



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: April 13, 2020

TO: Property Owners and Management Agents of Low-Income Housing Tax Credit (LIHTC) Properties

FROM: California Tax Credit Allocation Committee - Compliance Section

RE: Additional Guidance for Income Verifications and Documentation during COVID-19 Pandemic

This memorandum serves as guidance from the California Tax Credit Allocation Committee (TCAC) to owners and property management agents of LIHTC properties in California on the following topics:

1. Verifications of Employment (VOEs)
2. Calculating Unemployment and Temporary Unemployment Benefits
3. Cares Act and Economic Impact Payments
4. Electronic Signatures
5. Rent Deferrals and Repayment

Guidance for Verification of Employment and other Income Documentation

TCAC policy is to require the third party Verification of Employment (VOE) and three months of current and consecutive pay stubs to determine income eligibility at move-in and the VOE at subsequent recertifications. TCAC has also stated in workshops and other guidance that three reasonable attempts must be made to receive the VOE before TCAC will accept secondary income documentation (such as pay stubs) alone. TCAC will continue this policy during the COVID-19 pandemic, but determined that additional specific

guidance and clarification may be necessary as more tenant employers are closed or delayed in responding to documentation requests.

1. For New Move-ins and recertifications where the household is currently employed:
 - a. Management shall make three reasonable attempts (a minimum of a week between each attempt) to obtain a third party VOE from the employer.
 - b. Attempts need to be documented (fax receipt, dated email confirmation, returned envelopes, etc.)
 - c. A clarification record should be kept in addition to the documentation for the attempts with a notation that documentation was not received due to COVID-19 related closures and shelter in place requirements.
 - d. Provide 3 months of current and consecutive paystubs or for households that have recently started a job, the 75% paystub threshold test must be used.

Guidance for Calculating Unemployment and Temporary Unemployment

TCAC's policy regarding calculating general unemployment assistance is to annualize the amount received for 52 weeks unless there is a specific lay-off period like in seasonal or farm work. Due to COVID-19, many companies are temporarily closing, furloughing, or otherwise laying off employees. Many independent contractors or self-employed individuals are eligible to receive emergency unemployment benefits, where previously they were not eligible. TCAC acknowledges that the current situation is outside the general guidance parameters and is providing further clarification. For the period of this federally declared pandemic, TCAC will accept the following:

1. For New-move-ins and recertifications where the tenant has been laid off, is collecting unemployment, and has no return to work statement:
 - a. Get verification for last day of employment (Negative VOE is preferred, but a copy of the email to the tenant from a valid business email account saying they have been terminated/indefinitely furloughed without an end date will be accepted)
 - b. Calculate unemployment received for 52 weeks. If they get a new job or return to the same job after the quarantine is over (more than 30 days) then it would be treated like a job change after move-in and the information would be captured at the next recertification.
2. For New Move-ins and recertifications where the tenant has been furloughed/laid off but there is a return to work date or option:
 - a. Get verification for last day of employment (VOE with a notation in comments section is preferred, but a copy of the email to the tenant from

- a valid business email account saying the tenant has been furloughed and the return to work date will be accepted)
 - b. Calculate Unemployment received for the period of time that they will be out of work or through the current quarantine/shelter in place end date given by State or Federal guidance.
 - i. As of the date of this Memo, Federal Restrictions are through: April 30, 2020. <https://www.coronavirus.gov/>
 - ii. California restrictions may be longer based on state or county guidance. **Please confirm with your county for current guidance.** This may update or change as the COVID-19 situations changes. Place a copy of the guidance in the file for the guidance that was used to calculate the unemployment received.
 - c. Calculate their normal wages minus the period where they were laid off/furloughed. (*Similar to Seasonal Wage Calculations*)
3. For tenants or applicants that have filed for unemployment benefits but have not received their 1st check or a specified award amount.
- a. Get verification for last day of employment (Negative VOE is preferred, but a copy of the email to the tenant from a valid business email account saying they have been terminated/indefinitely furloughed without an end date will be accepted)
 - b. Calculate the unemployment benefit received as the maximum amount of \$450 per week until you receive documentation that a different amount will be received.

CARES Act and Economic Impact Payments

The CARES Act (Coronavirus Aid Package) passed on March 26, 2020 grants additional funds to individuals and families who are impacted by the COVID-19 pandemic. The CARES Act offers two types of assistance:

1. One-time Economic Impact Payment – For individuals making less than \$75,000 annually, a one-time payment of \$1,200 will be made. A one time payment of \$500 will be given for each child. For individuals making \$75,000-\$99,000 – that amount will be prorated and will end if an individual makes more than \$99,000 or a married couple makes more than \$198,000.
 - a. The IRS and TCAC will consider this a one time lump sum payment and it is excluded from income determination
2. Extra Unemployment Benefit – The bill makes significant changes to unemployment benefits adding an additional \$600 per week to the amount received from the State. This additional benefit ends on July 31, 2020.
 - a. TCAC is interpreting this income as temporary, nonrecurring income (as it has a finite end date that will not be renewed) and will consider it excluded from income determination.

Electronic Signatures

During normal operations, TCAC currently only allows electronic signatures on the Application form. All other documents, including the lease and all TCAC required forms may be completed electronically but must be printed and have a “wet signature” from the tenant.

Admst the concern around COVID-19 and the guidance recommended by the Center for Disease Control and Prevention (CDC) for social distancing and remote working, for the federally declared emergency period for the COVID-19, TCAC will make a one-time exception to the “wet signature” rule and will allow electronic signatures through DocuSign, provided the documents are printed and put into the file with the electronic signature documentation after the signatures have been completed.

In order to maintain consistency, TCAC will only accept electronic signatures through DocuSign, not through other companies that process electronic signatures. The use of DocuSign may require owners or management agents to purchase an account to send documents, but is free for tenants to use. The cost of a management acquiring a DocuSign account may not be passed onto the tenants. If an owner or management agent is unable or unwilling to use DocuSign as an “e-signature” vendor, please use the guidance noted in the [COVID 19 Recertifications and Service Amenities](#) memorandum to practice TCAC approved safe social distancing and alternative methods for collecting move-in certification and recertification documentation, including emailing and scanning documents to the tenant to be signed and returned via scan/fax.

This guidance is only allowed through the period of time that State and Federal COVID-19 quarantines and shelter in place requirements are in place. TCAC will return to the previous policy of only allowing electronic signatures on applications once the pandemic regulations have been lifted.

Rent Deferrals and Repayment

TCAC has received several inquiries regarding rent deferrals and the repayment process for units where a prorated deferral payment would put the household over the maximum rent limit for the unit.

TCAC is currently in contact with the IRS regarding this topic and will update this memorandum once guidance has been given.

In addition to the above guidance, TCAC is closely monitoring the situation and following any guidance provided by the CDC, the Governor, and the President. We strongly encourage all LIHTC properties to follow all recommendations from the CDC and the Government, and should additional restrictions be put in place, TCAC recommends using a common sense approach to adapt and follow the restrictions as needed.

The guidance noted in this memorandum is intended to be used for the temporary period around the COVID-19 outbreak and is **not** precedence for normal business operations. Should TCAC see multiple patterns of using any of the above policies under normal operating procedures and outside the scope of the COVID-19 situation, it may trigger a larger audit sample or 100% audit.

The TCAC Compliance Section continues to thank you for your patience and understanding as we closely monitor the situation and work towards meeting our LIHTC obligations, while maintaining respect for the health and safety of TCAC staff, the staff of the owner and management companies, and the residents who reside in the LIHTC properties. For any questions, please contact Elizabeth Gutierrez-Ramos at elizabeth.gutierrez@treasurer.ca.gov or Shannon Nardinelli at shannon.nardinelli@treasurer.ca.gov.