



**U.S. Department of Housing and Urban Development
Public and Indian Housing
Office of Native American Programs
Office of Loan Guarantee**

**Section 184 Indian Housing
Loan Guarantee Program
Policy Handbook**

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

(September 2025)

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I. DOING BUSINESS WITH THE OFFICE OF LOAN GUARANTEE

This Chapter describes the Section 184 Indian Housing Loan Guarantee Program (Section 184 Program) approval process and ongoing participation requirements within the following subsections and for the following parties:

- Subsection A: Tribes
- Subsection B: Alaska Native Village or Regional or Village Corporations
- Subsection C: Direct Guarantee and Non-Direct Guarantee Lenders
- Subsection D: Servicers
- Subsection E: Appraisers and Down Payment Assistance Providers

The U.S. Department of Housing and Urban Development's (HUD) Office of Native American Programs (ONAP) encourages a careful review of this Chapter's requirements to facilitate the process for participants in providing homeownership opportunities in Indian Country under the Section 184 Program.

A. TRIBES

Due to the unique status of Trust Lands, Indian Country's access to capital remains underserved. For purposes of the Section 184 program and this Handbook, Trust Land includes restricted fee land and any other land that is not freely assignable in addition to land held in trust by the United States. Thus, the Section 184 Program is a critical tool for Tribes to facilitate homeownership opportunities in their Trust Land communities. Where a federally recognized Tribe¹ wishes to permit lending on Trust Land, the Tribe must be approved by ONAP to participate in the Section 184 Program. Section A of this chapter focuses on how Tribes² apply to participate, Tribal participation requirements, and the process Tribes must follow when requesting an expansion of an approved Section 184 Program Area.

Tribes electing to make their Trust Land available under the Section 184 Program must provide evidence of a legal and administrative framework for lien priority, foreclosure, eviction and leasing, if available, on Trust Land to protect the interests of the Borrower, Tribe, Direct Guarantee Lender, and ONAP.

¹ The Department of the Interior, Bureau of Indian Affairs annually publishes in the Federal Register a notice typically titled "Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs." Information about federally recognized Tribes is available at the [Bureau of Indian Affairs website](#).

² Although the regulatory definition of "Tribe" at 24 CFR 1005.103 includes the Alaska Native village and corporations, for purposes of this Chapter we have provided a separate section for Indian Tribes and Alaska Native village and corporations. The application and participation requirements related to Alaskan Native village or regional or village corporations are separately addressed in section B of this Chapter.

The Tribal application process and general participation requirements follow:

- Tribe submits an application with documentation evidencing Tribal legal and administrative framework and other supporting documents;
- ONAP reviews the application and evidence;
- Tribe agrees to partner with ONAP on loss mitigation and property disposition activities;
- Tribe recertifies its participation annually;
- Tribe accepts a duty to report changes and actively reports;
- Tribe notifies ONAP when a Borrower defaults on the lease

1. Tribal Legal and Administrative Framework

a. General Information

- For a federally recognized Tribe to participate in the Section 184 Program, the Tribe must demonstrate that a legal and administrative framework exists sufficient to protect the interests of the Tribe, Borrower, the Approved Section 184 Lender (Lender), Holder and ONAP when Section 184 Guaranteed Loans are made. To demonstrate there is a legal and administrative framework, the Tribe must adopt lien priority, foreclosure and eviction procedures, and leasing procedures, if available, that will apply to Section 184 Guaranteed Loans. A Tribe may enact the framework through a Tribal council resolution or any other recognized Tribal legislative action. This framework must be legally enforceable and include the provisions noted in this chapter.
- ONAP can provide technical assistance related to the legal and administrative framework to Tribes. For technical assistance, Tribes may email Tribalrequests@hud.gov.

b. Legal Framework

i. Lien Priority

- Tribes must enact an ordinance that provides that all loans in first position have priority and are satisfied first. The Section

184 Guaranteed Loan secured by the property interest must be in first lien position.

- For a lien to be considered valid on Trust Land, it must be approved by the Tribe, and/or Bureau of Indian Affairs (BIA) as applicable; and recorded by the Tribe and/or BIA, and/or the state, as appropriate.
- Liens involving land held in trust by the United States must be submitted to the BIA for recordation. Tribes approved by BIA under the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act must follow the same process.
- For liens involving land not held in trust by the United States and held in restricted fee status by the Tribe, such as Treaty land, the Tribe must have a recording system for recording liens. For all liens on land under the jurisdiction of state and local governments, the liens must also be recorded in the County Office of Record.

ii. Foreclosure and Assignment

When a Borrower defaults on a Section 184 Guaranteed Loan and the Lender, Holder, or ONAP initiates foreclosure against the Borrower following the Tribe's Right of First Refusal:

- The Tribal ordinance must include evidence that a foreclosure shall be held in a court of competent jurisdiction, which includes Tribal court, and Federal courts when ONAP forecloses on the property.
- The Tribal ordinance must allow the court of competent jurisdiction to transfer the Borrower's property interest to Lender, Holder, or ONAP.

Note: Learn more about the Right of First Refusal in Chapter VI, Servicing Loans in Default.

iii. Eviction

The Tribe must have a legal and administrative framework for implementing eviction procedures, allowing for the expedited removal

of the Borrower, all household residents, and any unauthorized occupants of the property when there is a default of the lease and/or mortgage and foreclosure has been completed.

Eviction procedures must enable the Tribe, Servicer, Holder, or ONAP to secure possession of the property. It must be possible to evict occupants whenever the interest in the property is no longer held by the Borrower. This includes when there has been a valid foreclosure sale, when the Borrower assigns their property interest to ONAP or the Holder as part of loss mitigation, or when the Tribe has terminated the lease for violation of the lease terms.

iv. Lender, Holder, and ONAP Access to Property

The Tribe must have a legal framework granting Holder, Lender, Servicer or ONAP access to a Property located on Trust Land for the purpose of servicing a Section 184 Guaranteed Loan in default.

v. Abandoned Properties

Consistent with the requirement at 1005.301(a)(4), Tribes must establish a definition and policy for vacant and abandoned properties. This ensures that the Servicer and ONAP can take timely action and avoid the properties becoming attractive nuisances.

The Tribe must allow the lease to be reassigned to ONAP in the case of an abandoned or vacant property following appropriate due process to the Borrower.

vi. All Other Leasing and Relevant Real Property Provisions

The Tribe should include any other relevant ordinances in their tribal codes. Some examples may include ground rent, property conditions, or utilities. These ordinances are not required to be in the tribal code, but if relevant ordinances exist, the Tribe must disclose them to ONAP.

c. Administrative Framework

i. Trust Land Leasing

On most types of Trust Land, the leasehold interest is the collateral for the Section 184 Guaranteed Loan. The lease under the leasehold

mortgage must contain specific provisions to protect the interests of the Holder and ONAP.

- For Trust Land or Restricted Fee lease, the Lessor is the Tribe, or in the case of a Master Lease/Sublease, the Sub-Lessor may be a Tribally Designated Housing Entity (TDHE). ONAP may review requests for other types of transactions involving Master Lease/Sublease.
- For an individual Trust Land lease, the Lessor is the individual owner(s) and the Lessee is the Section 184 Borrower.
- Tribes may work with ONAP and BIA to establish their lease template for Trust Land loans. Tribes approved under The HEARTH Act may use their ONAP-approved HEARTH Act lease for Section 184 Program lending.
- Tribes may draft their lease for Section 184 program approval, and BIA approval as applicable.
- The lease must contain mandatory information, lease terms, and language as prescribed below. At a minimum, the lease must include the following:
 - Identify the lessor;
 - Identify the lessee;
 - Provide a legal description of the land and identify the property address covered by the lease;
 - Have a minimum term of 50 years. The term can exceed 50 years with approval from ONAP;
 - When the transaction is a loan refinancing, the remaining lease term must exceed the loan's maturity date by a minimum of 10 years;
 - When the transaction is loan refinancing and the remaining lease term does not exceed the loan's maturity date by 10 years, Borrower must provide a signed letter to the refinancing lender stating Borrower understands after loan

matures, the remaining lease term, if not renewed, would subject the Borrower to the risk of vacating the property;

- Be executed by all interested parties to be enforceable;
- Require ONAP's consent for any lease termination or assignment of the lease when the property is secured by the Section 184 Guaranteed Loan;
- Contain the following provision: "In the case of a default on a Section 184 Guaranteed Loan: (1) the lessee may assign the lease and deliver possession of the leased premises, including any improvements thereon, to ONAP; or (2) the lessor may assign the lease and deliver possession of the leased premises, including any improvements thereon, to ONAP when the Tribe has provided due process to lessee in compliance with Tribal law. ONAP may transfer this lease and the leased premises to a successor lessee if the successor lessee is another member of the Tribe or Tribal entity, as approved by the Tribe.";
- State the amount of the ground rent and method of payment, if applicable; and
- Provide that in the event of foreclosure, the lease will not be subject to any forfeiture or reversion and the lease may be assigned to Holder or ONAP.

ii. Land Held in Trust and Lease Recordation

Leases on land held in trust by the United States must be recorded. Non-HEARTH Act Tribes must submit leases to the BIA for recordation. Tribes approved under the HEARTH Act must follow their BIA-approved process to record trust land leases.

iii. Land Not Held in Trust by the US and Lease Recordation

For leases on land not held in trust by the United States and held in restricted fee status by the Tribe, such as Treaty land, the Tribe must have a recording system for recording leases encumbered by a lien.

iv. Trust Land Lending Involving a Master Lease and Sublease

Where the loan transaction involves a master lease and a sublease, the master lease and sublease must be approved by ONAP.

v. Tribal Homeownership Programs

ONAP supports Tribal initiatives to create and implement Tribal homeownership programs. However, when Tribal homeownership programs may be used in conjunction with the Section 184 Program, ONAP requests the following documentation to ensure there are no conflicts between the Tribal homeownership program and the Section 184 Program.

- Description of the homeownership program;
- Homeownership program promotional information, such as Tribal website, brochures, etc.; and
- Program guidelines related to the homeownership program and any applicable ordinances.

When ONAP determines the Tribal homeownership program may conflict with the Section 184 Program, ONAP shall work with the Tribe to resolve the conflict.

2. Tribal Application

a. Standard

HUD's Office of Loan Guarantee must approve a Tribe to participate in the Section 184 Program on the Tribe's Trust Land.

b. Documentation

A Tribe must gather the documentation listed below:

- The HUD-50172, *Tribal Application* form for the Section 184 Program must be completed and signed by a Tribal official.
- Supporting documentation listed on the HUD-50172, *Tribal Application* form for the Section 184 Program must be included.

- When the BIA has approved a Tribe under the HEARTH Act, the Tribe must inform ONAP of this approval in its application to participate.

c. Submission

The completed Tribal Application and supporting documentation may be emailed to TribalRequests@hud.gov.

d. ONAP Review of Tribal Application

ONAP will review the Tribe's application and supporting documentation upon receipt and will work with the Tribe to resolve any concerns.

When the Tribe's application is acceptable, ONAP will issue a written notification to the Tribe of the approval to participate in the Section 184 Program. ONAP will offer the Tribe general training on the Section 184 Program.

As part of the approval, ONAP will assign a lease approval number on the Tribe's proposed Section 184 lease template, which will inform the Borrower and lender that ONAP has approved the lease.

3. Post-Approval Updates/Modifications

The following post-approval updates and modifications require the following actions from the Tribe.

- When the Tribe seeks to amend an ONAP-approved lease, the Tribe must submit a copy of the entire lease with the proposed changes in red line to ONAP for review and approval.
- When the Tribe seeks to update any foreclosure, eviction, lease, or lien priority ordinances, the Tribe must submit the proposed changes to the ordinances to ONAP for review and approval prior to the ordinances taking effect.
- When the Tribe seeks to amend any Tribal homeownership program that may be used with the Section 184 Program, the Tribe must submit the proposed changes to the Tribal homeownership program to ONAP for review and approval prior to the changes taking effect.

- When the Tribe seeks to update any Tribal contact information related to the Section 184 Program, the Tribe must submit updated Tribal contact information to ONAP as soon as the changes occur.

Note: For the first three items listed above, Tribes are encouraged to submit the proposed Tribal changes to ONAP at least 30 days prior to the effective date of the Tribal changes.

The Tribe must submit the proposed changes to TribalRequests@hud.gov.

4. Requirements for Tribe's Continued Participation

a. Loss Mitigation and Disposition Involving Defaulted Section 184 Borrowers

The Tribe's partnership with ONAP is essential. Beyond Tribal leasing to its Tribal members, the Tribe's engagement with the Borrower, Lender, Holder, Servicer, and ONAP is especially critical when a Borrower defaults on their Section 184 Guaranteed Loan.

At loan closing, the Borrower can authorize the Lender to disclose to the Tribe if the Borrower defaults on the mortgage. If the Borrower has elected to disclose to the Tribe, the Lender notifies the Tribe of the Borrower's default so the Tribe may provide assistance, if any is available, to the Borrower. Assistance to the Borrower may be through financial aid to cure the default, referrals to housing counseling or consumer credit/foreclosure prevention programs, or support to the Borrower and encouraging him or her to contact the Lender to further address the default.

In cases where the Lender assigns the Section 184 Guaranteed Loan to ONAP, this signals that the Borrower's default was not cured, and the Borrower faces foreclosure. The Tribe can work with ONAP to explore alternatives to foreclosure, such as pursuing a Note Sale or Lease-in-Lieu of foreclosure with the Borrower. The Lease-in-Lieu of foreclosure is an opportunity for the Borrower to assign the lease to ONAP in exchange for ONAP's release of the Borrower's obligation on the mortgage. A Lease-in-Lieu of foreclosure prevents the derogatory reporting and damaging effects the foreclosure would have on the Borrower's credit report/history. The Tribe must allow for ONAP to become the lessee for a Lease-in-Lieu to work.

b. Property Preservation

In support of the ongoing partnership between ONAP and the Tribe, ONAP may request assistance from the Tribe in performing an occupancy inspection

of the property when the Lender assigns the mortgage to ONAP and after foreclosure completion.

The Tribe must notify ONAP when it determines a property is vacant, abandoned, or the property is not secured. Notifications should be sent via email to TribalRequests@hud.gov.

c. Right of First Refusal and Property Disposition

Under the Right of First Refusal process involving Trust Land, the Lender would notify the Tribe when the Borrower defaults on the mortgage and loss mitigation has not been successful.

The Right of First Refusal generally occurs before the initiation of foreclosure. Chapter VI, Servicing further explains the Right of First Refusal process.

In cases where the Lender assigns the Section 184 Guaranteed Loan to ONAP, ONAP will work with the Tribe on options for disposition of the property prior to foreclosure.

In cases where the Trust Land lease is reassigned to ONAP through a Lease-in-Lieu of Foreclosure or the property interest has otherwise been conveyed to ONAP by the completion of foreclosure, ONAP will partner with the Tribe to sell the property to an eligible Tribal member.

d. Duty to Report Changes

If there is a change in the Tribe's Section 184 Program point of contact, the Tribe must notify ONAP within 30 calendar days of making the staffing change.

Additionally, as a reminder, when there are post-approval changes, such as changes in the Tribe's Section 184 lease, Tribal ordinances related to lien priority, foreclosure and evictions, or Tribal homeownership program that may be used in conjunction with a Section 184 loan, the Tribe must notify ONAP of any proposed changes. See subsection 3 above.

Lastly, the Tribe must report to ONAP any other changes that may impact the Section 184 Program before the changes take effect.

Changes should be reported to ONAP at TribalRequests@hud.gov.

e. Tribal Annual Recertification

Tribes approved for the Section 184 Program must complete the HUD-50171, *Tribal Annual Recertification* form. The recertification process serves two primary purposes: (1) It provides ONAP with the Tribe's point of contact for

matters related to Section 184 Program lending on the Tribe's Trust Land, and (2) it confirms to ONAP there have been no changes to the Tribe's Section 184 Program lease since obtaining ONAP approval or changes to any other information previously reviewed by ONAP.

Additional annual recertification guidance:

- The Tribe's annual recertification deadline is December 31 of each calendar year. Tribes may complete their recertification as early as 90 days before the December 31 deadline.
- Tribes approved to participate in the program after July 1 of the current year are exempt from the December 31 recertification deadline for that same year. Such Tribes must complete the annual recertification by December 31 for each subsequent calendar year.
- If a Tribe faces extenuating circumstances and is unable to complete the recertification by December 31, the Tribe must contact TribalRequests@hud.gov prior to the deadline to request an extension and provide the reason for the request. ONAP may grant extensions on a case-by-case basis.

f. Notification of Borrower's Default under the Lease

In cases where the Borrower defaults on the lease, the Tribe shall provide written notification to ONAP at TribalRequests@hud.gov within 30 days of the lease default. The notification to ONAP must include any default notices the Tribe may have provided to the Borrower. ONAP consent is required requirement only applies when a Section 184 Guaranteed Loan encumbers the Borrower's leasehold interest.

5. Tribal Request for Expansion of a Section 184 Approved Program Area

a. Definition

Section 184 Approved Program Area means the Indian Housing Block Grant (IHBG) Formula Area as defined in 24 CFR 1000.302 or any other area approved by ONAP in which loans may be guaranteed by the Section 184 Program.

b. Standard

At the time a loan is guaranteed by the Section 184 Program, the Property must be for residential use under Tribal, State, or local law and be located within a Section 184 Approved Program Area.

For the current list of approved counties by state please visit CodeTalk - [Borrowers Section 184 Loan Resources page](#).

c. Tribal Request for Expansion

Tribes approved to participate in the Section 184 Program may request an expansion of the Section 184 Approved Program Area on a county-by-county basis.

d. Documentation

To request ONAP's approval for an expansion, Tribes must submit:

- A statement providing the reason for the request.
- The name of the county or the list of counties the Tribe would like to include in its Section 184 Approved Program Area.
- A certification as to the presence of enrolled Tribal members in the county or counties. The certification must include a statement that the Tribe has enrolled Tribal members residing in the county or counties listed. The certification must be signed and dated by an authorized Tribal official.

e. Submission

The Tribe's expansion request must be submitted to the Director of the Office of Loan Guarantee via email Tribalrequests@hud.gov.

f. ONAP Review

When the Tribal expansion request meets the above requirements and is approvable, ONAP will provide a written notice of approval to the Tribe and update the Section 184 Approved Counties by State list.

B. ALASKA NATIVE VILLAGE OR REGIONAL OR VILLAGE CORPORATION

Alaska Native village and regional or village corporations (Alaska Native village and corporations), as defined in or established under the Alaska Native Claims Settlement Act (ANCSA) (43 U.S.C. 1601 et seq.), may allow Alaska Natives to access the Section 184 Program on land owned by the village or corporation. While Alaska Native villages or corporations are included in the regulatory definition of Tribes, Alaska Native villages or corporations have different application and participation requirements than Indian Tribes (discussed in Section A). This subsection will focus on guidance relevant to Alaska Native village or corporations.

Alaska Native villages or corporations may have lands in restricted fee status. As a result, before Section 184 lending can occur on these lands, the Alaska Native village or corporations must follow the application process and participation requirements outlined in this Section. In discussing the participation requirements, this Section will focus on the importance of the partnership between ONAP and the Alaska Native village or corporations to ensure Section 184 lending is successful for Alaska Native village or corporations. The application process and general participation requirements for Alaska Native village or corporations follow:

- Alaska Native village or corporation submits application and lease agreement
- ONAP reviews the Alaska Native village or corporation's application
- Alaska Native village or corporation agrees to partner with ONAP on loss mitigation and property disposition
- Alaska Native village or corporations recertifies its participation annually
- Alaska Native village or corporations accepts a duty to report changes and actively reports
- Alaska Native village or corporation notifies ONAP when a Borrower defaults on the lease

1. Alaska Native Village or Corporations Application

a. Standard

ONAP's Office of Loan Guarantee must approve an Alaska Native village or corporations to participate in the Section 184 Program before any Section 184 lending can occur on its lands.

To be eligible to participate, the Alaska Native village or corporations must be on the Bureau of Indian Affairs' annual list of federally recognized Indian entities, which is published in the Federal Register. The annual list is available on the BIA's [Tribal Leaders Directory | Indian Affairs \(bia.gov\) Tribal Leaders Directory page](#).

b. Documentation

Required Documentation:

- The HUD-50172, *Tribal Application* form for the Section 184 Program must be completed and signed by an Alaska Native village or corporations official.
- The lease template to be used by the Alaska Native village or corporations for Section 184 lending must be included.
- Any other supporting documentation.

c. Submission

Submission of the Section 184 Program Tribal Application.

The completed Section 184 Program Tribal Application and supporting documentation may be emailed to TribalRequests@hud.gov.

d. ONAP Review and Determination

ONAP will review the Alaska Native village or corporations' application and supporting documentation upon receipt and will work with the Alaska Native village or corporations to resolve any concerns.

When ONAP determines that the Alaska Native village or corporations' application has met the requirements, ONAP will notify the Alaska Native village or corporations in writing of its approval to participate in the Section 184 Program.

ONAP will offer the Alaska Native village or corporations general training on the Section 184 Program.

As part of the approval, ONAP will place a unique identification number on the Alaska Native village or corporations' proposed Section 184 lease

template. The approval number on the lease serves to inform the Borrower and lender that ONAP has approved the lease.

2. Alaska Native Village or Corporations Leasing

a. Leasing

Alaska Native village or corporations can make their lands available to Alaska Natives or the corporations' shareholders to provide homeownership opportunities. One mechanism Alaska Native village or corporations facilitate homeownership is through a long-term lease between the Alaska Native village or corporations and the Alaska Native.

The Alaska Native's leasehold interest is the collateral for the Section 184 loan. All leases on land owned by the Alaska Native village or corporations must meet requirements to qualify for Section 184 financing.

ONAP does not have a model lease for Alaska Native villages or corporations. However, ONAP can provide technical assistance to Alaska Native village corporations in developing a lease compliant with Section 184 requirements. Alaska Native villages or corporations can obtain technical assistance by emailing TribalRequests@hud.gov.

b. Minimum Lease Requirements

At a minimum, Alaska Native village or corporations' leases must:

- Identify the lessor;
- Identify the lessee;
- Provide a legal description of the land and identify the property address covered by the lease;
- Have a minimum term of 50 years;
- Have a remaining term that exceeds the loan's maturity date by a minimum of 10 years, or other period as prescribed by Section 184 Program Guidance, when the transaction is a loan refinancing. The Borrower and the Alaska Native village or corporations may request a waiver to the minimum remaining years by submitting a written request to the Director of the Office of Loan Guarantee at Tribalrequests@hud.gov;

- Require ONAP's consent for any lease termination or assignment of the lease when the property is secured by the Section 184 Guaranteed Loan;
- Contain the following provision: "In the case of a default on a Section 184 Guaranteed Loan: (1) the lessee may assign the lease and deliver possession of the leased premises, including any improvements thereon, to ONAP; or (2) the lessor may assign the lease and deliver possession of the leased premises, including any improvements thereon, to ONAP when the Alaska Native village or regional or village corporations has provided due process to lessee in compliance with State law. ONAP may transfer this lease and the leased premises to a successor lessee if the successor lessee is another member of the Alaska Native village, or to the Alaska Native village or regional or village corporation.";
- Provide that in the event of foreclosure, the lease will not be subject to any forfeiture or reversion and the lease may be assigned to Holder or ONAP;
- Lease agreements must be recorded according to the jurisdiction's specific requirements and all lease terms must be consistent with state and local laws; and
- Be executed by all interested parties to be enforceable.

3. Tribal Homeownership Programs

ONAP supports Alaska Native village or corporations' initiatives to create and implement Tribal homeownership programs. However, when the Alaska Native village or corporations' homeownership programs may be used in conjunction with the Section 184 Program, ONAP requests the following documentation to ensure there are no conflicts between the homeownership program and the Section 184 Program.

- Description of the homeownership program;
- Homeownership program promotional information, such as Tribal website, brochures, etc.; and
- Program guidelines related to the homeownership program and any applicable ordinances.

When ONAP determines the Alaska Native village or corporations' homeownership program may conflict with the Section 184 Program, ONAP shall work with the Tribe to resolve the conflict.

4. Post-Approval Updates/Modifications

When a Section 184 approved Alaska Native village or corporations seeks to:

- Amend a ONAP-approved lease, the Alaska Native village or corporations must submit a copy of the entire lease with the proposed changes in red line to ONAP for review and approval.
- Amend any Alaska Native village or corporations' homeownership program that may be used with the Section 184 program, the Alaska Native village or corporations must submit the proposed changes to the homeownership program to ONAP for review and approval prior to the changes taking effect.
- Update any Alaska Native village or corporations contact information related to the Section 184 Program, the Alaska Native village or corporations must submit updated contact information to ONAP as soon as possible.

The Alaska Native village or corporations must submit the proposed changes to TribalRequests@hud.gov.

Note: For the items listed above, Alaska Native village or corporations are encouraged to submit the proposed changes to ONAP at least 30 days prior to the effective date of the changes.

5. Requirements for Alaska Native Village or Corporations' Continued Participation

a. Loss Mitigation and Disposition Involving Defaulted Section 184 Borrowers

The Alaska Native village or corporations' partnership with ONAP is essential. Beyond Alaska Native village or corporations leasing to Alaska Natives or the corporation's shareholders, the Alaska Native village or corporations' engagement with the Borrower, Lender, and ONAP is especially critical when a Borrower defaults on his or her Section 184 Guaranteed Loan.

At loan closing, the Borrower must be given the option whether to authorize the Lender to disclose to the Alaska Native village or corporations if the Borrower defaults on the mortgage. If the Borrower has elected to disclose to the Alaska Native village or corporations, the Lender notifies the Alaska

Native village or corporations of the Borrower's default so the Alaska Native village or corporations may provide assistance, if any is available, to the Borrower.

Assistance to the Borrower may be through financial aid to cure the default, referrals to housing counseling or consumer credit/foreclosure prevention programs, or support to the Borrower and encouraging him or her to contact the Lender to further address the default.

In cases where the Lender assigns the Section 184 Guaranteed Loan to ONAP, this signals that the Borrower's default was not cured, and the Borrower faces foreclosure. The Alaska Native village or corporations may work with ONAP on exploring alternatives to foreclosure, such as pursuing a Note Sale or Lease-in-Lieu of foreclosure with the Borrower. The Lease-in-Lieu of foreclosure is an opportunity for the Borrower to assign the lease to ONAP in exchange for ONAP's release of the Borrower's obligation on the mortgage. A Lease-in-Lieu of foreclosure prevents the derogatory reporting and damaging effects the foreclosure would have on the Borrower's credit report/history.

b. Notification of Borrower's Default Under the Lease

In cases where the Borrower defaults on the lease, the Alaska Native village or corporations shall notify ONAP in writing at TribalRequests@hud.gov within 30 days of the lease default. The notification to ONAP must include any default notices the Tribe may have provided to the Borrower. This requirement only applies when a Section 184 Guaranteed Loan encumbers the Borrower's leasehold interest.

c. Property Preservation

The Alaska Native village or corporations must notify ONAP at TribalRequests@hud.gov if it determines a property is vacant, abandoned, or the property is not secured.

d. Right of First Refusal and Property Disposition

Under the Right of First Refusal process involving Alaska Native village or corporations' restricted land, the Alaska Native village or corporations would be notified by the Lender when the Borrower defaults on the mortgage and loss mitigation has not been successful. The Right of First Refusal generally occurs before the initiation of foreclosure. Chapter VI further explains the Right of First Refusal process.

e. Duty to Report Changes

If there is a change in the Alaska Native village or corporations' Section 184 Program point of contact, the Alaska Native village or corporations notify ONAP within 30 days of making the staffing change.

Additionally, the Alaska Native village or corporations must notify ONAP of any proposed changes to the ONAP-approved template lease. The Tribe shall obtain ONAP approval of the proposed changes to the lease utilizing the process in Chapter I.A.3. Alaska Native village or corporations are strongly encouraged to submit the proposed lease changes to ONAP early in the process to allow for ONAP review before the lease take effect.

If the proposed lease changes are acceptable, ONAP will provide the Alaska Native village or corporations with a written approval letter. A revised or new unique identifier for the updated lease will be provided for lease revisions.

Lastly, if there are any other changes that may impact the Section 184 Program, such as changes in the Alaska Native village or corporations' homeownership program, these changes must also be reported to ONAP prior to the changes taking effect.

Changes may be reported to ONAP at TribalRequests@hud.gov.

f. Alaska Native Village or Corporation Annual Recertification

Alaska Native village or corporations approved for the Section 184 Program must complete HUD-50171, *Tribal Annual Recertification* form.

The recertification process serves two primary purposes: (1) It provides ONAP with the Alaska Native village or corporations' point of contact for matters related to Section 184 Program lending, and (2) it confirms to ONAP there have been no changes to the Alaska Native village or corporations' Section 184 Program lease since obtaining ONAP approval or changes to any other information previously reviewed by ONAP.

Additional annual recertification guidance:

- The Alaska Native village or corporations' annual recertification deadline is December 31 of each calendar year. Tribes may complete their recertifications as early as 90 days before the December 31 deadline.

- Tribes approved to participate in the program after July 1 of the current year are exempt from the December 31 recertification deadline for that same year. Such Tribes must complete the annual recertification by December 31 for each subsequent calendar year.
- If the Alaska Native village or corporations faces extenuating circumstances and is unable to complete the recertification by December 31, they must contact TribalRequests@hud.gov prior to the deadline to request an extension and provide the reason for the request. ONAP may grant the Alaska Native village or corporations an extension on a case-by-case basis.

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

Subsection C addresses financial institutions interested in obtaining and maintaining approval to participate in the Section 184 Program. This section discusses the types of program approvals, participation options, program ineligibility, application procedures, and requirements to maintain approval.

1. Types of Program Approvals

ONAP approval may be obtained through one of two paths. Lender Applicants must be approved by ONAP under path (a) or (b) below.

a. Statutory Approval

The following Lender Applicants are deemed approved by Section 184 of the Housing and Community Development Act of 1992, as amended:

- Any mortgagee approved by ONAP for participation in the single-family mortgage insurance program under Title II of the National Housing Act;
- Any Lender Applicant whose housing loan under Chapter 37 of Title 38, United States Code are automatically guaranteed pursuant to 3702(d) of such title;
- Any Lender Applicant approved by the U.S. Department of Agriculture to make Guaranteed Loans for single family housing under the Housing Act of 1949; and

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

b. Secretarial Approval

Lender Applicants who are not deemed approved by statute must obtain ONAP approval to participate.

2. Participation Options

In addition to identifying the Section 184 program approval path the Lender Applicant is eligible for, the Lender Applicant must select one or more Participation Options they are interested in.

There are three participation options: (1) Non-Direct Guarantee (Non-DG) Lender, (2) Direct Guarantee (DG) Lender, and (3) Servicers. Lender Applicants must choose at least one Participation Option.

If the entity is approved under one Participation Option and wishes to change to another or additional Participation Option, the Lender Applicant must complete the application process applicable to the desired Participation Option.

a. Non-Direct Guarantee Lender

Non-DG Lenders may only originate loans. Non-DG Lenders may not underwrite, close, service, purchase, hold or sell Section 184 Guaranteed Loans. Non-DG Lenders, also known as Sponsored Entities, must be sponsored by a DG Lender, also known as the Sponsor.

b. Direct Guarantee Lender

DG Lenders may originate, underwrite, close, service, purchase, hold, and sell Section 184 Guaranteed Loans.

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

Additional information regarding sponsored relationships can be found in Chapter I.C.8.

c. Servicers

Entities wishing to service Section 184 Guaranteed Loans must apply to ONAP for approval. Chapter 1.D outlines the Servicer application and participation requirements.

3. Program Ineligibility

An entity may be deemed ineligible for Section 184 Program participation when ONAP becomes aware that the entity or any officer, partner, director, principal, manager or supervisor, loan processor, loan underwriter, or loan originator of the entity was:

- 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 ONAP 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 Section 184 Program standards as described in law (12 U.S.C. 1715z-13a).

When the Lender Applicant believes an ineligibility criteria applies and wishes to continue the application process, the Lender Applicant must provide a letter of explanation with its application.

When the Lender Applicant does not report an ineligibility criteria applies during the application process and ONAP discovers an ineligibility criteria applies, the Lender Applicant shall be given notice of ONAP's determination of ineligibility and Lender Applicant shall have the opportunity to provide a letter of explanation.

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

Sponsorship relationships are further discussed in Chapter I.C.8.

4. Standard Application and Participation Requirements

This section describes the Standard Application and Participation Requirements applicable to all Lender Applicants, regardless of the Program Approval path and Participation Option. These requirements continue even after the Lender Applicant is approved by ONAP to participate as a Non-DG Lender, DG Lender, or Servicer. Beyond the Standard Application and Participation Requirements, additional requirements for the Lender Applicant apply, depending on the Program Approval path and Participation Option selected. These Supplemental Application Requirements are outlined in Chapter I.C.5-7.

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

The Standard Application and Participation Requirements are:

- Lender Applicant's Business Formation Name and trade name or "Doing Business As" (DBA) Name
- Unique Entity Identifier
- Business License or Registration
- Business Formation
- Office Facilities

- Personnel Requirements
- Restricted Participation
- Quality Control Plan

Note: The Office of Loan Guarantee provides a complete Lender Applicant Checklist.

a. Lender Applicant Name

i. Definitions

a) Institution Name

The institution's name is the legally registered name associated with the entity's home office.

b) "Doing Business As" Name

The DBA name is any registered name or alias that the Lender Applicant, Non-DG Lender, and DG Lender has a legal right to use.

ii. Standard

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

The Lender Applicant's institution name and all DBA names used by a Lender Applicant for conducting Section 184 business must be registered with ONAP. The Lender Applicant must use only those names that are registered with ONAP in advertising and promotional materials related to the Section 184 Program.

iii. Required Documentation

The Lender Applicant must submit documentation from the State showing:

- it's a legally approved Business Formation name; and

- all approved DBA name(s) from all applicable States.

b. Unique Entity Identifier

i. Standard

Lender Applicants must register for and obtain an active Unique Entity Identifier (UEI) through the US General Services Administration's System for Award Management (SAM) at www.sam.gov. The registration data must include the tax identification number, institution name, and home office geographic address. The UEI must be provided as a part of the Lender Applicant's application and must be maintained as long as the entity is a participating lender. The UEI registration data must match the tax identification number, institution name, and home office geographic address provided in the application.

c. Business License or Registration

i. Standard

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

ii. Required Documentation

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

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

The Unable to Certify procedures are as follows:

If an applicant is unable to certify any of the certification statements, the applicant must submit a detailed explanation for each certification that it is unable to complete.

The document must:

- explain in detail the reason(s) that the applicant is unable to certify;
- be on applicant's letterhead;
- be dated;
- be signed by the Corporate Officer who signs the application;
- contain language certifying that, if approved, the lender applicant will comply with all Section 184 Program requirements; and
- where applicable, provide evidence of an acceptable resolution (such as reinstatement or subsequent approval of a license, payment of sanctions or fines, or similar documentation).

iii. Exception for Lender Applicants Exempt from State Licensing Requirements

If the Lender Applicant is exempt from state licensing requirements, the Lender Applicant must submit documentation of the applicable exemption.

d. Business Formation

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

i. Corporations

a) Definition

A corporation is an entity chartered in the United States or its territories.

b) Standard

The corporation must be organized in accordance with Tribal, federal and state laws regarding corporations and must provide for permanent succession.

c) Required Documentation

The corporation must submit copies of its Articles of Incorporation, bylaws and Tax Identification Number (TIN) with its application.

ii. Limited Liability Company

a) Definition

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

b) Standard

The LLC must:

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

c) Required Documentation

The LLC must submit its Articles of Organization and operating agreement with its application. The Articles of Organization and operating agreement must contain language addressing the requirements listed above. The application must include the names and TINs of all members.

iii. Partnership

a) Definition

A Partnership is a for-profit business operation between two or more entities that share ownership and management responsibilities.

b) Standard

The partnership must:

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

The partnership must designate a managing general partner, who:

- has as its principal activity the management of one or more partnerships, all of which are Lender Applicants, lenders, or property improvement or Manufactured Housing loan 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 corporations, 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.

A Lender Applicant’s home office facility must:

- be located in a commercial space that is separate from any other entity (except for reception-type entrances or lobbies) and accessible to persons with disabilities;
- be clearly identified, including having a permanently affixed business sign and other means of identification commonly used by businesses, so that the general public and other businesses will know, at all times, exactly which entity is being represented and is conducting business; and
- display a Fair Housing poster if the Lender Applicant deals with Borrowers and the general public.

b) Branch Offices

Lender Applicants may maintain branch offices. If branch offices are maintained the entity must:

- register any branch offices that will conduct Section 184 Program business;
- ensure that branch offices are accessible; and

- display a Fair Housing poster in branch offices that deal with Borrowers and the public.

iii. Required Documentation

In addition to the requirements under Chapter I.C.4.d.iii.e, ONAP may verify compliance with the office facilities requirements through any onsite visits. The Lender Applicant must maintain an up-to-date list of all offices meeting the standard.

f. Personnel Requirements

i. Corporate Officer

a. Definition

A Corporate Officer is a natural person who serves as one of the following positions for the Lender Applicant:

- Owner;
- President;
- Vice President in charge of managing or overseeing any aspect of the Lender Applicant, Non-DG Lender or DG Lender business;
- Chief Operating Officer (COO);
- Chief Financial Officer (CFO);
- Director;
- Corporate Secretary;
- Chief Executive Officer (CEO);
- General Counsel;
- Chairman of the Board;

- General Partner; or
- Member or manager of an LLC.

b) Standard

The Lender Applicant must verify that no Corporate Officers are suspended, debarred, or otherwise excluded from participation in ONAP programs (see Restricted Participation). The Lender Applicant must ensure its Corporate Officers only represent a single Non-DG or DG Lender, unless the following criteria are met:

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

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

c) Documentation

The Lender Applicant must:

- Identify all Corporate Officers listed above who will be directly involved in managing, overseeing, or conducting Section 184 business.
- Provide resumes for Corporate Officers.
- Provide the following certifications:
 - All Employees who will sign applications for Guaranteed Loans on behalf of the Lender Applicant shall be Corporate Officers or shall

otherwise be authorized to bind the Lender Applicant in the origination of the transaction.

- Lender Applicant shall not and have not paid anything of value, directly or indirectly, in connection with any Guaranteed Loan, to any person or entity if such person or entity has received any other consideration from the seller, builder, or any other person for services related to such transaction or related to the purchase or sale of the property, except that consideration, approved by ONAP, may be paid for services actually performed.
- Lender Applicant shall not and has not paid a referral fee to any person or organization.
- Lender Applicant has not been sanctioned by any Tribal, Federal, State, or other authority related to any lending activity.

ii. Officer in Charge

a) Definition

The Officer in Charge is the Corporate Officer designated to manage and direct the Lender Applicant's Section 184 operations, including authorizing person(s) to report to ONAP on guarantees, purchases, and sales of Guaranteed Loans for the purpose of obtaining or transferring guarantee coverage.

b) Standard

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

- Originating or Servicing, where applicable, Section 184 Loans; or

- Managing other individuals performing these services.

A Corporate Officer's experience in real estate sales or brokerage does not qualify.

c) Required Documentation

The Lender Applicant must designate the Officer in Charge and submit a current resume covering the most recent seven-year period detailing the individual's relevant experience in the online application.

iii. Employees

a) Definition

Employees are individuals under the direct supervision and control of the Lender Applicant.

b) Standard

The Lender Applicant must not employ any individual who will participate in Section 184 transactions if the individual is suspended, debarred, under a LDP, or otherwise excluded from participation in Government programs (see Chapter I.C.3, Program Ineligibility).

iv. Personnel Licenses

a) Standard

The Lender Applicant must ensure that its Corporate Officers and employees conducting Section 184 business for or on behalf of the Lender Applicant have all Tribal, state, and federal licenses and registrations required for the Lender Applicant functions or activities that such individuals will perform. The Lender Applicant must verify that all employees participating in ONAP programs for or on behalf of the Lender Applicant are registered with the National Mortgage Licensing System and Registry (NMLS), unless excluded from NMLS requirements by law or regulation.

b) Required Documentation

The Lender Applicant must provide the names of all Corporate Officers and employees with their corresponding corporate role, relating to loan origination, servicing and claims, and their licensing NMLS numbers, and certify that it meets this requirement as part of its application.

v. Personnel Compensation

The Lender Applicant must not compensate employees who perform underwriting or Quality Control (QC) activities on a commission basis. The Lender Applicant must report all employee compensation in accordance with IRS requirements.

vi. Dual Employment

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

vii. Conflicts of Interest

Employees are prohibited from having multiple roles in a single Section 184 transaction. Employees are prohibited from having multiple sources of compensation, either directly or indirectly, from a single Section 184 transaction.

viii. SAFE Act Compliance

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

ix. Restricted Participation

The Lender Applicant must confirm it verified, through each of the following systems, that the designated employees listed below are permitted to participate in the Section 184 Program. If any of the designated employees are found to be ineligible, they are restricted

from participating in the Section 184 Program. Checks to verify employee eligibility must be conducted at least semiannually.

a) Excluded Parties List

The Lender Applicant must verify employee eligibility for all officers, partners, directors, principals, managers, supervisors, loan processors, loan underwriters, loan originators, and all other employees participating in HUD programs for or on behalf of the Lender Applicant, using SAM (www.sam.gov) Excluded Parties List.

b) Limited Denial of Participation

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

c) National Mortgage Licensing System (NMLS) and Registry

Employees who are required to be registered with NMLS by law or regulation, that do not have a current NMLS registration are not eligible to participate in the Section 184 Program.

d) Required Documentation

Lender Applicants must maintain documentation that supports each employee's eligibility.

g. Quality Control Plan

i. Standard

A Lender Applicant must have a QC Plan that meets ONAP's requirements, as described in Chapter IX: Quality Control, Oversight, and Compliance of this Handbook.

ii. Required Documentation

The Lender Applicant must submit a copy of its QC Plan to ONAP in accordance with Chapter IX: Quality Control, Oversight, and Compliance of this Handbook.

iii. Additional Documentation Requested by Sponsor

Where there is a proposed sponsorship agreement between a Sponsor and Sponsored Entity, as part of the Sponsor's due diligence, the Sponsor may request to review additional documentation from the proposed Sponsored Entity beyond what is listed in this Section C.4. Any additional documentation that the Sponsor receives from proposed Sponsored Entity must be provided to ONAP, as part of the Sponsor's submission package to ONAP regarding the proposed sponsorship relationship. Additional guidance on sponsorships can be found in Chapter I.C.9.

Note: Supplemental Application and Participation Requirements Navigation Tips

- *If you are a Lender Applicant with Statutory Approval, seeking Non-DG Lender Status, please proceed to Chapter I.5.*
- *If you are a Lender Applicant requiring Secretarial Approval, seeking Non-DG Lender Status, please skip to Chapter I.6.*
- *If you are a Lender Applicant with Statutory Approval, seeking DG Lender Status, please skip to Chapter I.7.*
- *If you are a Lender Applicant requiring Secretarial Approval, seeking DG Lender Status, please skip to Chapter I.7.*

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

Lender Applicants eligible for approval by statute and electing the non-DG Lender participation option, must submit the documentation required to its Sponsor in the Standard Application section above, and must also submit the documentation stated in this subsection to its Sponsor.

a. Evidence of Statutory Approval

i. Standard

The Lender Applicant/Non-DG Lender (Statutory Approval) must have received approval from a Federal Agency under this subsection, Section 1.a. or is otherwise supervised or regulated by any other Federal agency.

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.

Where the Lender Applicant is otherwise supervised or regulated by any other Federal Agency and no approval letter or conditional approval letter can be provided, the Lender Applicant shall provide a Letter of Good Standing or Alternative Documentation, as explained below.

b. Letter of Good Standing or Alternative Documentation

i. Standard

The Lender Applicant must be in good standing with the approving Federal Agency's mortgage insurance or lending program or is otherwise in good standing with respect to the approved Federal Agency's supervision or regulation of the Lender Applicant.

ii. Documentation

A certified true copy of the Lender Applicant's letter of good standing from the approving Federal Agency, dated not more than 60 days prior to the submission to ONAP. Alternatively, if the approving Federal Agency does not provide letters of good standing, then the Lender Applicant must submit:

- where applicable, a copy of the Lender Applicant's most recent complete annual recertification submission to the approving Federal Agency;
- where applicable, certification that the document is the most recent complete annual recertification to the approving federal agency; and
- in cases where Lender Applicant is unable to provide (a) or (b) above, Lender Applicant must provide evidence that the Lender Applicant is on the federal agency's list of active or approved lenders. The evidence may be a printout from the federal agency's website, or any other dated federal agency document, showing the federal agency's name and/or website address, date of document, the name of the Lender Applicant, and information evidencing Lender Applicant's active or approved status.

c. 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 to entering into the sponsorship agreement.

6. Supplemental Requirements: Secretarial Approval – Non – Direct Guarantee Lender Application

Lender Applicants eligible for Secretarial Approval and electing the Non-DG Lender participation option must submit the documentation required in the Standard Application (Chapter I.C.4.) and must also submit the documentation stated in this subsection.

a. Financial Requirements

i. Standard

Lender Applicants must meet the following financial requirements at all times.

Net Worth. The Non-DG Lender Applicant must have a minimum net worth of \$75,000.

ii. Required Documentation

a) Audited Financial Statements

- The Lender Applicant may provide audited financial statements if they routinely engage a CPA to perform 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.
- All audited fiscal year and unaudited interim financial statements must be certified by a Corporate Officer to be true and accurate and signed.

b) Unaudited Financial Statements

- If the Lender Applicant does not routinely engage a CPA to annually provide audited financial statements, it may engage in CPA to submit audited financial

statements or elect to provide unaudited financial statements.

- The Lender Applicant must provide unaudited financial statements covering the most recent fiscal year and provide a year-over-year comparison.
- If the end date for the most recent fiscal year unaudited financial report is more than six months old, the Lender Applicant must submit unaudited financial statements for the most recent interim accounting period ending less than 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.

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

ii. Standard

The Lender Applicant/Non-DG Lender (Statutory Approval) must have received approval from a federal agency under Section 1.a. or is otherwise supervised or regulated by any other Federal agency.

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.

Where the Lender Applicant is otherwise supervised or regulated by any other Federal Agency and no approval letter or conditional approval letter can be provided, the Lender Applicant shall provide a Letter of Good Standing or Alternative Documentation, as explained below.

b. Letter of Good Standing or Alternative Documentation

i. Standard

The Lender Applicant must be in good standing with the approving federal agency's mortgage insurance or lending program or is otherwise in good standing with respect to the approved federal agency's supervision or regulation of the Lender Applicant.

ii. Documentation

A certified true copy of the Lender Applicant's letter of good standing from the approving Federal Agency, dated not more than 60 days prior to the submission to ONAP. Alternatively, if the approving federal agency does not provide letters of good standing, then the Lender Applicant must submit:

- where applicable, a copy of the Lender Applicant's most recent complete annual recertification submission to the approving federal agency;

- certification that the document is the most recent complete annual recertification to the approving federal agency; and
- in cases where Lender Applicant is unable to provide (a) or (b) above, Lender Applicant must provide evidence that the Lender Applicant is on the federal agency's list of active or approved lenders. The evidence may be a printout from the federal agency's website, or any other dated federal agency document, showing the federal agency's name and/or website address, date of document, the name of the Lender Applicant, and information evidencing Lender Applicant's active or approved status.

c. Financial Requirements

i. Standard

Net Worth and Liquidity: Lender Applicants and DG Lenders must meet the following financial requirements at all times.

- Net Worth. The DG Lender Applicant must maintain a net worth of no less than \$1,000,000.

ii. Documentation

a) Audited Financial Statements

- The Lender Applicant may provide audited financial statements if they routinely engage a Certified Public Accountant (CPA) to perform 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 a GAAP and had its audit performed in accordance with a GAAS.

d. Proposed Direct Guarantee Underwriter

Lender Applicants must have on staff an underwriter ready to enter the Section 184 DG Underwriter Test Case Approval Process or have a Section 184 approved DG Underwriter previously approved by ONAP (see Chapter I.C.7.f.).

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

i. Definition

A Proposed DG Underwriter is an underwriter designated by the Lender Applicant who is recommended to go through the Section 184 DG Underwriter training and test case process.

ii. Standard

The Proposed DG Underwriter must meet the following qualifications:

- meets all applicable Personnel Requirements outlined in Chapter I.C.4.d.;
- is not managed by and does not report to any individual who performs Section 184 origination activities;
- has two years of experience underwriting manual loans guaranteed or insured by an agency of the federal government; and
- is authorized to obligate the Lender Applicant on matters involving the origination of loans.

iii. Documentation

The Lender Applicant must include the following:

- Resume(s) of the designated DG Test Case Underwriter(s). The resume(s) must cover the most recent seven-year period, list the current employer, and list any relevant prior employment. The resume(s) must identify the designated DG Underwriter(s)' experience level underwriting loans guaranteed or insured by an agency of the Federal Government.
- The designated DG Test Case Underwriter(s)'s contact and other relevant information. The information must include:
 - full legal name;
 - work telephone number;
 - work email address; and
 - licensing information, including but not limited to the DG Test Case Underwriter's NMLS number.

e. Previously ONAP-approved Section 184 DG Underwriter

i. Definition

A previously ONAP-approved Section 184 DG Underwriter (DG Underwriter) is the individual who has completed the training and test

case process, has been assigned DG Underwriter designation and number, and is seeking to transfer his or her DG Underwriter approval to the Lender Applicant seeking DG status.

ii. Standard

The ONAP-approved DG Underwriter has documented experience manually underwriting Section 184 loans in the past two years. The ONAP-approved DG Underwriter must:

- meet all applicable Personnel Requirements outlined in Chapter I.C.4.d.;
- not be managed by and does not report to any individual who performs Section 184 origination activities;
- be authorized to obligate the DG Lender Applicant on matters involving the origination of loans; and
- be registered with ONAP as a Section 184 DG Underwriter. The registration must be associated with the Section 184 DG Underwriter's prior employment.

iii. Documentation

The Lender Applicant must provide the following:

- A copy of the DG Underwriter's approval letter(s).
- The resume(s) of the DG Underwriter must cover the most recent seven-year period, list the current employer, and list any relevant prior employment. The resume(s) must identify the designated DG Underwriter(s)' experience level underwriting loans guaranteed or insured by an agency of the Federal Government.
- A list of at least eight Section 184 loans underwritten by the Section 184 DG Underwriter in the past 2 years. Two of the eight loans must be Trust Land Loans. The list should include Section 184 case numbers. DG Underwriters who cannot meet this requirement must re-enter the DG Test Case Underwriter process.

- The DG Lender Applicant may request an exception to the above conditions and ONAP shall make a determination on a case-by-case basis.

f. ONAP Approval of the selection of the DG Test Case Underwriter/DG Underwriter Previously Approved by ONAP

ONAP will review the documentation submitted under Chapter I.C.7.e or f and provide written approval of the DG Test Case Underwriter or approval of the DG Underwriter previously approved by ONAP when all requirements are met.

8. Sponsorship Process and the Responsibilities of the Sponsor and Sponsored Entity

Lender Applicants seeking Non-DG Lender status, Non-DG Lenders, and DG Lenders intending to enter a sponsorship relationship or have entered into a sponsorship relationship must carefully review and adhere to the guidance in this subsection. This Section describes the sponsorship process and the responsibilities of the Sponsor and Sponsored Entity.

a. Definition

i. Sponsorship

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

ii. Sponsor

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

iii. Sponsored Entity

A Non-Direct Guarantee or Direct Guarantee Lender, acting as the Sponsored Entity, enters a relationship with DG Lender (Sponsor), whereby the Sponsored Entity Originates Section 184 Guaranteed Loans in accordance with their Sponsorship Agreement.

b. Standard

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

c. Documentation

An executed sponsorship agreement is required for each ONAP approved sponsorship relationship. Additional documentation is required depending on the type of sponsorship relationship. See Chapter I.C.8.d.i and ii below.

d. Initiating the Sponsorship Relationship

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

a) Standard

Lender Applicants seeking to be a Sponsored Entity through an approved Section 184 Sponsor, must identify a DG Lender they would like to work with.

b) Documentation

After identifying the DG Lender and if the entities agree upon the intended sponsorship relationship, the entities intending on the sponsorship relationship must follow the application process, as prescribed in Chapter 1.C.9.a.

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

a) Standard

Sponsored Entities previously approved by ONAP to participate in the Section 184 Program and with a Sponsorship Agreement with one or more Sponsors may add additional

Sponsors. The Sponsored Entity must continue to meet all requirements outlined in Chapter I.C.5 or C.6.

b) Documentation

The Sponsored Entities must provide their Approval Letter from ONAP to the DG Lender indicating the Sponsored Entity's prior approval to participate in the Section 184 Program and any additional documentation requested by the Sponsor.

e. Application Process; ONAP Review and Determination

The entities interested in the sponsorship relationship must follow the application process as prescribed in Chapter I.C.9.a. The ONAP review and determination process is explained in Chapter I.C.9.c.

f. Responsibilities of Sponsor and Sponsored Entity

Following completion of the ONAP Review and Determination, as outlined in Chapter I.C.9., if approved, the Sponsor and Sponsored Entities have the following responsibilities.

i. Responsibilities of Sponsor

- The Sponsor must ensure all employees of the Sponsored Entity complete ONAP-approved training and continuing education as prescribed by Section 184 Program Guidance, before originating Section 184 Guaranteed Loans. The Sponsor must ensure the Sponsored Entity is knowledgeable on the Section 184 program and can provide quality customer service to Native borrowers. Further guidance on training requirements applicable to the Sponsor and Sponsored Entity may be found in Chapter I.C.12.b.
- A Sponsor must ensure that a Sponsored Entity complies with all Section 184 regulations and Program requirements, including but not limited to records retention requirements, and any other Tribal, Federal, or State law requirements.
- The Sponsor shall be responsible to ONAP for the actions of its Sponsored Entity in Originating Loans. If Tribal or State law requires specific knowledge by the Sponsor or the Sponsored

Entity, ONAP shall presume the Sponsor had such knowledge and shall remain liable.

- The Sponsor is responsible for, among other things, underwriting and closing the Loan, even when the Sponsored Entity is a DG Lender. A sponsored DG Lender may not close a loan underwritten by the Sponsoring DG Lender.
- The Sponsor is responsible for conducting Quality Control reviews of the Sponsored Entity's loan origination and Loan performance to ensure the Sponsored Entity's compliance with all applicable Section 184 requirements (see Chapter IX).
- The Sponsor must notify ONAP in writing within ten days when it becomes aware of any changes to the Sponsored Entity's business structure, operational status, or any related issues.
- The Sponsor must notify ONAP of changes in the sponsorship relationship within ten days.
- The Sponsored Entity must provide reports and information relevant to the Section 184 Program to ONAP, as may be requested.
- The Sponsor shall provide written notification to ONAP within 10 days of receipt of any required reports from a Sponsored Entity.
- In cases where there is a Sponsorship Agreement, the DG Lender/Sponsor must ensure the Sponsored Entity is not disqualified due to any Program Ineligibility conditions stated in Chapter 1.C.3 and is not otherwise disqualified to participate 24 CFR part 1005 or Section 184 Program Guidance.

When a Sponsored Entity reports to the DG Lender/Sponsor it is disqualified due to any of the ineligibility criteria under Section C.3 the DG Lender must provide written notice to ONAP within 24 hours of receiving the report from the Sponsored Entity. Written notice must be emailed to 184LenderApproval@hud.gov.

- 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 TIN for each Sponsored Entity; and
 - names and NMLS numbers for each Sponsored Entity, loan originators, licensed processors, and other applicable employees who will participate in the Section 184 Program.

ii. Responsibilities of the Sponsored Entity

- The Sponsored Entity must comply with all applicable Section 184 regulations, program requirements, and any other Tribal, Federal, or State law requirements.
- 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.
- The Sponsored Entity must provide reports and information relevant to the Section 184 Program to the Sponsor or ONAP as requested.
- Where the Sponsored Entity is aware it is disqualified due to any of the ineligibility criteria under Chapter I.C.3 the Sponsored Entity must notify its Sponsor within 24 hours.

g. Annual Documentation Submission from Sponsored Entity to Sponsor

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

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:

- Documentation as to the Non-DG Lenders good standing with the approving or supervising agency, as described in Section C.7.a-b.
- upon request, the most recent renewal documents submitted to the approving or supervising agency/agencies.

iii. 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:

- most recent filed business tax returns;
- most recent business tax return transcripts;
- most recent unaudited financial statements (not older than 15 months) signed by an officer of the company; and
- most recent business bank statements covering at least a three-month period.

iv. 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.

v. Responsibilities of the Sponsor

Sponsors must collect and review all annual submission documents from its Sponsored Entities. Sponsors must determine whether the Sponsored Entity continues to meet Chapter I.C.4, 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.

a) Document Retention

DG Lenders must retain documentation related to the continued eligibility of their Sponsored Entities for a period of five years from the date of ONAP's approval of the Sponsor's annual recertification.

b) Exception for Recent Approvals

If a Sponsored Entity was recently approved by ONAP as a new Non-DG Lender, the Sponsored Entity is exempt from the annual documentation submission to its Sponsor. Up to the end of the first calendar year of approval, the Sponsored Entity is not required to submit an annual recertification to its Sponsor. However, each subsequent year, the Sponsored Entity must provide the annual recertification to its Sponsor.

vi. Sponsor's Annual Recertification to ONAP

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

9. Application Process; ONAP Review and Determination

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

a. Lender Applicant Seeking Non-Direct Guarantee Lender Status

i. Documentation

The Lender Applicant seeking Non-DG Lender status must submit the Lender Application and the following documentation:

- the **Standard Application and Participation Requirements**, as prescribed under Chapter I.C.4.a.; and
- the **Supplemental Application Requirements**, as prescribed under Chapter I.C.5 or 6.

ii. Submission to DG Lender

A Lender Applicant must submit its application to a DG Lender of their choosing that will act as their Sponsor. The Lender Applicant may have more than one Sponsor. The Lender Applicant may apply to multiple Sponsors.

iii. DG Lender Review of Submission Review of the Application/Document Submission

The DG Lender must review the application and documentation submission from the Non-DG Lender Applicant or Non-DG/DG Lenders intending to be a Sponsored Entity. The Sponsoring DG Lender must determine whether the application and documentation support the eligibility of the entity.

iv. DG Lender Submission of Lender Applicant Application/Documentation to ONAP and Recommendation

If the DG Lender's review of the application/documentation leads to a decision for the DG Lender's agreement to sponsor the Non-DG Lender Applicant, the DG Lender must prepare a written recommendation to ONAP, and it must be submitted to 184LenderApproval@hud.gov.

The DG Lender must include all required documentation identified in Chapter I.C.4 and, 5 or 6, as applicable, in addition to the draft Sponsorship Agreement.

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

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

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

c. Lender Applicant Seeking Direct Guarantee Lender Status

i. Documentation

The Lender Applicant seeking DG Lender status must submit the Lender Application and the following documentation:

- the **Standard Application and Participation Requirements**, as prescribed under Chapter I.C.4.a.; and
- the **Supplemental Application Requirements**, as prescribed under Chapter I.C.7.

ii. Submission

A Lender Applicant must submit its application to 184LenderApproval@hud.gov.

d. ONAP Review and Determinations

Applications and supporting documentation received under Chapter I.C.8.a.i or ii shall be reviewed by ONAP to determine whether the application is complete and meets the requirements for approval.

i. Deficient Applications

If ONAP determines the application is deficient, ONAP will notify the Lender Applicant or DG Lender in writing of the specific actions or items needed to cure the deficiency. The Lender Applicant or DG

Lender will have 45 days to respond and to cure the deficiencies before the application process is suspended.

ii. Approval

- **Lender Applicants Seeking Non-DG Lender Status**

When ONAP determines the Lender Applicant meets the qualification requirements to participate in the Section 184 program under the sponsorship relationship with the DG Lender, ONAP will issue a letter of approval to the Non-DG Lender Applicant.

- **Lender Applicants Seeking DG Lender Status**

If ONAP determines that the DG Lender Applicant meets the qualification requirements to participate in the Section 184 program, ONAP will issue an approval letter to the new DG Lender.

The names of the Underwriter(s) selected by the DG Lender Applicant to enter the Section 184 Test Case process will be listed on the Conditional DG Lender Approval Letter issued by ONAP and further described in Chapter I.C.9.

iii. Denial

If ONAP determines the Lender Applicant does not meet the qualification requirements, a Lender Applicant may be denied approval to participate in the Section 184 Program. ONAP will provide written notification of denial, and that decision may be appealed in accordance with the procedures set forth in § 1005.909 and Chapter IX, Quality Control, Oversight, Compliance and Appeals.

10. Direct Guarantee Conditional and Final Approval

ONAP may grant Conditional or Final Direct Guarantee Approval to Lender Applicants.

a. Conditional DG Lender Approval

i. Definition

Conditional DG Lender Approval is a written notice from ONAP stating the Lender Applicant has been Conditionally Approved to be a DG Lender, subject to the following:

- DG Lender Conditional Approval is conveyed specifically to the Lender Applicant named and cannot be shared with or extended to other entities, such as a parent or subsidiary, or any Affiliates of the Lender Applicant.
- The Lender Applicant executes an agreement to comply with the requirements of 24 CFR part 1005, any applicable Section 184 Program Guidance, and Tribal, Federal, or State law.
- DG Lender Conditionally Approved will operate only in Section 184 Approved Program Areas, in accordance with the entity's State licensing.
- DG Lender Conditionally Approved may not Sponsor Non-DG Lenders until Final Approval has been given in writing by ONAP.

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

Prior to underwriting loans, the designated DG Test Case Underwriter(s) shall complete ONAP-approved training on the Section 184 Program's underwriting requirements.

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

b. Test Case Requirements

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

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

- Each DG Test Case Underwriter's submission must comply with applicable Section 184 Program underwriting, closing, and endorsement requirements and any applicable Tribal, Federal, and state law.
- The DG Lender Conditionally Approved shall not accept loans from any Sponsored Entity or another DG Lender, as part of the test case submission.
- 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.
- 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.

c. Final DG Lender Approval

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.

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.

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.

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 ONAP from any underwriter with full DG underwriting approval from ONAP.

A Final DG Lender Approval authorizes the DG Lender to enter into sponsorship agreements with Non-DG Lenders (known as Sponsored Entities) and review the entity's application to be a Non-DG Lender. Further details about a DG Lender's responsibilities as a Sponsor are outlined in Section C.8. When a DG Lender enters into a Sponsorship Agreement with a Sponsored Entity, with ONAP approval, the DG Lender must monitor and provide oversight for all its registered Sponsored Entities, to ensure compliance with all Section 184 Program statutory, regulatory, and administrative requirements, and any applicable Tribal, Federal, or State law.

iii. Documentation

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

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

This section applies to DG Lenders with ONAP Approved DG Underwriters.

a. General Requirements

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

b. Section 184 Direct Guarantee Underwriter Staffing

- A DG Lender must have at least one DG Underwriter on its permanent staff at all times.
- When any of the following conditions occur, the DG Lender's approval status is immediately suspended, regardless of whether ONAP has been notified.
 - The DG Lender no longer employs any Section 184 DG Underwriters.
 - The only remaining DG Underwriter has been re-assigned to another job function and will no longer underwrite loans intended for the Section 184 Program.
 - The only remaining DG Underwriter no longer meets licensing and/or registration requirements under Chapter I.C.4.f.iv.

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

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

c. Section 184 DG Underwriter Registration

All Section 184 DG Underwriters must be registered with ONAP.

i. Adding a Section 184 Direct Guarantee Underwriter, previously approved by ONAP

When a DG Lender seeks to employ a Section 184 DG Underwriter, previously approved by ONAP, the DG Lender must submit a written request to ONAP that includes:

- all documentation required under I.7.e.ii. ; and
- a list of at least eight Section 184 loans underwritten by the Section 184 DG Underwriter in the past 2-years, from the date of the DG Lender employing the Section 184 DG Underwriter. Out of the eight loans, at least one must be a Tribal Trust Loan. The list must include Section 184 case numbers.

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

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

ii. ONAP Review

ONAP will review and verify the information submitted by the DG Lender to determine whether the DG Underwriter is eligible to continue participation as a DG Underwriter.

iii. ONAP Determination

a) Approval

ONAP will provide written notice of the DG Underwriter’s approval to be added to the DG Lender’s roster. Upon DG Lender’s receipt of ONAP’s approval, the registered DG underwriter is authorized to underwrite loans for the Section 184 Program for the new DG Lender.

b) Denial

If ONAP determines the DG Underwriter is ineligible to continue participation, ONAP will provide written notice of the participation denial and basis of the disapproval to the DG Lender.

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

iv. Adding a Section 184 Direct Guarantee Underwriter, no prior ONAP approval or prior ONAP termination or suspension

Where a DG Lenders seeks to add an underwriter that has never been approved by ONAP, or approved by ONAP, but subsequently suspended or terminated from participation, the DG Lender must adhere to the provisions under:

- I.7.e (“DG Test Case Underwriter Selection”);
- I.7.f (“ONAP approval of the selection of the DG Test Case Underwriter(s)”); and
- I.10.b (“Test Case Requirements”).

d. Duty to Report DG Underwriter Changes

- The DG Lender must notify ONAP within 3 business days of any of the following changes:
 - The DG Underwriter’s employment is terminated, suspended, or is no longer employed by DG Lender.
 - The DG Underwriter has been re-assigned to another job function and will no longer underwrite loans intended for the Section 184 Program.
 - The only remaining DG Underwriter no longer meets licensing and/or registration requirements under Section 4.f.iv.

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

- Notice must be emailed to 184LenderApproval@hud.gov, under the Subject Line "DG Underwriter Change".

e. Section 184 Underwriter Training Requirements

DG Lenders must ensure that each DG Test Case Underwriter or DG Underwriter completes training(s) related to underwriting, as made available by ONAP. See Sections 12.b and m for training and training reporting requirements.

DG Underwriters must attend mandatory annual DG Underwriter training, when offered by ONAP. If the DG Underwriter misses the mandatory annual training, ONAP may provide a make-up event within the same calendar year.

DG Underwriters who fail to attend the mandatory annual DG Underwriting training or make-up event may be suspended with notice by ONAP.

12. Post-Approval Operations

a. Operating Requirements and Restrictions

Non-DG and DG Lenders must comply with the following operating requirements and restrictions for their Section 184 business operations in addition to continuing to operate in full compliance with the applicable eligibility requirements outlined in this Handbook.

b. Training

Non-DG and DG Lenders must ensure that all staff involved in the Section 184 Program are trained.

i. Training

All Non-DG and DG Lender employees engaged in the Section 184 origination process must receive training from ONAP.

ii. Training Records

The Non-DG and DG Lender are responsible for keeping records of all training completed of each required employee and the Sponsored Entity's employees. At minimum, the Non-DG and DG lender must:

- record the date of training completion;
- record the name of each employee who completed the training;
- maintain such training records for at least five years;
- make such records available to ONAP upon request; and
- submit a certification by the Non-DG or DG Lender's officer that the training records are accurate and true.

c. Duty to Report Changes

DG Lenders must report changes to ONAP within 10 business days of the change. All changes must be sent to 184LenderApproval@hud.gov with a cover letter signed by a Corporate Officer summarizing the change and including all supporting documents. Changes that must be reported to ONAP include, but are not limited to:

- Changes in the Direct Guarantee Lender or Sponsored Entity's legal structure, including, but not limited to, mergers, acquisitions, terminations, name, location, control of ownership, and character of business.
- Changes in the Direct Guarantee or the Sponsored Entities' Corporate Officers, Officers in Charge, DG Underwriters, Sub-servicers or Contractors, and any other senior leadership involved in the origination, servicing, and claims of Section 184 Guaranteed Loans, including any Employees of the Sponsored Entities.
- Any sanctions against the DG Lender or the Sponsored Entity by another supervising entity.
- Changes in the DG Lender or Sponsored Entity's licensing in any State in which it has operated or will be adding to its operating area.

- Filing of a Chapter 7 bankruptcy petition by the Non-DG or DG Lender. A DG Lender that files a bankruptcy petition under any other chapter of the United States Bankruptcy Code must submit a notice to ONAP and submit with its notice, and quarterly thereafter, an internally prepared balance sheet and a statement of net worth for as long as the bankruptcy petition is active. The Non-DG and DG Lender must submit a notice to ONAP of each change of status in the bankruptcy. ONAP reserves the right to require the Non-DG and DG Lender to submit additional information upon request to determine whether the Non-DG and DG Lender is eligible to maintain its Section 184 approval.
- i. DG Lenders/Service must notify ONAP whenever a merger or acquisition occurs so ONAP can evaluate any impact on the DG Lender/Service's participation in the Section 184 Program. See section 12.d. below for additional information and instructions on reporting mergers and acquisitions.
- ii. **Conservatorship, Receivership, or Transfer of Control.** The Non-DG and DG Lender must submit a change request to ONAP if it goes into conservatorship, receivership, or is subject to a transfer of control to a federal or state supervisory agency. The Non-DG and DG Lender must submit a change request to ONAP of a change of status in any of these situations and ONAP reserves the right to require the DG Lender to submit additional information to determine whether the DG Lender is eligible to maintain its DG approval.
- iii. **New Federal Taxpayer Identification Number.** If a DG Lender receives a different federal TIN as a result of a business change, the DG Lender must submit a new application for ONAP Section 184 approval. The old Section 184 approval will remain active for approximately 45 days to allow for completion of processing of Section 184 loan in process under the prior TIN.
- iv. **Cease Operations.** A DG Lender must notify ONAP when it or a Sponsored Entity ceases operations.
- v. **Unresolved Findings or Sanctions.** A DG Lender must submit a notice to ONAP and provide relevant documentation if it or any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator employed by the DG Lender is subject to any Unresolved Findings or Sanctions or change

in the status of the Unresolved Findings or Sanctions.

- vi. **Change in Level of Participation.** A DG Lender must submit a change request if requesting a change to its Level of Participation. DG Lenders requesting to no longer participate as a DG Lender but maintain approval as a Non-DG Lender will submit a change request to ONAP. The Non-DG status will not be considered active until ONAP receives the Non-DG sponsorship request from the new Sponsoring DG Lender.
- vii. **Voluntary Withdrawal.** DG Lenders wishing to voluntarily withdrawal approval from the Section 184 Program must submit a change request to ONAP.
- viii. **Changes to any information that may have been provided to ONAP under sections 4, 5, 6 and 7 of this Chapter.**
 - Where the DG Lender is sponsoring a Non-DG Lender (Sponsored Entity) any changes or actions described above by the Non-DG Lender must be reported to ONAP, by the DG Lender;
 - The DG Lender must report any changes to the sponsorship agreement between the DG Lender and the Non-DG Lender (Sponsored Entity), including but not limited to the termination of the sponsorship agreement between the parties.
- ix. **Changes to DG Underwriter.** Any changes related to the DG Underwriter, as outlined in Section 11.c. Notwithstanding the 10-day reporting requirement outlined in this section, the reporting deadlines specific to Section 11.c. shall apply and be followed.

d. Mergers and Acquisitions

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

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

- A non-surviving DG Lender that holds a portfolio of Section 184 Guaranteed Loans must transfer those loans to a DG

Lender or Servicer, approved by ONAP to service Section 184 Guaranteed Loans.

- If a surviving DG Lender acquires all the non-surviving DG Lender's outstanding Section 184 Guaranteed Loans, all these loans will be transferred in NTV to the surviving entity when the merger is processed.
- A non-surviving DG Lender remains responsible for the payment of any applicable Up-Front and Annual Loan Guarantee fees and compliance with all other obligations associated with the Section 184 Guaranteed Loans until the loans are transferred and the loan changes are reported accurately to ONAP through NTV.
- Once the non-surviving DG Lender/Servicer ceases to exist or its approval is terminated, whichever comes first, the non-surviving DG Lender/Servicer must not:
 - where applicable, accept any new applications for Section 184 loans;
 - hold Section 184 Guaranteed Loans;
 - service Section 184 Guaranteed Loans; or
 - submit claims to ONAP.

ii. Duties of Surviving DG Lender

a) Standard

A DG Lender that is the surviving entity in a merger with a non-approved entity must notify ONAP of the merger. Where applicable, the surviving DG Lender must register each of the non-surviving entity's branch offices that will remain open under the auspices of the surviving DG Lender.

b) Required Documentation

A DG Lender that is the surviving entity in a merger with a non-approved entity must submit a Change Request to ONAP containing the following:

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

iii. Two or more DG Lenders Merge; Two or more Servicers Merge

a) Standard

A DG Lender that is the surviving entity in a merger with another DG Lender or Servicer must notify ONAP of the merger. Where applicable, the surviving DG Lender must register each of the non-surviving DG Lender's branch offices that will remain open under the auspices of the surviving DG Lender.

b) Required Documentation

A DG Lender that is the surviving entity in a merger with another DG Lender must submit a Change Request to ONAP containing the following:

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

iv. Non- approved Entity that Survives a Merger with DG Lender/Servicer

a) Standard

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

A non-approved surviving entity must become a Servicer if it intends only to service Section 184 Guaranteed Loans, including those previously held by the non-surviving DG Lender.

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

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

b) Documentation

A non-approved surviving entity must submit an application along with the required documentation in accordance with Section C of this Handbook for ONAP approval to participate in the Section 184 Program.

Additionally, the non-approved surviving entity must also submit with its application a letter signed by a Corporate Officer that describes the merger, and, if applicable, the surviving entity's intentions regarding the non-surviving DG Lender's outstanding portfolio of Section 184 Guaranteed Loans and indemnifications.

v. Non-DG Lender merger/acquisition with Non-DG Lender; Duties of the Surviving Non-DG Lender

a) Standard

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

b) Documentation

The surviving and non-surviving Non-DG Lender that is in a merger with another Non-DG Lender must submit a Change Request to its Sponsor containing the following:

- A letter, signed by a Corporate Officer, informing ONAP of the merger. The letter must provide the name of the non-DG Lenders involved in the merger, the name of the non-DG Lender which will be dissolved, and the date the merger 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. 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 ONAP. The DG Lender must not pay a referral fee to any person or entity. The DG Lender is not permitted to:

- 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;
- 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

- 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.

f. 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 their 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.

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

g. Use of Contractors

i. Permissible Use

The Non-DG or DG Lender may use contract support for administrative, human resources, and clerical functions that include:

- clerical assistance;
- mortgage processing (typing of mortgage documents, mailing and collecting verification forms, ordering credit reports, and/or preparing for endorsement and shipping Section 184 Loans to the Purchasing Lender);
- ministerial tasks in mortgage servicing (processing of a foreclosure action, property preservation and protection, and/or tax services);
- legal functions;
- Third Party Verification;
- Quality Control; and

- human resources services (payroll processing, payment of employment taxes and the provision of employee benefits) provided by a professional employer organization or a similar entity.

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

ii. Impermissible Use

The Non-DG and DG Lender may not contract with any entity or person that is suspended, debarred, under a Limited Denial of Participation (LDP), or who is otherwise excluded from participation in ONAP transactions. A DG Lender must not contract out management or underwriting functions.

iii. Standard

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

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

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

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

iv. Required Documentation

The Non-DG and DG Lender and its contractor must have a valid contractual agreement in place that specifies the roles and responsibilities of each party.

h. Fair Housing Notice

The Non-DG and DG Lender must prominently display a fair housing poster at each office that participates in activities related to Residential Real Estate-Related Transactions to be readily apparent to all persons seeking residential real estate or brokerage services.

The Non-DG and DG Lender must prominently display the Equal Housing Opportunity logo on documents, including both hard copy and electronic documents, distributed by the Non-DG and DG Lender to the public.

i. Advertising

i. Definitions

a) Advertising

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

b) Advertising Device

An Advertising Device is a channel or instrument used to solicit, promote, or advertise the Section 184 program. Advertising Devices are present in the entire range of electronic and print media utilized by Non-DG and DG Lenders, including, but not limited to, websites, website addresses, business names, aliases, DBA names, domain names, email addresses, direct mail advertisements, solicitations, promotional materials, and correspondence.

ii. Standard

a) Advertising

A Non-DG and DG Lender must use its ONAP-registered business name in all advertisements and promotional materials

related to the Section 184 Program. ONAP-registered business names include any alias or DBA on file with ONAP.

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

b) Advertising Device

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

The Advertising Device must be written, formatted, and structured in a manner that clearly identifies the Non-DG or DG Lender as the sole author and originator of the Advertising Device. The Advertising Device must reflect the Non-DG or DG Lender's name, location, and appropriate contact information.

iii. HUD and ONAP Names and Acronyms

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

iv. HUD and ONAP Logos and Seals

Other than permissible use of the official Equal Housing Opportunity logo, a Non-DG or DG Lender must not use ONAP or HUD logos or seals, any other official seal or logo of the U.S. Department of

Housing and Urban Development, or any other insignia that imitates an official federal seal. No person, party, company, or firm, including Section 184-approved Non-DG or DG Lender, may use these logos or seals on any Advertising Device.

v. Required Documentation

The Non-DG or DG Lender must retain copies of any Advertising Device it produces that is related to the Section 184 program for a period of two years from the date that the Advertising Device is circulated or used for advertisement, educational, or promotional purposes.

Copies of Advertising Devices related to the Section 184 program may be kept in either electronic or print format and are to be provided to HUD upon request.

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

j. Records Retention

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

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

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

Non-DG and DG Lenders must maintain the quality control plan records for a period prescribed in Chapter IX, Quality Control, Oversight, Compliance and Appeals.

k. Minimum Level of Trust Land Lending on Trust Land

Reserved for future guidance.

l. Loan Performance Reporting Requirements

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

Specific guidance related to Servicing is provided in Chapters V and VI.

m. DG Lender Annual Recertification

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

No later than April 30 of each year, DG Lenders must submit an executed recertification on HUD Form 50171, *Tribal Annual Recertification* with required documentation.

The required documentation includes:

- most recent renewal documents from approving or supervising agency/agencies;
- statement of Good Standing from the approving or supervising agency(s) dated within 12 months of submission of the recertification;
- list of all employees (full name, title, NMLS number) who are trained and competent in Section 184 and/or 184A loans;
- list of all Officers (full name, title, NMLS number, if applicable) involved with Section 184 and/or 184A loans and owners;
- list of all Sponsored Entities currently under contract including principal's full name, NMLS number, organization address, tax ID, States authorized to originate Section 184 and/or 184A loans, contact person, email address, phone number;
- list of all DG Lender's branch offices originating Section 184 and/or Section 184A loans (address, phone, Branch Manager's full name);

- list of all Section 184 Program approved DG Underwriters (full name, NMLS number, if applicable, FHA-DE Number, if applicable, and Section 184 and/or Section 184A DG Underwriter approval number);
- most recent audited annual financial statements, if not approved under 24 CFR §1005.203.

Additional Requirements:

- Sponsors must require all Sponsored Entities to submit their Annual Recertification form and documentation to them in advance of the Sponsor's Annual Recertification filing deadline, to allow ample time for the Sponsor to review and submit the Sponsored Entities information with the Sponsor's Annual Recertification.
- DG Lenders must submit the Annual Recertification form, and supporting documents, if any, to 184LenderApproval@hud.gov, under the Subject Line: "Annual Recertification."
- DG Lenders may request an extension of the recertification deadline. The written request must be submitted to ONAP at least 30 days prior to the recertification deadline.
- ONAP may request additional information and/or documentation regarding the DG Lender's Annual Recertification.
- ONAP will provide written notice of approval to continue participation in the Section 184 Program or a written denial. A denial may be appealed pursuant to Chapter IX, Quality Control, Oversight, Compliance, and Appeals.
- If an Annual Recertification is not submitted by the prescribed deadline, ONAP will issue a late submission warning to the DG Lender. DG Lenders' continued non-compliance may result in sanctions.

13. Inactive Non-Direct Guarantee and Direct Guarantee Lenders

DG Lenders that are inactive for extended periods of time risk providing stale or inaccurate information to the Native American community or may not be aware of most current Section 184 program, policies and procedures. To mitigate this potential, ONAP will monitor the origination activity level of all approved DG and Non-DG Lenders.

a. Inactive DG Lenders

If a DG Lender has not requested a Section 184 case number within a 24-month period:

- 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.
- If there is no acceptable response within 30 days, ONAP 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 ONAP of the relationship termination.

If the Sponsored Entity has no other active sponsorship agreements, ONAP 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 IX, Quality Control, Oversight, Compliance and Appeals.

D. SERVICERS

All Section 184 Guaranteed Loans must be serviced by an ONAP approved Section 184 Servicer. This Section addresses entities interested in obtaining approval to service Section 184 Guaranteed Loans.

1. Eligible Servicer and Application Process

a. Standard

Entities eligible to service 184 loans include:

- DG Lenders;
- Non-DG Lenders;

- FHA-approved lender or mortgagee; and
- Entities with approval from another agency of the Federal Government to service the agency's insured, guaranteed, or direct loans.

Direct Guarantee Lenders actively servicing Section 184 Guaranteed Loans prior to June 18, 2024, who are not also FHA-approved or other Federal agency approved servicers, must contact ONAP at 184LenderApproval@hud.gov for additional guidance on the servicer approval process and how to request an exemption from the requirement.

These entities must contact ONAP within 60 days of the effective date of this Chapter. These entities may continue servicing unless otherwise directed by ONAP.

All other entities actively servicing Section 184 Guaranteed Loans prior to June 18, 2024, who otherwise do not meet the 24 CFR 1005.703(a), may contact ONAP at 184LenderApproval@hud.gov for additional guidance on how to submit a "good cause" waiver of 24 CFR 1005.703(a).

b. Required Documentation for the Servicer Application

The entity must submit the following documentation:

- The entity's written request to service Section 184 Guaranteed Loans; The request must be on a company letterhead and signed by an officer of the company;
- Documentation or information evidencing the entity's approval as an FHA-approved lender or mortgagee or approval from another agency of the Federal Government to service the agency's insured, guaranteed or direct loans. Acceptable information may be the lender's approval ID number from the federal agency;
- A certification from the entity that is in good standing as an FHA-approved lender or mortgagee or is in good standing with an agency of the Federal Government to service the agency's insured, guaranteed or direct loans. The certification must not be dated more than 90 Days from the date of application;

- Servicer Point of Contact Information, including:
 - name and title;
 - phone number;
 - email address;
 - business address; and
 - any applicable shared email address monitored by the applicant for the purpose of servicing loans;
- The entity's Unique Entity Identifier (UEI) for the System of Award Management (SAM). If not yet registered with SAM, please see: <https://sam.gov/content/home>; and
- List of any DBAs that will be used while servicing Section 184 Guaranteed Loans;

2. Application Submission

Lender Applicants applying for DG or Non-DG approval status and also seeking to service Section 184 Guaranteed Loans must submit the documentation under Section 1.c as part of the application.

DG or Non-DG Lenders who previously received ONAP approval to participate but who did not elect the servicing option must provide the documentation in Section 1.c as part of the Service Application. All entities must submit the documentation to 184LenderApproval@hud.gov.

3. ONAP Review

The entity will be notified in writing of ONAP's (1) approval, (2) suspension, or (3) denial to participate as a Section 184 Guaranteed Loan Servicer.

4. Incomplete Applications

If ONAP determines the application is incomplete, ONAP will notify the entity of the deficiency. If the entity does not respond or cure the deficiency within 45 days of the date on the notice of deficiency, ONAP may deny the application.

5. Denial

An entity will be denied approval to participate as a Section 184 Guaranteed Loan Servicer if ONAP determines the entity does not meet the qualification requirements. ONAP will provide written notification of the denial. The entity may appeal the denial in accordance with Chapter IX, Quality Control, Oversight, Compliance and Appeals.

6. Final Approval

Final approval is signified by:

- Written notification from ONAP that the entity is approved as a Servicer under the Section 184 Program; and
- An agreement by the approved entity to comply with all applicable Section 184 Program servicing requirements and all applicable Tribal, Federal, and State laws related to servicing.

7. Limitations on Approval

ONAP's approval is conveyed specifically to the entity named and cannot be shared with or extended to other entities, such as a parent or subsidiary, or any Affiliates of the entity.

E. OTHER PARTICIPANTS

1. Appraisers

This Section addresses the participation requirements for Appraisers.

a. Definition

Appraiser refers to an individual who observes, analyzes, and reports the physical and economic characteristics of a Property and provides an opinion of value to the DG Lender, and ONAP as applicable. An Appraiser's observation is limited to readily observable conditions and is not as comprehensive an inspection as one performed by a licensed home inspector.

b. Standard

- The Appraiser must be licensed in the state where the Property is located and listed on the FHA Appraiser Roster.

- The Appraiser shall have the Property appraised in accordance with all applicable Federal requirements, including but not limited to the Uniform Standards of Professional Appraisal Practice, Equal Credit Opportunity Act (15 U.S.C. 1691–1691f), and the Fair Housing Act (42 U.S.C. 3601–19).
- The Appraiser shall not discriminate on the basis of the Borrower's race, color, religion, sex (including gender identity and sexual orientation), disability, familial status, national origin, age, or in location of the Property.
- The Appraiser must ensure that the appraisal and related documentation satisfy Federal Housing Administration, Fannie Mae, or Freddie Mac appraisal requirements.

2. Exception Request

A DG Lender may request approval for departure from the above Standard when the DG Lender believes an alternative is necessitated by the rural or remote location of the Property. The Exception Request must include the DG Lender's basis for the request and a detailed description of all pertinent facts related to the transaction and supporting documentation.

In selecting an appraiser that is not on the FHA Appraiser Roster, the proposed alternative appraiser must meet the following requirements.

a. Competency Requirement

Proposed alternative appraisers must certify that they:

- Have knowledge of the Uniform Standards of Professional Appraisal Practice (USPAP), FHA appraisal requirements and Section 184 specific requirements provided in Chapter 2;
- Meet the competency requirements defined in USPAP prior to accepting an assignment;
- Have knowledge of the USPAP FHA appraisal requirements and Section 184 specific requirements provided in Chapter 2; and

- Meet the competency requirements defined in USPAP prior to accepting an assignment.

Documentation: Certification from the proposed alternative appraiser certifying that the conditions above are met.

b. Licensing Requirement

The proposed alternative appraiser must:

- Be a state-certified residential or state-certified general appraiser with credentials in the state where the Property is located.
- Maintain and demonstrate licensing certification in the state where the Property is located and where the appraiser intends to perform the appraisal.

Documentation: A copy of the proposed alternative appraiser's most current state license.

c. Restricted Participation

The DG Lender must confirm it verified, through each of the following systems, that the designated proposed alternative appraiser is permitted to participate in the Section 184 Program. If the individual is found to be ineligible, s/he is restricted from participating in the Section 184 Program.

Excluded Parties List:

- The DG Lender must verify the proposed alternative appraiser's eligibility for participating in ONAP programs for or on behalf of the Lender Applicant, using the System for Award Management (SAM) (www.sam.gov) Excluded Parties List.
- **Limited Denial of Participation.** The DG Lender must verify the proposed alternative appraiser's eligibility participating in ONAP programs for or on behalf of the Lender Applicant, using the [Limited Denial of Participation \(LDP\)](#) list.
- **Required Documentation.** The DG Lender must provide a copy of the printout from the Excluded Parties List and Limited Denial of Participation List confirming the proposed alternative appraiser is eligible for participation.

d. Submitting the Exception Request Documentation

The DG Lender must submit the required documentation via Section 184 Exception Request.

The required documentation must include:

- Exception Request and supporting documentation.
- Documentation listed under the Competency Requirement in this section.
- Documentation listed under Licensing Requirement in this section.
- Documentation listed under Restriction Participation in this section.

e. ONAP Review

When the proposed alternative appraiser is approved, ONAP will provide an approval letter to the DG Lender stating the approval is specific to the particular DG Lender's transaction.

3. Junior Lien Holder - Downpayment Assistance Provider

a. Definition

A Junior Lien Holder is an entity that provides down payment assistance or other similar financial assistance to a Borrower purchasing, constructing, rehabilitating, or refinancing with respect to a loan intended for the Section 184 Program. A Junior Lien Holder subjects the Borrower's Property to a junior lien held by an entity listed under Subsection E.2.b below.

An Eligible Nonprofit Organization means a nonprofit organization established under Tribal law or organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 as an organization exempt from taxation under section 501(a) of the Code, which has: (1) Two years' experience as a provider of low- or moderate-income housing; (2) A voluntary board; and (3) No part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.

b. Standard

The following Junior Lien Holders may provide down payment assistance to a Borrower.

- Tribes, TDHEs, Public Housing Authorities, state, county, and municipal governments.

- Eligible Nonprofit Organizations.
- Entities that are instrumentalities of Tribes, TDHEs, Public Housing Authorities, state, or local governments, provided these entities are not organized as 501(c)(3) nonprofits.

To be considered an Instrumentality of Government, the entity must be established by a governmental body or with governmental approval or under special law to serve a particular public purpose or designated by law (statute or court opinion). ONAP deems entities, as identified in Section 115 of the Internal Revenue Code, to be Instrumentalities of Government for the purpose of providing secondary financing.

- Nonprofit entity where a Governmental Entity partnered with the nonprofit entity to assist in the operation of the Governmental Entity's secondary financing assistance programs.

There must be a documented agreement indicating (1) the functions performed include the Governmental Entity's secondary financing program and (2) the secondary financing legal documents (e.g., Note and deed of trust) name the Governmental Entity as the Mortgagee.

c. Ineligible Participants

The Eligible Nonprofit Organization officer, partner, director, principal, or employee must not be:

- suspended, debarred, excluded from participation in ONAP programs as listed in a Limited Denial of Participation (LDP), System for Award Management (SAM) (www.sam.gov) Excluded Parties List, or Credit Alert Verification Reporting System (CAIVRS), or otherwise excluded by similar procedures of any other federal or state agency;
- indicted for, or convicted of, an offense which reflects upon the responsibility, integrity, or ability of the nonprofit to participate in ONAP activities;
- subject to Unresolved Findings as a result of ONAP or other governmental investigation, audit, or review; or
- engaged in business practices that do not conform to generally accepted practices of prudent nonprofits or that demonstrate irresponsibility.

Any Eligible Nonprofit Organization employee meeting any one of these disqualifying conditions must not participate in the Section 184 Program.

These requirements apply at all times the entity is operating as an Eligible Nonprofit Organization providing down payment assistance to Section 184 Borrowers.

d. Documentation

The DG Lender documentation requirements are outlined in Chapter II of this Handbook.

e. Utilization of Down Payment Assistance

All DG Lenders must ensure the downpayment assistance follows the requirements in this subsection and in Chapter II of this Handbook.