- 36 • No late payments in months one to six;
37
- 38 • No more than one late payment in months seven to twelve; and
39
- 40 • The Borrower must have made the payments for all Mortgages
41 secured by the subject Property within the month due for the
42 month prior to mortgage Disbursement.
43

1 **vi. Net Tangible Benefit of Streamline Refinance**
2 **Definition**

3
4 A Net Tangible Benefit is a reduced Combined Rate or a reduced term
5 that results in a financial benefit to the Borrower. A net tangible benefit
6 is defined as 50 basis points below the prior Combined Rate or a
7 reduction in amortization of 3 years or more.
8

9 Additionally, the combined principal, interest, and Up Front Loan
10 Guarantee Fee of the existing Section 184 Guaranteed Loan must not
11 exceed the combined principal, interest, and Section 184 Upfront Loan
12 Guarantee Fee payment of the refinanced Section 184 Guaranteed
13 Loan by more than \$50.00. A Rate and Term refinance should be
14 considered if the payment exceeds the \$50.00 limit.
15

16 **vii. Closing Costs**

17
18 Borrowers may add closing costs to the loan.
19

20 **viii. Cash to Close**

21
22 If the Borrower needs less than \$1,000 in cash to close, documentation
23 of the funds is not required.
24

25 **ix. Cash to Borrower Not Permitted**

26
27 A Streamline does not allow for any cash back to the borrower.
28

29 A principal reduction is required.
30

31 **3. Single Close Construction Loan**

32 **a. Definition**

33
34 A Single Close Construction loan is a loan that allows the Borrower to
35 purchase new vacant land, use existing land that they own with or without an
36 existing structure, with or without an existing loan, and combine the
37 construction and permanent financing into a single loan.
38

39 A Single Close Construction loan allows borrowers to qualify and pay closing
40 costs only once.
41

1 **b. Standard**

2
3 A Single Close Construction loan must meet the requirements outlined in
4 subsection F.3.

5
6 **c. DG Lender Requirements**

7
8 Closed loans that do not comply with all applicable Section 184 Program
9 requirements are ineligible for loan guarantees under the Section 184
10 Program.

11
12 Additional guidance related to closing and endorsement of Single Close
13 Construction loans may be found in Chapters 4 and 5.

14
15 DG Lenders must have staff with two or more years of experience making and
16 administering construction loans or employ a construction loan management
17 company with two or more years of experience in administering construction
18 loans.

19
20 DG Lenders are responsible for ensuring the builders have the relevant
21 experience to construct a Single Close Construction property.

22
23 DG Lenders are responsible for monitoring the construction of the Eligible
24 Property, overseeing the disbursement of Loan proceeds, and obtaining
25 documentation that confirms the construction of the subject property is
26 complete.

27
28 DG Lenders shall be held liable for the construction loan management
29 company's non-compliance with Section 184 Program requirements.

30
31 **d. Firm Commitment Conditions**

32
33 DG Lenders must ensure the loan meets all applicable Section 184 Program
34 requirements.

35
36 **e. Construction Loan Escrow Account**

37
38 All loan proceeds, not disbursed directly through the CD, must be deposited in
39 an insured interest-bearing account in the name of the borrower. The Borrower
40 shall identify how the interest will be paid (to the borrower after completion
41 of the construction or applied to the unpaid principal balance).

42

1 Borrowers may receive a cash-in-hand return of any funds invested upfront in
2 excess of the Minimum Required Investment.

3
4 After the Final Release Notice is issued, mortgage payment reserves
5 remaining in the reserve account must be used to reduce the principal.
6

7 **f. Section 184 Mortgage Credit Analysis Worksheet**

8
9 DG Lenders must use the Section 184 Mortgage Credit Analysis Worksheet
10 (MCAW) for Rehabilitation and Single Close Construction Loans to
11 determine the maximum Loan amount on a Single Close Construction loan.
12 The amounts totaled on this worksheet must be used to complete the final
13 MCAW for maximum loan calculation.
14

15 **g. Timing**

- 16
17 **i.** The Section 184 Cohort Number must be received by the DG Lender
18 prior to loan closing.
19
20 **ii.** Only after loan closing can construction begin.
21
22 **iii.** In cases where construction began prior to the Section 184 loan
23 application and the Borrower needs the Single Close Construction loan
24 to complete construction, the DG Lender must request ONAP approval
25 in advance of the Section 184 Cohort Number being issued.
26
27 In support of DG Lender's approval request, inspections must be met
28 or able to be met in accordance with the requirements in this
29 subsection. These inspections must be performed and meet or will
30 meet final inspection requirements prior to Section 184 Cohort
31 Number issuance.
32
33 **iv.** Construction must begin within sixty (60) Days of the closing of the
34 loan.
35
36 **v.** Construction must be completed within twelve (12) months of the date
37 construction begins.
38
39 **vi.** A construction close-out package must be completed and submitted to
40 OLG within thirty (30) days after the final disbursement of the Section
41 184 Guaranteed Loan. Additional guidance on post-closing
42 requirements is explained in Chapter IV, Endorsements.
43

- 1 **vii.** When construction is not complete within twelve (12) months from the
2 date construction began, DG Lenders must request approval from
3 ONAP.
4
5 **viii.** Borrower and Builder must request an extension of time from the DG
6 Lender, using form HUD-XXXXX, in addition to providing a
7 justification for the extension. ONAP granted extensions shall not
8 impact the term of the mortgage. The loan amount or loan term cannot
9 be increased to cover cost overruns or construction delays.
10
11 **ix.** Extensions granted by ONAP shall not exceed 18 months total from
12 the close of the loan.
13

14 **h. Builder Requirements**

- 15
16 **i.** Borrower may select their own Builder (or housing dealer). All
17 builders (including a Borrower who also acts as the Builder) must be
18 licensed by the state or local government. For Single Close
19 Construction loans on Trust Lands, the Builder must be licensed under
20 Tribal law, or otherwise approved by the Tribe or TDHE.
21 **ii.** DG Lenders must also provide approval for the Builder. The loan
22 binder must contain sufficient information to document the
23 qualifications of the Builder.
24

25 Documentation of Builder's qualifications includes the following:

- 26
27 **a)** Copy of a current Tribal, state, or local license or letter from
28 the Tribe approving the Builder;
29
30 **b)** Copy of Lender Approval of builder letter;
31
32 **c)** Evidence builder is in good standing with all trade references,
33 as documented by a credit report on the Builder;
34
35 **d)** Evidence of current working capital or credit line sufficient to
36 cover 150% of the largest anticipated scheduled draw amount;
37
38 **e)** Trade references with contact information;
39
40 **f)** Documented experience in similar-sized projects;
41
42 **g)** Bank references, including lines of credit;
43

1 **h)** Builder liability insurance covering negligence, errors, and
2 oversights of the Builder and any subcontractors.
3 Subcontractors may provide their insurance in lieu of the
4 Builder providing liability insurance.

5
6 **i. Inspections**

- 7
8 **i.** All construction inspections must be performed by a performed by the
9 Tribe (if the Tribe has building codes), local authority with jurisdiction
10 over the Property, or an International Code Council (ICC), Residential
11 Combination Inspector (RCI), Combination Inspector (CI), licensed
12 architect, licensed structural engineer or contractor that has met the
13 licensing and bonding requirements of the Tribe or state in which the
14 property is located.
15
16 **ii.** The inspector must be a disinterested third party and cannot be
17 personally or financially related to the Builder, borrower, or other
18 interested party. Tribally Designated Housing Entity (TDHE) staff may
19 perform inspections if they are qualified under Tribal law and are
20 acceptable to the DG Lender. TDHE staff performing inspections may
21 charge for inspections.
22
23 **iii.** Appraisers are not qualified inspectors for the purpose of determining
24 the quality of construction, appraisers must not be used in lieu of an
25 inspector.

26
27 **j. Costs Eligible for Inclusion in the Mortgage**

28
29 **i. Lender Fees**

30
31 To cover the costs of administering the construction or rehabilitation
32 process, DG Lenders may charge borrowers a construction
33 administration fee not to exceed one and one-half percent (1.5%) of
34 the base loan amount (fee is in addition to the standard closing costs
35 and prepaid escrows), not to exceed (\$4,000) four thousand dollars.

36
37 DG Lenders must not charge a construction administration fee on non-
38 construction costs (i.e., cost of land, payoff of existing structure, etc.).
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1 **ii. Inspection Fees**

- 2
- 3 **a)** For each draw request, DG Lenders must obtain the inspector’s
- 4 signature stating that the work for that draw has been
- 5 satisfactorily completed.
- 6
- 7 **b)** Inspection fees may be included in the construction interest-
- 8 bearing escrow account.
- 9
- 10 **c)** Inspection fees must be reasonable and customary for the area.
- 11
- 12 **d)** Any unused inspection fees (escrowed) must be paid to the
- 13 principal or for additional permanent property improvements.
- 14
- 15 **e)** If the required inspection fees exceed the amount escrowed, the
- 16 Borrower is responsible for payment outside the escrow
- 17 account.
- 18
- 19 **f)** An inspector may charge for mileage. The mileage fee must be
- 20 reasonable and customary for assignments that require 50 or
- 21 more round-trip miles from the inspector’s place of business to
- 22 the subject property.
- 23
- 24 **g)** Inspector fees must not exceed the number of draw requests.
- 25 Payment of fees may be included with each draw request.
- 26

27 **iii. Title Update Fees on Fee Simple Land**

28

29 To ensure that the Section 184 loan remains in the first lien position, a

30 title update is required upon completion of construction. These costs

31 must be shown on the Closing Disclosure (or legal equivalent) and

32 included in the construction escrow account. Title update fees cannot

33 exceed what is reasonable and customary for the area. Any unused title

34 fees (escrowed) will be used to pay the principal once the construction

35 is complete.

36

37 **iv. Title Update Fees on Trust Land**

38

39 For Trust Land (land held in trust by the Bureau of Indian Affairs), DG

40 Lenders are not required to obtain an updated Title Status Report.

41 Therefore, no fees would be incurred.

42

43

1 v. **Lien Waivers**

2
3 DG Lenders must obtain Lien Waivers, or equivalent, during any fund
4 disbursements to ensure the validity of the first lien on the Property.

5
6 vi. **Land Purchase**

7
8 The cost of land (if applicable) may be included in the loan provided
9 the appraised improvements equal or exceed the cost of construction,
10 land purchase, and other applicable/allowable fees. The DG Lender
11 must obtain a copy of the land sales contract. The value of the land
12 must be included in the appraisal. The amount owed for the land will
13 be paid at closing and not included in the construction escrow account.
14 Also see **Building on Own Land**.

15
16 vii. **Loan Payments During Construction**

17
18 If there is sufficient equity, an allowance for up to twelve (12) loan
19 payments for new construction can be included in the construction
20 escrow account to enable the Borrower to make payments during the
21 construction period.

- 22
23 a) The Loan must begin amortization with the first monthly
24 payment, regardless of whether construction has started.
25
26 b) Loan payments may be withdrawn by the DG Lender on a
27 monthly basis.
28
29 c) If the construction period extends beyond the amounts set aside
30 for loan payments in the construction escrow account, the
31 Borrower must make loan payments from non-escrowed funds.
32
33 d) Prior to closing, the DG Underwriter is responsible for
34 determining the ability to repay the Loan if the construction
35 period is beyond the twelve (12-month period. Where
36 applicable, DG Lenders must explain how the Borrower will
37 successfully maintain two housing payments concurrently on
38 the MCAW.

39
40 viii. **Reimbursement for Stored Materials and Shipping Costs**

41
42 DG Lenders may follow guidance under [Dear Lender Letter 2023-07](#)
43 through August 3, 2025.

1 **k. Contingency Reserve**
2

3 The Contingency Reserve is for cost overruns or unforeseen circumstances
4 during the construction/rehabilitation period. A ten percent (10%)
5 Contingency Reserve is required for rehabilitation or construction loans
6 greater than \$10,000. The Contingency Reserve is based on all site-built
7 homes, rehabilitation of existing homes, and site improvements, which include
8 infrastructure, foundation, installation, utility hook-ups, and finishing items
9 for the dwelling. If the DG Lender believes that a Contingency Reserve of
10 more than ten percent (10%) is needed, the DG Lender may require the
11 Borrower to increase the amount not to exceed twenty percent (20%).
12

13 A Contingency Reserve is not required for manufactured or modular homes
14 built offsite and delivered to the property.
15

16 When cost overruns are anticipated, the Builder must notify the DG Lender
17 and submit documentation to the DG Lender requesting the use of funds and
18 the amount required. The DG Lender must review and, where appropriate,
19 approve the request before any work is done. Approved costs must be
20 documented by completing the change order request form, form HUD
21 5XXXX.
22

23 DG Lenders' approval and draws from the Contingency Reserve must
24 be documented in the loan binder when submitting the Single Close
25 Construction close-out file to the Office of Loan Guarantee.
26

27 **l. Unused Contingency Reserve Funds**
28

29 Upon final completion of the planned construction, when no additional funds
30 are needed for improvements, the remaining funds in the Contingency
31 Reserve may be disbursed.
32

33 If the Contingency Reserve were included in the mortgage amount, then the
34 unused balance in the account may be used for additional home improvements
35 with prior approval from the DG Lender or applied to the unpaid principal
36 balance of the loan.
37

38 **Exception**

39 Borrowers may receive a cash-in-hand return of any funds invested upfront
40 over the Minimum Required Investment.
41

1 If the funds in the Contingency Reserve were a gift, funds over the Minimum
2 Required Investment must be returned to the gift donor if that was a condition
3 of receiving the gift funds.
4

5 **m. Additional Improvements**
6

7 The Borrower may request the use of the contingency funds to make
8 permanent changes or improvements to the home when the project is at least
9 95% complete. DG Underwriters must review the request and, if approved,
10 execute the change order request form HUD-XXXXX. DG Underwriters must
11 confirm sufficient funds are retained in escrow (an amount equal to one and
12 one half (1 ½) times that estimated) for any uncompleted work before
13 authorizing depletion of the Contingency Reserve.
14

15 **n. Shortage of Contingency Reserve Funds**
16

17 When cost overruns or unforeseen circumstances exceed the contingency
18 reserve balance, the shortage must be documented and paid by the borrower
19 outside the mortgage agreement when the costs are incurred.
20

21 **o. Appraisal and As Completed Value**
22

23 The appraised value is subject to completion per plans and specifications on
24 the basis that the improvements have been completed. (see **Building on Own**
25 **Land**). When the appraisal is ordered, the DG Lender must provide the
26 appraiser with contracts, plans and specifications, and other related
27 construction exhibits. The cost approach is often the primary indication of
28 value.
29

30 Occasionally, changes occur during the construction phase. Changes must be
31 provided to the appraiser for review, and the appraised value must continue to
32 be supported.
33

34 **p. Interest Rate**
35

36 The Loan must be underwritten using the interest rate that will apply to the
37 permanent mortgage rather than construction financing.
38

39 **q. Hazard Insurance**
40

41 DG Lenders must obtain Builder's risk insurance and a quote for the final
42 completed property. The Hazard insurance must be calculated on the higher of
43 the Builder's risk or completed property.

1 The Borrower's homeowners' insurance policy must be in effect at
2 construction completion.

3
4 **r. Property Taxes**

5 **Fee Simple**

6
7
8 The prepaid property taxes must be calculated based on the completed
9 property (land and dwelling) to ensure sufficient escrow funds.

10
11 **Trust Land**

12 DG Lenders must consult with the Tribe to determine if property or other land
13 taxes are the Borrower's responsibility. Where property or land taxes apply,
14 DG Lenders must ensure sufficient escrow funds.

15
16 **s. Manufactured and Modular Homes**

- 17
18 **i.** A Single Close Construction loan may be used for new manufactured
19 or modular housing and ADUs.
- 20
21 **ii.** The home (previous occupancy) cannot be moved to a different site.
- 22
23 **iii.** The loan amount is based on the "as completed" value for newly
24 manufactured or modular homes. The loan proceeds can include the
25 cost of the home, delivery, foundation, and site costs. The ten percent
26 (10%) Contingency Reserve applies to all foundation or site expenses.
- 27
28 **iv.** For new manufactured or modular homes that are delivered to the land
29 site, the DG Lender may disburse, at closing, up to ten percent (10%)
30 of the cost of the manufactured or modular home when required by the
31 housing dealer and approved by the Borrower. This amount will not be
32 included in the construction escrow. The final Closing Disclosure must
33 document funds disbursed in this way.
- 34
35 **v.** General Eligibility Criteria:
36 A licensed builder or the manufactured home dealer must sign a
37 warranty of substantial completion, form HUD XXXXX.
38
39
40
41
42

1 **t. Progress Payments for Manufactured or Modular Homes in Remote**
2 **Locations**

3
4 DG Lenders may authorize the following payment schedule for manufactured
5 or modular home construction, with or without ADUs, located in Remote
6 Areas:

- 7
8 **i.** Ten Percent (10%) of the loan guarantee amount upon the closing of
9 the loan;
- 10
11 **ii.** Forty Percent (40%) payment of the loan guarantee amount when the
12 constructed home(s) is securely placed on the method of delivery for
13 shipment. However, payment will not be made until the underwriter
14 has reviewed the construction inspection reports from the factory and
15 the certificate of insurance naming the Lender, borrower, and HUD as
16 loss payees. The policy should provide full coverage for loss or
17 damage for the home(s) Free On Board to the project site;
- 18
19 **iii.** Thirty Percent (30%) payment of the loan guarantee amount when the
20 home(s) is delivered to the project site, affixed to a traditional
21 foundation and inspected.
- 22
23 **iv.** Twenty Percent (20%) payment of the loan guarantee amount when
24 final inspection is complete and a certificate of occupancy or
25 equivalent (as determined by HUD) has been issued.
- 26
27 **v.** To qualify for this payment schedule and to reduce the excessive
28 layering of risk, DG Lender must verify that the borrower meets at
29 least two of the five factors listed below:
- 30
31 **a)** Minimal housing increase (no more than twenty- five percent
32 (25%)
- 33
34 **b)** Strong credit history (credit score of 700 or greater)
- 35
36 **c)** The applicant has a debt-to-income qualifying ratio below
37 forty-one percent (41%)
- 38
39 **d)** The applicant has cash reserves of three months or greater of
40 monthly mortgage payments after closing.
- 41
42 **e)** Loan-to-Value ratio is ninety percent (90%) or less.
- 43

- 1 vi. If the Borrower cannot meet at least two of the five factors listed
2 above, then the payment schedule above cannot be applied.
3

4 **u. Required Documentation**

5 The DG Lender must certify that the following documents were reviewed and
6 verified:

7 **i. Homeowner/Contractor Agreement**
8

9 The agreement is between the Borrower and the contractor, specifying
10 the construction contract terms and incorporating the architectural
11 exhibits into the contract. At a minimum, the agreement must:

- 12 a) describe the work to be performed;
13 b) state when work will commence and complete;
14 c) state the total amount to be paid to the contractor and terms of
15 payment;
16 d) provide provision for binding arbitration on any disputes; and
17 e) provide a one-year warranty on all work the contractor
18 completes.
19

20 **ii. Plans and Specifications**
21

22 DG Lenders must obtain plans and specifications for the construction
23 work to be completed. The plans and specifications (used to arrive at
24 an after improved value) must be provided to the appraiser and must
25 be included in the loan binder.
26

27 **iii. Construction Cost Estimate**
28

29 Loan applications must include a detailed cost breakdown for all
30 construction. The estimates used must include labor and materials
31 sufficient to complete the work. All costs to construct/bids must be
32 signed by the contractor and Borrower.
33

34 **iv. Building Loan Agreement between Builder and borrower**
35

36 Construction must commence no later than 60 Days after closing. The
37 Building Loan Agreement that references the projected
38
39
40
41
42

1 commencement date for construction must be executed at loan closing
2 and included with the endorsement/guarantee package.
3

4 **v. Construction Progress Schedule**
5

6 The contractor's planned construction schedule must cover the period
7 from the starting date stipulated in the contract through the date of
8 actual contract completion. The schedule may be computer or
9 manually generated as long as the information is accurate in a format
10 providing acceptable data. The DG Lender may compare the schedule
11 with periodic compliance inspection reports to monitor progress. If the
12 DG Lender finds, as the work progresses, that there is or has been a
13 slowdown of construction, the DG Lender shall discuss the matter with
14 the contractor to correct the undesirable condition and, if possible, to
15 recover the lost time.
16

17 **vi. Architectural Exhibits**
18

- 19 a) Plot Plan of the Site: Shows the location of the structure with
20 setbacks, driveways, water/sewer lines, flood elevation, and
21 other relevant details.
22
23 b) Plans and Specifications: Shows elevations, floor plan, and
24 sufficient details of materials to direct the work. All work must
25 be in accordance with applicable local building codes.
26
27 c) Cost estimate: This estimate must be the best estimate of the
28 cost to complete the project. Cost estimates must include labor
29 and materials sufficient for the contractor to complete the
30 work.
31
32 d) Site map and legal description of the property.
33
34 e) Name addresses and phone number of the Builder.
35
36 f) Builder certification, Form HUD-XXXX
37

38 **v. Off-Site Infrastructure**
39

40 New construction project development. If a Tribe or TDHE incurs specific
41 costs to develop the offsite infrastructure of a project, the Section 184
42 Program will allow the lesser of: the actual pro rata portion of those cost to be
43 included in the cost of the individual or (b) up to 15% of the cost to construct

1 the subject house. Any costs included will be limited by the appraised value
2 and loan limits for the area.

3 When the borrower states a prior home will be removed at completion of new
4 construction, supporting documentation to its removal is required. If the
5 structure is to remain, it must meet Eligible Property requirements related
6 to ADUs (explained in Chapter 2, Subsection C.1) at time of initial appraisal.

7 DG Lenders must verify the street address, obtain a 911 address assignment or
8 similar address assignment prior to close.

9 **w. Escrow Holdback**

10 Escrow Holdbacks for improvements that do not affect the health and safety
11 of the occupants but could not be completed due to weather-related delays
12 may follow Chapter 4 Loan Closing for “Repair Escrow”.

13 **x. Occupancy Requirement**

14 The Borrower must occupy the property as their primary residence within
15 sixty (60) Days of issuance of the Certificate of Occupancy or equivalent.
16

17 **4. Rehabilitation Loan**

18 **a. Definition**

19 A Rehabilitation Loan is a loan in which the Borrower purchases an existing
20 home and finances the rehabilitation, or a loan in which the Borrower
21 renovates a home they already own, with or without an existing mortgage.
22

23 **b. Standard**

24 A rehabilitation loan will follow all guidelines above in the Single Close
25 Construction Loan, in addition to 4.c to 4.1 below.
26

27 **c. Determining the Loan Amount**

28 The after improved value (as determined by the appraiser) must equal or
29 exceed rehabilitation and acquisition (if applicable) to establish a single close
30 Rehabilitation Loan. The costs included in the Rehabilitation Loan must
31 include items required by the appraisal (after improved value).
32

33 **d. Maximum Mortgage Credit Analysis Worksheet**

34 To determine the maximum Loan amount on single-close loan DG Lenders
35 must use the Maximum Mortgage Credit Analysis Worksheet (MCAW) for
36
37
38
39
40

1 Rehabilitation and Single Close Construction Loans. The amounts totaled on
2 this worksheet will be used to complete the final MCAW for maximum loan
3 calculation.

4
5 **e. Builder Requirements**

6
7 The above guidelines regarding the Builder Requirements must be followed in
8 Single Close Construction Section.

9
10 When a rehabilitation loan requires less than 20% remodel (total cost of
11 repairs, including labor, divided by the after improved value determined by an
12 appraiser) of an existing structure the following may be used in place of a
13 builder:

14
15 **Subcontractors/Tradesmen**

16
17 **i. Lenders must review and approve:**

- 18
19 a) All subcontractors must meet Tribal, state or local licensing
20 requirements and must only perform work in accordance with
21 their area of profession and include copies of their licenses
22 showing in good standing.
23
24 b) Copy of Liability insurance covering negligence, errors and
25 oversights.
26
27 c) Copy of Lender Approval

28
29 **f. Timing**

30
31 Construction must be completed within 6 months of the Rehabilitation Loan
32 disbursement.

33
34 All other Single Close Construction timing requirements still apply.

35
36 **g. Eligible Improvements**

37
38 A minimum of \$10,000 in repairs is required to include rehabilitation in the
39 financing of a Section 184 loan. Minor or cosmetic repairs or appliances by
40 themselves that are not a condition in the appraisal are not eligible
41 rehabilitation expenses; however, may be included after the initial \$10,000
42 requirement is met. The rehabilitation must include one or more of the items
43 listed below, with a cumulative total of \$10,000 or more.

1
2 **Types of Improvements**
3

4 Types of eligible improvements include, but are not limited to:
5

- 6 **i.** Converting a one-family structure to a one-family structure with ADU,
7 two-, three-, or four-family Structure;
8
- 9 **ii.** adding an Accessory Dwelling Unit (ADU) that will be attached to an
10 existing structure;
11
- 12 **iii.** renovating an existing ADU that is attached or unattached to an
13 existing structure;
14
- 15 **iv.** decreasing an existing multi-unit structure to a one- to four-family
16 structure;
17
- 18 **v.** reconstructing a structure that has been or will be demolished,
19 provided the complete existing foundation system is not affected and
20 will still be used;
21
- 22 **vi.** repairing, reconstructing, or elevating an existing foundation where the
23 structure will not be demolished;
24
- 25 **vii.** purchasing an existing Structure on another site, moving it onto a new
26 foundation, and repairing/renovating it;
27
- 28 **viii.** making structural alterations such as the repair or replacement of
29 structural damage, additions to the Structure, and finished attics and/or
30 basements;
31
- 32 **ix.** rehabilitating, improving, or constructing a garage;
33
- 34 **x.** eliminating health and safety hazards that would if not remedied would
35 violate Section 184 Program Requirements for Standard Housing;
36
- 37 **xi.** installing or repairing wells and/or septic systems;
38
- 39 **xii.** connecting to public water and sewage systems;
40
- 41 **xiii.** repairing/replacing plumbing, heating, AC, and electrical systems;
42
- 43 **xiv.** making changes for improved functions and modernization;

- xv. making changes for aesthetic appeal;
- xvi. flooring, tiling and carpeting;
- xvii. repairing or adding roofing, gutters, and downspouts;
- xviii. making energy conservation improvements;
- xix. creating accessibility for persons with disabilities;
- xx. installing or repairing fences, walkways, and driveways;
- xxi. installing a new refrigerator, cooktop, oven, dishwasher, built-in microwave oven, and washer/dryer;
- xxii. repairing or removing an in-ground swimming pool;
- xxiii. installing smoke and Carbon Dioxide detectors;
- xxiv. making site improvements;
- xxv. landscaping;
- xxvi. installing or repairing exterior decks, patios and porches;
- xxvii. constructing a windstorm shelter;
- xxviii. work related to lead-based paint stabilization costs, if the structure was built before 1978.

h. Unacceptable Rehabilitation/Repair Items

Loan proceeds **may not** be used to finance costs associated with the purchase or repair of any luxury item, any improvement that does not become a permanent part of the subject Property, or improvements that solely benefit commercial functions within the Property, including:

- i. Recreational or luxury improvements include but are not limited to:
- ii. swimming pools (existing swimming pools can be repaired);
- iii. an exterior hot tub, spa, whirlpool bath, or sauna;

- iv. barbecue pits, outdoor fireplaces, or hearths;
- v. bathhouses;
- vi. tennis courts;
- vii. satellite dishes;
- viii. tree surgery (except when eliminating an endangerment to existing improvements);
- ix. photo murals;
- x. gazebos; or
- xi. additions or alterations to support commercial use or to equip or refurbish space for commercial use.

i. Appraisal

The appraised value is subject to completion per plans and specifications on the basis that the improvements have been completed.

The appraiser must list all items that are health and safety related and are needed to meet the **Requirements for Standard Housing**.

j. Infestation

All properties in termite hazard areas must have a termite inspection, and all termite damage must be repaired.

If any property is found to have termite or other infestation, it must be remedied.

k. Unpermitted Work

When unpermitted work is discovered in the existing dwelling, DG Lenders must ensure that the owner or contractor contacts the appropriate Tribal, state, or local code enforcement office to obtain retroactive permitting or devise a plan to permit the previous construction.

1 DG Lenders must ensure that the borrower obtains a rehabilitation loan permit
2 certification prior to the loan closing so that all permit fees associated with the
3 new and/or previous construction are included in the total bid.
4

5 When Tribal, state, or local jurisdiction does not require permits for the work
6 completed, evidence of such a case must be documented in the file.
7 Inspections and inspection fees guidelines in Single Close Construction
8 subsection shall apply.
9

10 **I. Occupancy**

11
12 The Borrower may occupy/continue to occupy the property when it is
13 considered safe per the initial inspection. However, they must occupy the
14 property as their primary residence within sixty (60) Days of the Certificate of
15 Occupancy or equivalent.
16

17 **5. Building on Own Land**

18
19 This section applies to Rate and Term refinance transactions, Single Close
20 Construction and Rehabilitation loans.
21

22 **a. Trust Land**

23
24 **[RESERVED]**
25

26 **b. Fee Simple**

27
28 A Borrower is eligible for a Section 184 Guaranteed Loan if building a home
29 on land that the borrower already owns or acquires separately and receives no
30 cash from the settlement. When a Borrower is building on their land, the
31 appropriate loan to value limit is applied to the lesser of the appraised value of
32 the proposed home and land, or the documented cost of the land.
33

34 The documented cost of the land includes the Builder's price or sum of all
35 sub-contractor bids and materials, the cost of the land (if the land has been
36 owned more than six (6) months or was received as an acceptable gift, the
37 value of the land may be used instead of its cost), and interest and other
38 expenses associated with any construction loan obtained by the applicant to
39 fund construction of the property.
40

41 Equity in the land (value or cost, as appropriate, minus the amount owed) may
42 be used for the applicant's entire cash investment. However, the applicant may
43 not receive more than minimal cash at closing (\$500 or less). Replenishing the

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applicant's cash expended during construction is not considered cashback, provided the applicant can substantiate with canceled checks and paid receipts for all out-of-pocket funds used for construction.

To determine if an applicant has made the required two and one quarter percent (2.25%) cash investment or its equivalent in land equity when building on their own land, all such Loan transactions must be summarized on the appraisal. Additionally, the calculated LTV ratio must reflect, as it does on other transactions, the lesser of the sales price, appraised value, or loan limit for the county/state.

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