

SECTION 184 INDIAN HOUSING LOAN

GUARANTEE PROGRAM

Processing Guidelines 2011

Chapter 1: Program Overview

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1.1 INTRODUCTION

This guide provides instructions for implementing the Section 184 Indian Housing Loan Guarantee Program. Although it is intended primarily as a guidance document for lenders, it provides information that will also be valuable to tribes, Indian Housing Authorities (IHAs)/Tribally Designed Housing Entities (TDHEs), and housing advocates.

The Section 184 program is based on a government-to-government relationship between federally recognized tribes and the U. S. Government. American Indians and Alaska Natives may access this loan guarantee program as a benefit of being current enrolled members of federally recognized tribes, bands, communities, villages, Pueblos and Rancherias.

1.2 PROGRAM OVERVIEW

- A. **Barriers to Homeownership in Indian Country.** Much of the land in Indian country is held in trust by the U.S. government for the benefit of a particular tribe or individual Native Americans. Land held in trust for a tribe cannot be mortgaged, and land held in trust for an individual must receive federal approval before a lien is placed on the property. As a result, tribes, IHAs/TDHEs, and individual Native American families have historically had limited access to private mortgage capital.
- B. **The Section 184 Loan Guarantee Program.** In 1992 Congress created a federal program specifically designed to address the lack of mortgage capital in Indian country. Under the provisions of Section 184 of the Housing and Community Development Act of 1992 and as amended under the provisions of the Native American Housing Assistance and Self-Determination Act of 1996, the U.S. Department of Housing and Urban Development (HUD) was authorized to

guarantee loans made by private lenders to Native Americans, IHAs/TDHEs and tribes.

The loan guarantee program is intended to increase the availability of mortgage lending on Indian reservations or designated Indian operating areas.

1.3 KEY PROGRAM POLICIES AND REQUIREMENTS

The following key program policies and requirements are discussed in more detail in the processing chapters that follow this introductory chapter.

A. Guarantee Coverage

- Single family residential loans made by approved 184 lenders to eligible borrowers.
- Lenders are entitled to a guarantee covering 100% of the outstanding principal, interest, and reasonable fees on loans made.
- Lenders are also able to seek reimbursement for other necessary and allowable expenses incurred in post closing activities which are agreed to be paid by the Secretary.

B. Eligible Borrowers

- An Indian or Alaska Native who will occupy the property as a principal residence and who has met the credit and underwriting standards specified in this handbook. The tribal member must occupy the property as their principal residence to prevent the loan from being used to subsidize investment properties. This condition can be waived for good cause with the prior approval of the Secretary. If the principal residence requirement is violated, it may trigger an acceleration of the loan.
- An Indian Housing Authority/Tribally Designated Housing Entity. IHAs/TDHEs may borrow funds to develop single-family homes that are subsequently sold to eligible borrowers or to create IHA/TDHE-owned rental housing. This characteristic of the Section 184 program is in place to assist tribes in addressing the inadequate supply of existing rental housing on tribal trust land.
- An Indian tribe. As with IHAs/TDHEs, tribes may borrow funds to develop single-family homes that are subsequently sold to eligible borrowers or to create tribal owned rental housing.
- While tribally held fee simple land may be readily encumbered, there are special considerations which need to be addressed when the tribal borrower intends to encumber tribally held trust land as security for the loan. Tribes are encouraged to contact the Office of Loan Guarantee when they are considering applying for Section 184 loans for additional guidance on these issues.

C. Participating Lenders

- Approved by the Secretary of Housing and Urban Development, the Secretary of Agriculture, or the Secretary of Veterans, Affairs; or

- Supervised, approved, regulated, or insured by any agency of the federal government.
- Governmental institutions, tribal lenders, and nontraditional lenders

D. Eligible Activities

- Purchase of an existing housing
- Rehabilitation of an existing housing
- Acquisition and rehabilitation of an existing housing
- New Construction
- Refinance

Loan guarantees for commercial structures are not eligible under the Section 184 program.

E. Mortgage Terms

- The term of the loan may not exceed 30 years;
- Interest rates established by the lender must reflect current market rates and cannot be adjustable; and
- Maximum mortgage amounts are set based on an established loan-to-value ratio and the borrower's debt to income ratio, and, in no case, can these mortgage amounts exceed 150% of the FHA (HUD's Federal Housing Administration) mortgage limit established for the locality as published on March 8, 2008.

F. Property Requirements

- Located on land that is either trust/restricted or within the operating area of an IHA/TDHE or tribe (called an "Indian area").
- Tribal leaders successfully petitioned HUD to expand the tribal service area for the Section 184 program to include fee simple land outside the tribes' Indian operating area. HUD has outlined the procedures that an Indian tribe should follow to designate its Indian area under the Section 184 program in the attached notice. (See Appendix 1.1) This designation enables tribes to serve the needs of members living outside the traditional service area. Under this Departmental policy the entire states of: Alaska, Arizona, California, Colorado, Florida, Indiana, Idaho, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota and Washington are eligible areas for members of federally recognized tribes to obtain financing through the Section 184 program.
- Standard quality and must meet applicable construction and safety codes. In addition, homes must be modest in size and design.
- Single family structures (one to four units). Multifamily housing is not permitted.

G. **Alienation Policy.** Section 184 properties may change ownership as a result of a voluntary assumption, a voluntary sale by the homeowner, or due to a default.

1. **Voluntary Transactions**

- Assumptions: eligible borrowers (Native Americans, IHAs/TDHEs and Indian tribes) may assume a Section 184 guaranteed loan. The borrower must qualify for the loan based upon income and credit.
- Sales: (1) owners of Section 184 guaranteed properties on fee simple or allotted land may sell their property; (2) owners of Section 184 properties on tribal trust land may sell their home. However, for homes located on tribal trust land, the tribe has the right to review and approve the leasehold securing the property and thus may reject certain buyers in accordance with tribal law.

2. **Default**

- On tribal trust land and allotted trust land, neither HUD nor a lender may sell a defaulted property to a non-Native American (24 CFR 1005.107(b);
- Defaulted fee simple properties may be sold to any purchaser or may be assumed by an eligible Native American borrower.

H. **Secondary Mortgage Market.** Mortgages guaranteed under Section 184 may be sold in the secondary market.

1.4 LAND OWNERSHIP IN INDIAN COUNTRY

Understanding the various forms of Indian land ownership is important for lenders and program participants because program requirements and processing procedures vary depending upon the way land is held. This paragraph summarizes the basic types of land ownership in Indian country. The definitions provided in paragraph 1.6 further clarify the legal aspects of homeownership and identify unique arrangements that exist in Alaska, New York, and Oklahoma. Differences in requirements and processing instructions, based upon the types of land ownership, are specified throughout this guide.

- A. **Defining an Indian Area.** An Indian area means the geographic area within which an Indian tribe or a tribally designated housing entity, as authorized by one or more Indian tribes, provides assistance under the Native American Housing and Self Determination Act. (NAHASDA) This may include land held in trust by the federal government for tribes or individual Native Americans as well as fee simple land within the operating area of the tribe or IHA/TDHE.
- B. **Land Held in Trust for Tribes.** Tribal trust lands are held in trust for the tribe by the federal government. The Department of the Interior, through the Bureau of Indian Affairs (BIA), administers the federal government's trust responsibilities.
- Tribal trust land cannot be alienated (taken out of trust) or encumbered without BIA approval.

- Tribes may lease or otherwise assign portions of the tribal trust land for the use of specific individuals or purposes, but ownership, through the federal trust, remains with the tribe.
- Generally, tribal courts, together with BIA, have jurisdiction over key real estate transactions (lien recording, eviction and foreclosure procedures) on tribal trust lands.

C. Land Held in Trust for Individual(s). Allotted trust land is held in trust by the federal government for individual Native Americans.

- Tribes have no property interest in allotted trust lands. However, like tribal trust land, all liens and encumbrances must be approved by the BIA. Allotted lands are subject to alienation. Consequently, the BIA has the added trust obligation of protecting the interest of the allottee. This includes an underwriting review of the mortgage package.
- Mortgage transactions (lien recording, eviction, and foreclosure) are sometimes governed by tribal law but in other areas may be under the jurisdiction of state/local government laws.

D. Restricted (Fee) Land Within Indian Areas. Fee land owned by the tribe within the Indian Area may fall under the jurisdiction of the tribe and the tribal courts.

The number of tribes that own or have acquired fee simple land for housing development and related purposes has increased in recent years. As a result of this activity, the Section 184 has two new categories of eligible property types:

- Restricted Fee Land – Tribal Assignment
- Restricted Fee Land – Tribal Lease

Loans within both of these categories are subject to tribal law. In every instance the tribe must provide the lender information documenting HUD's approval of the lease or assignment ordinance and title recordation process.

E. Unrestricted (Fee) Land Within Indian Areas. The term "fee title" or "fee simple title" generally denotes land in which the owner has an interest that entitles the owner to dispose of the entire property or various interests in the property without hindrance.

- Loans on fee land located in an Indian area are eligible for a Section 184 loan guarantee.
- Leases on fee simple land in an Indian area are eligible for a Section 184 loan guarantee. HUD defines a lease to be a written agreement between a property owner and a tenant that stipulates the payment and conditions under which the tenant may occupy a home or apartment and states a specified period of time.
- Real estate transactions (lien recording, eviction, and foreclosure) are generally under the jurisdiction of state/local government laws. However, in some areas, fee land within the Indian area may be under the jurisdiction of tribal courts.

F. Determining the Status of Proposed Home Sites. As a part of the initial application, the land status (tribal trust land, allotted or fee simple) of the proposed home site must be identified by the tribe. Lenders should send the

Land Status and Jurisdiction Form found at [Appendix 1.3](#) to the tribe for signature to document land status and court of jurisdiction.

1.5 ROLES AND PROCESSING STEPS

The roles of principal participants are summarized below:

- A. **Borrower Responsibilities.** Individual, IHA/TDHE and Indian tribe borrowers are responsible for making an application for financing to an approved Section 184 lender; providing the information needed to enable the lender to determine the borrower's qualification for mortgage financing; and abiding by the terms of the loan agreement, once the loan is approved.
 - For Trust Land transactions, the borrower is responsible for making application with the tribe to receive:
 1. Lot or land assignment on tribal trust land; and
 2. Petition the tribal council to obtain a mortgage qualified lease.
 - Work with various departments within the tribe to make applications for:
 1. Down payment assistance;
 2. Indian Health Service Assistance with Well and Septic systems;
 3. Land use, building, and zoning permits.
- B. **Responsibilities of the Tribe**
 - Each tribe must enact policies and procedures for processing foreclosure and eviction actions or identify a State/County court that will enforce these procedures.
 - Tribes are asked to provide pre-purchase and post closing counseling to their members who are participating in the 184 loan program. This counseling should provide education on the fundamentals of home ownership, from the way financing works to how best to maintain and care for a home.
 - Tribes may also participate as a coordinator of the program by: assisting borrowers with loan applications; making available, through lease, trust lands for home sites; providing financial assistance to borrowers; and providing homebuyer education.
 - In the event of default each tribe agrees to work with the Department to provide marketing, property management, property maintenance, and property preservation, in order to help minimize the Secretary's loss.
- C. **Lender Responsibilities**
 - Lenders accept and process borrower applications for financing, and if the borrower qualifies, submit the loan application packages to HUD to request a firm commitment under the Section 184 Program. Lenders may contact the Office of Loan Guarantee to determine eligibility, land status, and other essential information.

- Once HUD has approved the firm commitment, and a closing has taken place, the lender makes the loan to the borrower. The loan may be held in their portfolio or sold.
- If a lender elects to participate as a Direct Guarantee lender, procedures in Chapter 10 must be followed.
- In the event of default, the lender has the option of either foreclosing or requesting assignment to HUD.
- In the event of default where a borrower has vacated a property located on fee simple land, the lender is to take reasonable action to maintain the condition of the property. This is to include a physical inspection of the security property on a monthly basis.
- In the event of default where a borrower has vacated a property located on trust land, the lender is to take reasonable action to maintain the condition of the property. This is to include contacting the tribe whose land the security property is located and coordinate an inspection of the property on a monthly basis.

D. **HUD Responsibilities.** The responsibility for review of tribal eligibility and land status issues lies with HUD's Office of Loan Guarantee. The address and phone number of the Office of Native American Programs is included in [Appendix 1.4](#).

Responsibility for case number assignment, underwriting, issuance of the firm commitment, and guarantee certificate also lies with the Office of Loan Guarantee:

- Issue a Section 184 case number to reserve loan guarantee funds (if available) and issues the loan guarantee certificate after closing.
- Review all underwriting recommendations submitted by lenders.
- Approve or disapprove firm commitments based on lender's submissions.
- For assigned loans, HUD determines the claim payment amount to be paid to the lender and may foreclose on the loan.
- In the case of a foreclosure, HUD will sell the property to another eligible buyer.
- For lender conveyed properties after completion of the foreclosure, HUD determines the claim amount paid to the lender and resells the property.

E. **Role of the Bureau of Indian Affairs.** For trust lands, the BIA issues Title Status Reports (TSR) and reviews, approves, and records lease contracts, deeds of trust, leasehold mortgages and/or real estate mortgages.

F. **Indian Health Service Responsibilities.** The Indian Health Service is available to evaluate the adequacy of water and sewer systems for Native Americans and may also provide for the cost and/or installation of water and sewer systems on an individual or community-wide basis.

1.6 DEFINITIONS:

Alaskan Native Lands

Alaskan Natives (Indian, Eskimo, and Aleut) hold land under a unique system imposed by the Alaska Natives Claims Settlement Act of 1971 (Act). This statute was a congressional response to conflict between non-Indians seeking to develop Alaska and Natives who claimed extensive tracts of aboriginal territory. The Act extinguished all aboriginal rights to lands in Alaska and established, under State law, village and regional corporations in which enrolled Natives would receive corporate stock. The corporations then select lands set aside under the Act for the Alaska Natives and, through corporate bylaws, protect against alienation of the land.

Allotted Trust Land

Land or any interest in land held in trust by the United States for the benefit of individual Indians or held by individual Indians is not subject to federal restrictions against alienation or encumbrance. When a Section 184 loan on trust land goes into default, lenders must assign these loans to HUD.

Assignment of Mortgage Interest

Transfer of the mortgage and security interest to HUD by a lender that holds the rights to the mortgage or deed of trust. This action occurs when a mortgagor is in default and Office of Loan Guarantee makes a determination that it is in HUD's best interest to become the holder of the mortgage and security interest. As of the date of this guidebook, it is our policy to accept the assignment of a loan in default if the holder of the guarantee certificate elects not to foreclose.

Claim

A request or demand for payment in accordance with an insurance policy or guarantee. To assert and demand the recognition of right, title and/or possession of or to personal property.

Default

The failure by a borrower to make any payment or to perform any other obligation under the terms of a loan for a period of more than 30 days

Department

The U.S. Department of Housing and Urban Development (HUD or the Department)

Eviction

The legal process by which households in violation of their lease and/or mortgage terms are removed from occupancy of a given residence

Fee Land

The terms "fee title" or "fee simple title" generally denotes an estate in land that is absolute and unrestricted. The owner is entitled to dispose of the entire property or various interests in the property without hindrance. Upon death, the land, or any remaining interests, passes to heirs or those to whom the owner has given it by will. Within Indian reservations, lands may be owned in fee simple by both

Indians and non-Indians. The former may have received a fee patent or some other document removing the restrictions against alienation on land formerly held in a trust or restricted status. The latter may have entered the reservation by purchasing allotted land at an advertised sale, from an Indian having the fee or unrestricted title to the land, or from the federal government at a sale of the ceded and surplus tribal land that remained after allotments were granted to individual tribal members. In some cases, fee ownership within an Indian reservation may predate the establishment of the reservation. Furthermore, a tribe/tribal member may convert fee land to trust land.

Foreclosure

The legal process by which title to a given residence is transferred from a homeowner in default of a mortgage and/or lease terms to the note holder. On fee simple and mortgaged allotted trust properties, this includes the conveyance of the land as well as the structure. On tribal trust or leased allotted trust properties, the structure is conveyed to the note holder, as well as the leasehold interest in the land. Title to the land itself remains in trust.

Fractionated Ownership

The term used to note ownership of a property in the name of more than one individual. The term is typically used in conjunction with allotted or individual trust lands to describe situations where, over time and through division of inheritance, multiple parties have claim to a single property.

Guarantee Fund

The Indian Housing Loan Guarantee Fund is a financing account which is the source of funds used to repay loans which default under the Section 184 program.

Indian

The term "Indian" means any person who is a member of a federally recognized Indian tribe. Proof of membership in a federally recognized tribe will be determined through possession of a tribally issued enrollment card or through possession of a letter from the tribal enrollment office stating that the borrower is a member of the tribe.

Indian Area

The area within which an Indian housing authority or a tribal housing entity is authorized to provide housing.

Indian Housing Authority

Any entity that is authorized to engage in or assist in the development or operation of low-income housing for Indians and that is established either (1) by exercise of the power of self-government by an Indian tribe independent of State law; or (2) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

Indian Tribe

A tribe that is a federally recognized tribe.

- (a) A federally recognized tribe means any Indian tribe, band, nation, or other organized group or community of Indians. This includes any Alaska Native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.

Land Assignments

Assignments are internal tribal assignment of tribal trust/restricted lands to tribal members. Assignments are not normally recorded against title to the land and are not normally recognized as valid unless they are recorded. Therefore, in most cases assignments cannot be recognized as site control. Unless the terms of the assignment is supported by tribal codes with provisions for mortgage lending, eviction, foreclosure and recordation, the tribe must join with the assignee in the grant of a lease.

Lease

A written agreement between the owner of real property and another party detailing the specific terms by which the use and possession of real property is granted by the owner to the other party.

Lease Assignments

A lease assignment is the transfer or conveyance of a valid existing lease to a third party, who becomes the new lessee. Generally, an assignment must cover the entire leasehold interest.

Leasehold Encumbrance

This term refers to a mortgage, deed of trust, or other lien on the leasehold interest given to secure the repayment of a loan obtained by the lessee.

Leasehold Interest

This is the name given to the interest conveyed by the tribe to the borrower under the lease; in other words, the borrower's interest in the land. It consists of the right to the quiet enjoyment of the leased premises for the term of the lease, subject to the requirements of the lease.

Lessee

The party to a lease who receives the right to use and possess real property

Lessor

The owner of real property who leases the property to another (lessee)

Mortgage

The mortgage is a pledge of property as security for repaying the indebtedness evidenced by the note.

Mutual Help Program

HUD's housing program offering homeownership opportunities for Native American families. Under this Program, funds are allocated from HUD to Indian Housing Authorities who construct Mutual Help homes and determine the price of

these homes. The housing authority then establishes a schedule that amortizes the prices of these homes over a set term. Mutual Help participants may use the Section 184 Program to acquire the property or acquire and rehabilitate their home, or may use Section 184 to rehabilitate Mutual Help homes that have been paid off.

Principal Residence

The dwelling where the borrower maintains (or will maintain) a permanent place of abode, and typically spends (or will spend) the majority of the calendar year. A borrower may have only one principal residence at any one time.

Public Domain Allotments

Trust/restricted property located outside the exterior boundaries of a federally recognized reservation. Public Domain property is generally considered to be the original allotted tract, but may also include purchased tracts which have been accepted in trust/restricted status.

Rancheria

Rancheria is a term used synonymously with "reservations" in the State of California. Lands within a "Rancheria/reservation" may be owned by a tribe or individuals and held in trust by the federal government.

Restricted Land

Land or any interest in land which is held by an individual Indian or tribe and is subject to federal restrictions against alienation or encumbrance; This land can be alienated or encumbered only with the approval of the Secretary of the Interior as mandated by federal law.

Secretary

The Secretary of the U.S. Department of Housing and Urban Development

Standard housing

A dwelling unit or housing that complies with the physical condition requirements established in the Section 184 statute. These requirements are stated in Chapter 4.7 of this guidebook.

Sublease

Certain leases may permit the lessee to create several leases in place of the original lease (so-called spin-off leases). Each of these subleases may then be assigned to another lessee.

Title Status Report A report issued by the Land Titles and Records Office of the Bureau of Indian Affairs having administrative jurisdiction over the specific Indian land indicating the type of ownership of the land, listing any restrictions or encumbrances on the land; the current owners; and any specific conditions or exceptions.

Tribal Land

Land or any interest therein held by the United States in trust for a tribe, band, community, group, or pueblo of Indians subject to federal restrictions against alienation or encumbrance, including such land reserved for BIA administrative

purposes when it is not immediately needed for such purposes. The term also includes lands held by the United States in trust for an Indian corporation chartered under Section 17 of the Act of June 18, 1934 (48 Stat. 984: 25 U.S.C. 476). This term also includes assignments of tribal land.

Tribe

Any tribe, band, Rancheria, colony, pueblo, group, community, or nation of Indians or Alaska Natives

Tribally Designated Housing Entity

An entity other than the tribal government authorized by an Indian tribe by exercise of the power of self-government independent of state law or by operation of state law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, to receive grant amounts and provide assistance under the Native American Housing Assistance and Self-Determination Act of 1996 for affordable housing for Indians. A TDHE may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

Trust land

Land or any interest in land held in trust by the U.S. Government for an individual Indian or tribe.



U.S. Department Housing and Urban Development
Office of Public and Indian Housing

Special Attention of
Administrators,
Offices of Native American Programs;
Tribal Government Leaders;
Tribally Designated Housing Entities

Notice PIH 2004-19 (HA)

Issued: September 29, 2004

Expired: September 29, 2005

SUBJECT: Notice on Designating an Indian Area for the Section 184 Indian Housing Loan Guarantee (Section 184) Program.

PURPOSE: This notice outlines the procedures that an Indian tribe should follow to designate its Indian area under the Section 184 program.

BACKGROUND: The Section 184 program, authorized by the Housing and Community Development (HCD) Act of 1992, as amended, provides loan guarantees to Indian tribes, tribally designated housing entities (TDHE) as that term is defined in the Native American Housing Assistance and Self-Determination Act of 1996, as amended (NAHASDA), and individual Indian families. Section 184(a), "Authority," provides that assistance is available to Indian tribes, Indian housing authorities, TDHEs and individual Indian families on "Indian lands." Section 184(b)(2), "Eligible Housing," refers to housing located "on trust land or land located in an Indian or Alaska Native area." Section 184(l)(4), "Definitions," defines the term "Indian area" to mean "the area within which an Indian housing authority or Indian tribe is authorized to provide housing." The latter is a cross-reference to the term "Indian area" as defined in NAHASDA and its predecessor, the United States Housing Act of 1937, as amended. The term "Indian lands" is not further defined in either the HCD or the Section 184 program regulations.

HUD's Government-to-Government Tribal Consultation Policy, which was signed by former Secretary Mel Martinez on June 28, 2001, has as one of its primary objectives, increasing flexibility for Indian tribal waivers of statutory and regulatory requirements. This Administration is committed to taking steps to streamline those processes.

Many affordable housing activities that are eligible under the IHBG program are integrally related to other programs, especially the Section 184 program. For example, an Indian tribe or TDHE is an eligible Section 184 program borrower, and down payment assistance or interest buy-downs are an eligible affordable housing activity under NAHASDA, so long as the family is otherwise qualified to participate in the IHBG program and can ultimately qualify for a home mortgage under the Section 184 guidelines.

Therefore, it is logical to have consistency of definitions between the two programs whenever possible. One such area is the use of consistent definitions to quantify the Indian areas where tribes and their TDHEs wish to use the Section 184 program to serve Native American families.

Distribution: W-3-1, R-3-1, (PIH), R-6, R-7, 138-2

PROCEDURE: For purposes of the Section 184 program, Indian tribes that are IHBG grant recipients may use their IHBG Formula Area, as defined in 24 CFR 1000.302, as their Indian area without additional justification. Any area that meets the requirements for “reservation,” “near reservation,” or “service area,” as those terms are defined by the Bureau of Indian Affairs (BIA) in 25 CFR Part 20, may declare those areas as their Indian area, for purposes of the Section 184 program, by furnishing HUD with evidence of such a determination made by the BIA.

Any area that meet the definition of “Indian Country,” as that term is defined in 18 U.S.C. 1151, may be declared by a tribe as its Indian area, for purposes of the Section 184 program, by furnishing HUD with evidence of such a determination made by an agency or agencies of the Federal government responsible for making those determinations in order to qualify such areas as eligible areas for services to Indians.

If a tribe wishes to designate an Indian area, for purposes of the Section 184 program, that is not included in the above categories, the tribe must make a claim that it has authority to act in such area by doing the following:

- Provide a description of such area(s), along with any historical documentation, data or other information or evidence that they deem necessary to justify why they wish to provide tribal members or other Indians that reside in the area claimed with access to the Section 184 program;
- Provide a tribal ordinance, resolution, certification or other documentation memorializing official tribal action, signed by the appropriate tribal government official, declaring that the tribe wishes to provide Native Americans residing in the area(s) claimed with access to the Section 184 program (note that a certification would be in addition to any certification provided in an IHP); and
- Otherwise comply with all requirements for participation in the Section 184 program.

Indian tribes that are former IHBG recipients, but no longer participate in that program, and Indian tribes that are eligible for the IHBG program but choose not to participate in the IHBG program, shall use the IHBG Formula Area that was or would have been assigned to them, and they would be required to comply with the other criteria and use the methodologies described above to assert their Indian area.

APPROVAL: Requests should be submitted to the Director, Office of Loan Guarantee, in the Office of Native American Programs. HUD will review each tribal request on a case-by-case basis, and make a determination as to whether or not the tribe’s request to include an Indian area is approved, approvable with additional documentation, or not approvable. HUD will make its determination within 30 days of submission.

/s/

Michael Liu, Assistant Secretary
for Public and Indian Housing

**LAND STATUS AND JURISDICTION FORM
SECTION 184 INDIAN HOUSING LOAN GUARANTEE PROGRAM
HUD, OFFICE OF NATIVE AMERICAN PROGRAMS**

NOTE TO BORROWERS, TRIBES, AND LENDERS: *This form is intended as a model only.* Lenders and/or tribes may elect to use this or any other complete format to submit information about land type.

APPLICANT NAME: _____

CO-APPLICANT NAME: _____

LENDER: _____

TRIBE: _____

PROPOSED PROPERTY ADDRESS/LOCATION: _____

LAND STATUS:

_____ **TRIBAL TRUST LAND** (Attach a copy of a letter or other document from the tribe indicating the tribe's intention to permit the applicant to develop this site.)

_____ **FEE SIMPLE LAND** (Attach a copy of a map or legal description indicating that this land is within the IHA operating area.)

_____ **ALLOTTED OR INDIVIDUAL TRUST LAND** (Attach a copy of BIA document indicating that this land is held in trust for the applicant.)

_____ **RESTRICTED FEE** (Attach a copy of assignment or lease and a tribal resolution granting the applicant usage rights for this site. Please specify type of land.)

_____ **LAND ASSIGNMENT**

_____ **TRIBAL LEASEHOLD**

DOES THE TRIBE HAVE A TRIBAL COURT SYSTEM: _____ **YES** _____ **NO**

IF YES, DOES THE TRIBAL COURT SYSTEM HAVE JURISDICTION TO HEAR FORECLOSURE AND/OR EVICTION CASES FOR THE PROPOSED SITE:

_____ **YES** _____ **NO**

SIGNATURE OF TRIBAL OFFICIAL:

SIGNATURE

SIGNATURE

TITLE/NAME OF TRIBE

Program Office of Native American Programs

451, 7th Street SW, Room 5143
Washington DC 20410
Phone: 1-800-561-5913
(202) 401-7914
Fax: (202) 401-2475

1670 Broadway, 23rd Floor
Denver, CO 80202
Phone: 1-800-561-5913
(303) 675-1615
Fax: (303) 675-1671