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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5811-N-01]

**Section 184 Indian Housing Loan Guarantee Program
New Annual Premium**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The Section 184 Indian Housing Loan Guarantee program (Section 184 program) provides access to sources of private financing for Indian families, Indian housing authorities, and Indian tribes that otherwise could not acquire housing financing because of the unique legal status of Indian land, by guaranteeing loans to eligible persons and entities. Over the last 5 years, the Section 184 program has doubled the number of loans and eligible families being assisted by the program. For HUD to continue to meet the increasing demand for participation in this program, HUD is exercising its new statutory authority to implement an annual premium to the borrower in the amount of 0.15 percent of the remaining loan balance until the unpaid principal balance, excluding the upfront loan guarantee fee, reaches 78 percent of the lower of the initial sales price or appraised value based on the initial amortization schedule. Effective **November 15, 2014** the new annual premium of 0.15 percent of the remaining loan balance will apply to all new loan guarantees, including refinances. This notice also provides guidance on the cancellation of the annual premium when the loan reaches the 78 percent loan-to-value ratio.

DATES: Effective Date**: November 15, 2014**

FOR FURTHER INFORMATION CONTACT: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 4126, Washington, DC 20410; telephone number 202–401–7914 (this is not a toll-free number). Persons with hearing or speech disabilities may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 184 of the Housing and Community Development Act of 1992 (Public Law 102–550, approved October 28, 1992), as amended by the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104-330, approved October 26, 1996), established the Section 184 program to provide access to sources of private financing to Indian families, Indian housing authorities, and Indian tribes that otherwise could not acquire housing financing because of the unique legal status of Indian land. Because title to trust or restricted land is inalienable, title cannot be conveyed to eligible Section 184 program borrowers. As a consequence, financial institutions cannot utilize the land as security in mortgage lending transactions. The Section 184 program addresses obstacles to mortgage financing on trust land and in other Indian and Alaska Native areas by giving HUD the authority to guarantee loans to eligible persons and entities to construct, acquire, refinance, or rehabilitate one-to-four family dwellings in these areas.

The Section 184 Loan Guarantee Fund (the Fund) receives annual appropriations to cover the cost of the program. Guarantee fees and any other amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under the Section 184 program reduce the amount of appropriations needed to support the program, and together with appropriations are used to fulfill obligations of the Secretary with respect to the loans guaranteed under this section.

In recent years, rapidly growing demand has increased the need for subsidy appropriations to support new loan guarantees. HUD issued loan guarantee commitments for $308 million in 2008, $501 million in 2009, $536 million in 2010, $577 million in 2011, $792 million in 2012, and $642 million in 2013.[1] Additionally, expenses have increased for acquisitions, insurance, and other program costs, and HUD has seen higher losses now that the Fund has guaranteed over $4 billion in current loans.

The 2013 Consolidated and Further Continuing Appropriations Act (Public Law 113-6, approved March 26, 2013) amended section 184(d) of the Housing and Community Development Act of 1992, by authorizing the Secretary to increase the upfront fee for the guarantee of loans up to 3 percent of the principal obligation of the loan and to establish and collect annual premium payments in an amount not exceeding one percent of the remaining guaranteed balance (excluding the portion of the remaining balance attributable to the fee collected at the time of the issuance of the guarantee) by publishing a notice in the Federal Register. On April 4, 2014, HUD exercised its larger loan guarantee fee authority to increase the one-time, loan guarantee fee that borrowers pay at loan closing from 1 percent to 1.5 percent of a mortgage (79 FR 12520). This increase ensured that there would be enough funding to meet borrower demand for all of fiscal year 2014, and reduce the amount of subsidy needed to meet demand in future years.

[1] The volume in 2013 does not represent program demand because during FY 2013, the program was shut down for 8 weeks and did not guarantee refinances, which typically accounts for 30 percent of the Section 184 program's business.

II. New Annual Premium

To meet projected demand for participation in the Section 184 program for fiscal year 2015, HUD is establishing an annual premium of 0.15 percent of the remaining loan balance until the unpaid principal balance, excluding the upfront loan guarantee fee, reaches 78 percent of the lower of the initial sales price or appraised value based on the initial amortization schedule on all new loans, including refinances. With the establishment of the annual premium, the Section 184 program will now have two sources of funds derived from the borrower (the other being the one-time, up-front loan guarantee fee). Without an annual premium, an appropriation of $8 million for Fiscal Year (FY) 2015[2] would support only about $318 million in new loan guarantee commitments, less than half of the amount the program guaranteed in 2013. This may force HUD to limit access to the program for otherwise eligible program participants. If HUD were to limit access to the loan guarantee program, HUD predicts that some lenders currently participating in the Section 184 program may choose to no longer partner with HUD to provide mortgage lending through the Section 184 program. Without those lenders, the Section 184 program would be unable to meet the demand for mortgage lending on trust land and in Indian and Alaska Native areas and tribal lands, potentially causing a further reduction in program activity.

By establishing an annual premium paid by borrowers, the credit subsidy rate[3] will go down, and HUD expects the program will be able to guarantee the volume of loans predicted for FY 2015. Establishing a 0.15 percent annual premium would cost a borrower with a $175,000 mortgage (the average loan size for the program) an extra $22 a month on the borrower's

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[2] Requested by the President in his FY 2015 HUD at http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/hud.pdf.

[3] Credit Subsidy Rate as defined in the Federal Credit Reform Act (FCRA) of 1990, as amended by the Balanced Budget Act of 1997.

monthly payment or $264 annually. Since the 0.15 percent annual premium is tied to the loan balance, the annual premium will decrease for the borrower every year as the loan balance declines and then disappears after the loan-to-value ratio reaches 78 percent of the lower of the initial sales price or appraised value based on the initial amortization schedule. Even with these additional costs to borrowers, the Section 184 program will still be affordable. While paying an annual premium may be a hardship for some borrowers, HUD does not believe that the extra cost is prohibitive and believes it will have a limited impact on the demand for the program. However, the new annual premium will allow HUD to continue to meet the demand for mortgage lending transactions in fiscal year 2015 so that more Indian and Alaska Native families have the opportunity for homeownership.[4] To reduce some of the hardship accompanying the annual premium, HUD provides that payment of the annual premium can be made through monthly payments, to spread out the cost for borrowers, or annual and lump sum payments, to keep a borrower's monthly payment lower.

III. Cancelling the Section 184 Annual Premium at 78 percent Loan-to-Value.

The new Section 184 annual premium applies only while the unpaid principal balance, excluding the upfront loan guarantee fee, exceeds 78 percent of the lower of the initial sales price or appraised value based on the initial amortization schedule. Once the mortgage amortizes to a loan-to-value (LTV) ratio of 78 percent, collection of the annual premium will cease. HUD will determine when the mortgage reaches the amortized 78 percent LTV threshold based on the contract interest rate and the LTV information provided to HUD's mortgage processing system

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[4] In its Congressional Justifications for HUD's FY 2015 budget, HUD announced that it would pursue a .15 percent annual premium payment in the Section 184 program. Please see page M-5 of HUD's Congressional Justification for the "Indian Housing Loan Guarantee Fund (Section 184)" at http://portal.hud.gov/hudportal/HUD?src=/program_offices/cfo/reports/fy15_CJ.

by the originating lender, and will cease billing the servicing lender accordingly. HUD's calculation of the 78 percent threshold will be predicated on the loan amount excluding the upfront loan guarantee fee.

The LTV ratio on streamline refinances performed without appraisals will be based on data regarding the mortgage being refinanced, including sales price and appraised value amounts residing in the HUD's Office of Native American Program's (ONAP) mortgage processing system. HUD will compute a new LTV ratio by dividing the new loan amount, excluding any upfront guarantee fee, by the lower of the sales price or appraised value amount residing in ONAP's mortgage processing system. From this computed loan-to-value ratio, HUD will determine when the 78 percent threshold is to be reached based on the scheduled amortization. If a computed LTV ratio is not possible, due to missing data or previous refinancing without an appraisal, the new LTV will default to 89.99 percent unless a new appraisal is provided.

In addition to the HUD initiated annual premium cancellation process, borrowers can also request through their lenders cancellation of the collection of the annual premium for those mortgages that reach the 78 percent threshold due to prepayments (principal curtailment). Those loans reaching the 78 percent loan to value threshold sooner than projected due to advanced payments of principal will have the annual premium collections canceled upon the servicing lender submitting supporting information to HUD following the borrower's request. As part of their annual disclosures to homeowners, servicers are to notify borrowers of their option to cancel the annual premium in advance of the projected date by making additional payments of mortgage principal and requesting the lender cancel the collection of the annual premium.

This notice establishes the annual premium of 0.15 percent of the remaining loan balance for all new case numbers assigned on or after **November 15, 2014** until the unpaid principal balance, excluding the upfront loan guarantee fee, reaches 78 percent of the lower of the initial sales price or appraised value based on the initial amortization schedule.

IV. Tribal Consultation

HUD's policy is to consult with Indian tribes early in the process on matters that have tribal implications. Accordingly, on July 31, 2014, HUD sent letters to all tribal leaders participating in the Section 184 program, informing them of the nature of the forthcoming notice and soliciting comments. A summary of comments received and responses can be found on HUD's website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/homeownership/184.

V. Environmental Impact

This notice involves the establishment of a rate or cost determination that does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (U.S.C. 4321).

Dated: October 2, 2014.

Jemine A. Bryon,
Acting Assistant Secretary for Public and Indian Housing.

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