

**A REPORT ON
IMPROVEMENTS TO THE SECTION 184 INDIAN HOUSING
LOAN GUARANTEE PROGRAM**



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**Department of Housing and Urban Development
Office of Public and Indian Housing
Office of Native American Programs**

I. BACKGROUND

This is the fourth report to Congress on the U.S. Department of Housing and Urban Development’s (HUD) implementation of the legislative amendments included in the Consolidated Appropriations Act, 2021, (Act) (Public Law No. 116-260) that authorized HUD to guarantee loans under the Section 184 Indian Home Loan Guarantee (Section 184) program prior to receiving all required trailing documents. The Committee’s request is that:

(c) The Secretary of Housing and Urban Development shall (1) report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate and the Committee on Financial Services and the Committee on Natural Resources of the House of Representatives on a semi-annual basis on the progress that the Secretary is making to accelerate the processing of loan applications on fee simple and Indian trust land under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a); and (2) if there is no improvement in accelerating those processing timelines, submit to the committees described in paragraph (1) a report explaining the lack of improvement.¹

II. INTRODUCTION

Many Native Americans aspire to become homeowners. However, various barriers make lending in Indian Country difficult. In addition to factors common to underserved markets and rural areas, the land may be held in trust by the Federal Government and cannot be sold or readily mortgaged.

One of the primary tools available to address these barriers is HUD’s Section 184 program. Established in 1992, the program encourages Lenders to make home loans to Native Americans in eligible Indian areas. Under the program, HUD provides a 100-percent guarantee on the unpaid principal and interest to make Lender’s whole in the event of a Borrower’s default. The loan guarantee incentivizes Lenders to serve an underserved population and provide mortgage capital in areas, such as Indian reservations, which historically faces difficulty attracting private capital because of their remoteness and the status of the land. Ultimately, the Section 184 program helps Tribes promote the development of sustainable communities by making homeownership a realistic option for Tribal members.

Mortgage lending on Trust Land can be a time-consuming process that reduces the appeal of lending on Trust Land, even if the loan is guaranteed under the Section 184 program. This is in part because the process can be complex and requires various actions from the Bureau of Indian Affairs (BIA). These BIA actions include recording certain loan documents and providing a final certified Title Status Report (“trailing loan documents”). For various reasons, Tribes, Lenders, and Borrowers experience delays in obtaining these trailing loan documents. Before passage of the Act, the Section 184 program could not guarantee a loan without first receiving these documents.

Delays in receiving trailing loan documents – and receiving the guarantee from HUD – can also be a barrier for Lenders wanting to participate in the program and is a current issue for participating Lenders when they sell Section 184 loans on the secondary mortgage market to maintain liquidity. The Government National Mortgage Association (Ginnie Mae) is the largest purchaser of Section 184 loans on the secondary market. Prior to 2019, Ginnie Mae purchased Section 184 loans pending receipt of

¹ Sec. 105(c), Title I of Division Q of the Consolidated Appropriations Act, 2021

trailing loan documents and a HUD loan guarantee, if the Lender could provide a final certification of these documents, and the HUD guarantee, within 36 months. Based on recommendations from the HUD Office of Inspector General in 2019, Ginnie Mae shortened this time frame to 12 months. As a result, some Section 184 Lenders providing mortgage financing on trust land have at various times been in danger of having to buy back Section 184 loans out of pools backing Ginnie Mae securities because they could not provide the trailing loan documents and the Section 184 loan guarantee, which may result in a significant cost to the lenders and a disincentive for Lenders to continue participating in the Section 184 program.

III. AMENDMENTS TO SECTION 184 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992

To increase stability and reduce barriers to trust land lending, in 2021 Congress provided new statutory authority to HUD to issue loan guarantees prior to receiving the trailing loan documents. In Section 105 of the Act, Congress amended the Housing and Community Development Act of 1992 (the Section 184 program’s authorizing statute) (12 U.S.C. 1715z-13a(c)(5)) authorizing HUD to guarantee a trust land loan prior to the Lenders’ submission of the required trailing loan documents, if the Lenders agrees to indemnify the Secretary for any losses that may occur before the receipt of these documents.

The Act also required HUD to report to Congress semi-annually on progress made on accelerating the processing of trust land and fee simple loan applications. See section 105(c) of the Act.

IV. IMPLEMENTATION OF IMPROVEMENTS

Overall Loan Processing and Other Efforts to Improve Loan Processing

It is important to note that HUD has a small role in the processing of loan applications on trust and fee land. The pace of the loan application process is mainly driven by the Lender and the Borrower. HUD’s role in the loan application process is to issue case numbers and firm commitments. HUD maintains a 24-hour turnaround time on these requests (except for requests received over the weekend). After the loan closes, the Lender submits to HUD a request for a Loan Guarantee Certificate (LGC), which confirms HUD’s guarantee on the loan.

- A. **There are no Loan Guarantee Requests Backlog.** In the past, due to staffing shortages and lack of automation, HUD experienced a delay in processing loan guarantee certificates. By September 2021, HUD faced a backlog of 1,860 loan guarantee requests. To address the backlog, HUD hired a contractor to assist in the processing of LGC requests. Within seven months, HUD resolved the backlog. As of December 31, 2023, there continues to be no backlog of LGC requests.
- B. **Reduced Loan Guarantee Certificate Processing Times.** Previously, HUD took on average 120 days to issue an LGC. HUD continues to accelerate LGC processing to within 30 days or less of the Lenders’ request.
- C. **Publication of the Final Rule to Strengthen the Section 184 program.** On March 20, 2024, HUD published the Final Rule titled “Strengthening the Section 184 Indian Housing Loan

Guarantee Program”.² The final rule amended the regulations governing the Section 184 program by clarifying rules for stakeholders. The changes made by the final rule promote program sustainability, increase Borrower protections, and provide clarity for new and existing Lenders. The final rule took into consideration comments received during Tribal consultations and in response to the proposed rule. By way of background, on November 30, 2022, HUD published a proposed rule on the Section 184 program.³ The proposed rule overhauled and fiscally strengthened the program by clarifying rules for Lenders, Tribes, and Borrowers. The proposed rule consisted of 9 subparts and 141 regulations. In contrast, there are currently 11 regulations governing the program, which now insures over 57,000 loans for more than \$10.3 billion. The proposed rule accepted public comments through March 17, 2023. HUD received comments from 33 stakeholders, including Tribes, Tribally Designated Housing Entities, Lenders, and legal and housing advocacy groups.

- D. **Increased staffing.** As of December 31, 2023, there are 21 staff working in the Office of Loan Guarantee (OLG). While this is an increase of 6 staff from FY 2022, OLG continues its efforts to maintain and increase staffing levels. OLG anticipates that increasing the staffing levels will improve HUD’s responsiveness and efficiency in administering the Section 184 program, such as approving Tribal applications, issuing Section 184 Case Numbers, issuing Section 184 Cohort numbers, and, most importantly, LGCs.

Indemnification Authority

On September 14, 2021, HUD issued [Dear Lender Letter 2021-10 \(DLL\)](#), which instructs Lenders on the steps required to receive a guarantee from HUD prior to their receipt of the trailing loan documents from the BIA. HUD also provided a model indemnification agreement to ensure that Lenders seeking to exercise this new option could do so with ease. These documents are available on HUD’s website and have been shared with all Lenders through an Office of Loan Guarantee Info announcement. HUD continues to work with the BIA to improve the timing of processing the Section 184 trailing loan documents and to find ways to share information and data to streamline processing times.

As of December 31, 2023⁴, HUD entered into a total of 338 indemnification agreements with Lenders and has released 276 of those indemnifications.

With this report, HUD believes it has satisfied the legislative amendments included in the Consolidated Appropriations Act, 2021, (Act) (Public Law No. 116-260).

² See Strengthening the Section 184 Indian Housing Loan Guarantee Program Final Rule at <https://www.federalregister.gov/documents/2024/03/20/2024-05515/strengthening-the-section-184-indian-housing-loan-guarantee-program>

³ See Strengthening the Section 184 Indian Housing Loan Guarantee Program Proposed Rule at https://www.hud.gov/sites/dfiles/PA/documents/5593-P-01_Section184_Proposed_Rule.pdf

⁴ Going forward, ONAP intends on reporting total indemnifications and total released indemnifications on a fixed cycle period from January 1 through June 30 and from July 1 through December 31st.