



OFFICE OF PUBLIC AND INDIAN HOUSING

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

**September 14, 2021**

**Dear Lender Letter 2021-10**

**To:** All Tribes  
All Tribally Designated Housing Entities  
All Section 184 Approved Lenders

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**Subject** Section 184 Indian Home Loan Guarantee (Section 184) Program – Issuance of a Loan Guarantee Certificate (LGC) Prior to the Receipt of Trailing Documents

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**Purpose** The purpose of this Dear Lender Letter (DLL) is to inform Direct Guarantee (DG) Lenders of their option to request a Section 184 LGC for an endorsement case binder on Trust Land prior to receipt of trailing documents in exchange for an Indemnification Agreement from the DG Lender.

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**Effective Date** This DLL is effective immediately upon publication for all endorsement case binders on Trust Land that are pending review for a Section 184 LGC.

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**Public Feedback** HUD welcomes feedback from interested parties for a period of 30 calendar days from the date of issuance. To provide feedback on this policy document, please send feedback to the Office of Loan Guarantee at [Section184Comments@hud.gov](mailto:Section184Comments@hud.gov). HUD will consider the feedback in determining the need for future updates.

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**Affected Programs** This guidance applies to all Section 184 endorsement case binders located on Trust Land.

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**Background**

DG Lenders lending on Trust Lands often experience a delay in receiving trailing documents, including a final, certified TSR from the Bureau of Indian Affairs (BIA). These trailing documents are needed for HUD to provide a Section 184 LGC. DG Lenders may sell a Section 184 guaranteed loan in the secondary mortgage market, to maintain liquidity. Ginnie Mae, the primary guarantor of securities collateralized by Section 184 guaranteed loans in the secondary market, requires a Section 184 LGC to finalize the sale or the Lender may be required to buy out the loan.

To support DG Lenders and liquidity in the mortgage market, the Consolidated Appropriations Act, 2021, (Public Law No. 116-260) authorized that HUD may issue Section 184 LGCs for loans on Trust Land before HUD receives the trailing documents, so long as the DG Lender agrees to indemnify the Secretary for any losses that may occur before the trailing documents are received.

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**Summary of Changes**

HUD may now issue a LGC on a Section 184 guaranteed loan on Trust Land prior to receiving final recorded trailing documents in exchange for an executed Indemnification Agreement and Certification of Assets from the DG Lender.

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**Submitting a Loan for a Section 184 Loan Guarantee Certificate**

To receive a Section 184 LGC, a DG Lender must submit, within 45 days of closing, an endorsement case binder, which includes all documents used in the origination, underwriting, and closing of the loan, and the final, certified TSR.

The DG Lender must submit this documentation through the Case Binder Module in ONAP Catalyst in the order and format provided in the Section 184 Indian Loan Guarantee Program Endorsement Submission (Form HUD-50123).

HUD will review the endorsement case binder for compliance with Section 184 requirements. A loan found eligible will receive a Section 184 LGC. If a loan is found to be incomplete or lacking required documentation, the DG Lender will be notified by HUD of the deficiencies and will have the opportunity to re-submit the request.

However, HUD recognizes some DG Lenders receipt of the trailing documents and final, certified TSR related to the loan may be delayed due to reasons beyond the DG Lender's control.

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**Definition of Trailing Documents**

Trailing documents may include the following documents:

- a final certified TSR that identifies the BIA approved and recorded the mortgage instrument and residential lease related to the Section 184 Loan, if applicable;
  - a certified true copy of the recorded mortgage instrument;
  - a certified true copy of the recorded lease, if applicable;
  - a certified true copy of the recorded executed mortgage release documents for all prior mortgages identified on the initial certified TSR, if applicable; and
  - a certified true copy of any BIA approved and executed subordination agreements.
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**Submitting a Loan for a Section 184 Loan Guarantee Certificate Prior to Receipt of Trailing Documents**

A DG Lender seeking a Section 184 LGC when trailing documents are pending, must complete and execute an Indemnification Agreement and certify the DG Lender has sufficient assets to cover the indemnified loan.

To request an LGC with pending trailing document, a DG Lender must send an electronic copy of an executed Indemnification Agreement, with Appendix A, as applicable, and Certification of Assets with the endorsement binder.

If the endorsement submission is found to be in compliance with Section 184 requirements, HUD will accept and execute the Indemnification Agreement, issue the Section 184 LGC, and provide these documents to the DG Lender.

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**Indemnification Agreement and Certification of Assets**

Attached is a model Indemnification Agreement for Lenders to use when requesting a LGC when trailing documents are pending.

The DG Lender must also include a certification that the Lender has sufficient assets and anticipated stream of future cash flow to cover the indemnification of the loan. A model asset certification letter is attached.

The DG Lender has the option to create individual Indemnification Agreements for each loan or to create a single indemnification that includes multiple loans using the model List of Indemnified Loans (Appendix A to the Indemnification Agreement). If a DG Lender does elect to indemnify multiple loans under one agreement, please also send a courtesy copy of the indemnification documents to [Section184@hud.gov](mailto:Section184@hud.gov) for faster processing.

The original DG Lender is liable for any claim payment related to a Section 184 guaranteed loan(s) with an Indemnification Agreement, even if the loan(s) has been sold on the secondary market. The original DG Lender's liability

continues until receipt of acceptable trailing documents and termination of the Indemnification Agreement.

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**Termination of  
the  
Indemnification  
Agreement**

To be released from the Indemnification Agreement, the DG Lender must submit a request to HUD with the outstanding trailing documents under the TSR section of the ONAP Catalyst Case Binder Module.

HUD will review the trailing documents for compliance with Section 184 requirements. When HUD determines the trailing documents are acceptable, the Indemnification Agreement will be terminated. The DG Lender will be notified in writing of the termination of the Indemnification Agreement.

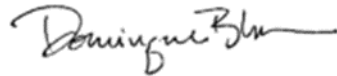
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**Questions**

Any questions regarding this DLL may be directed to [Krisa.M.Johnson@hud.gov](mailto:Krisa.M.Johnson@hud.gov)

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**Signature**



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