



## National American Indian Housing Council Comments Regarding HUD 184 Listening Session & Tribal Consultation

The HUD 184 Indian Housing Loan Guarantee Program (184 Program) has been a powerful tool for expanding homeownership opportunities to Native Americans living on or near tribal communities. Currently, the program can guarantee mortgages to members of federally recognized tribes, tribes, tribally designated housing authorities (TDHEs) and Indian Housing Authorities located in 37 states, with over 120 lenders participating in the program. Loan guarantees provide extra incentive for lenders to provide mortgage products in tribal areas, which have historically been underserved. Since 1992, over 33,000 loans have been issued through the program totaling over \$5.5 billion in lending to Native Americans. In Fiscal year 2017 alone, more than 4,100 loans worth \$780 million were issued to borrowers in tribal communities.

**Improve 184 Program Use on Trust Lands:** While tribal communities as a whole have historically been underserved with respect to mortgage lending, individuals and families living on trust lands in particular have struggled with access to capital. Restrictions of alienation of the underlying land preventing its use as collateral, the inherent interaction with tribal governments and court systems, and the various requirements of the United States as trustee have all combined to greatly deter lenders from extending mortgage products involving trust properties. While HUD itself has little control over any of these factors, any modifications to the 184 Program regulations should to the greatest extent possible minimize the obstacles related to closing a loan involving trust property.

For example, any regulation related to or involving the action of a federal agency, such as the Bureau of Indian Affairs, should fully consider that agency's ability to act in a timely manner, and provide alternatives for a 184 Program borrower or lender to move forward in the lending process without undue delays. Any regulation dealing with title status of the trust property should recognize that the underlying property itself will ultimately not be transferred. To the extent lenders and borrowers could proceed with preliminary status determinations, it should be encouraged.

While the NAIHC does not believe that lenders need to be given any additional financial benefit for extending mortgages on trust property, HUD should consider any proposal that would incentivize lenders to do so. Conversely, NAIHC has heard from many tribes that lenders participating in the 184 Program should be *required* to approve some minimal level or ratio of loans involving trust properties. While NAIHC understands this position, any requirement to include trust property mortgages may drive more lenders away from the program.

**Communication with Borrower's Tribe:** One comment NAIHC has heard consistently is the need for improved communication between the lender, HUD and the borrowers' Tribe (or Tribe with jurisdiction over the property's location). While the existing regulations require tribal consent in instances of assumptions or foreclosures, there are little requirements regarding notice to the impacted tribe. Timely notice of the initial 184 Program mortgage approval and notice of any delinquent payments would provide tribes more opportunities to assist its member/borrower in meeting their obligations or to assume the loans if needed.

**Credit building in Indian Country:** Success of the 184 Program is dependent on borrowers with good credit obtaining a mortgage. A lender working with the 184 Program is not simply going to extend a mortgage to an individual solely because it is backed with a guarantee. A common theme of tribal comments heard by NAIHC centers around the need for HUD to provide more financial literacy and credit building opportunities for Native Americans.

**Collection of Guarantee Fees:** Any update to regulations should clearly define what the fees are used for by HUD. Perhaps the fees generated could be used to establish credit building or homeownership counseling programs that would in turn qualify more borrowers to enter the 184 Program.

**Annual Appropriations:** While appropriations are not the subject of the consultation, the NAIHC is concerned that the Administration's FY 2019 's Proposed Budget has requested zero dollars for the 184 Program. The NAIHC understands that the program has operated successfully over the years, and with annual appropriations to date, and the revolving nature of loan guarantees, the 184 Program can continue to issue future guarantees without further annual appropriations. NAIHC adamantly believes that any cuts to the 184 Program should only be made if the savings are applied to other tribal housing programs with unmet needs, such as the Indian Housing Block Grant. Other federal loan programs, such as the VA's Native American Direct Loan Program maintains funding for administration, even where they have requested no new funds due to sufficient revolving loan funds. Furthermore, NAIHC is concerned that with no annual appropriations, the only source of funds for the 184 Program would be the Guarantee Fees that are collected by individual borrowers. It seems odd that a Program designed to help promote access to capital in underserved markets is solely funded by fees placed on those gaining access to that capital.

NAIHC appreciates that HUD is undertaking a series of listening sessions across Indian Country prior to any proposed rule being issues. NAIHC may issue further comments as it learns more from its priorities and as HUD more clearly defines the direction of the proposed rulemaking.