

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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January 27, 2004

UPDATE 4/15/04

POLICY MEMO 04-01

TO: Housing Credit Property Owners and Managers

FROM: Suzanne Vice, Program Manager

THROUGH: Jeanne Peterson, Executive Director

RE: New Policies/Requirements for 2004

Dear Housing Credit Participant:

The purpose of this letter is to notify you of policies stemming from the HUD 4350.3 Rev. 1 that you will be required to follow beginning in calendar year 2004, until further notice. Additionally, TCAC will clarify issues brought about by a recent Private Letter Ruling issued by the Internal Revenue Service.

HUD 4350.3 Rev. 1

In May 2003, the Department of Housing and Urban Development (HUD) released the long-awaited revisions to the 4350.3 guidebook. The 4350.3 Rev. 1 provides clarification for many issues and additional steps to take in other areas. TCAC will require owners/managers to implement the following policies from the revised guidebook.

3-6 E Income Limits and Family Size - Unborn Children of Pregnant Women

Unborn Children are counted in determining family size for income purposes. Please be careful when requesting proof of pregnancy; it is HUD's opinion that requesting medical information is a violation of Fair Housing Law. A suggestion for documenting proof of pregnancy may be a self-certification signed under the penalty of perjury.

5-6. *Calculating Income - Alimony or Child Support (page 5-9)*

Owners must count alimony or child support amounts awarded by the court unless "the applicant certifies that payments are not being made *and* that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies".

From the date of this memo, *all* adult members of the household (**regardless of age**) are required to complete the attached forms dealing with child support.

5-7 G *Disposal of Assets at Less Than Market Value - Real Estate - (page 5-33)*

TCAC requires evidence of the market value of the real estate sold or gifted be verified by a real estate broker. TCAC will not accept a self-certification by the applicant.

5-13 *Acceptable Verification Methods*

The HUD 4350.3 Guidebook allows for owners/managers to obtain income verification through various forms.

TCAC now requires that all forms of 3rd party **employment** income verification, be it an original mailed copy, facsimile, e-mail or Internet source, be accompanied by a minimum 3 months pay stubs. **This requirement only affects new move-ins and is not required for recertifications. This requirement only pertains to income from employment and not SSI, AFDC/TANF, etc.**

Social Security Verification

The applicants Award Letter for the current year from the Social Security Administration will continue to be an acceptable documentation of income.

5-14 *Employers/Banks charging for third party documentation*

HUD approves the use of an applicant's pay stub to verify income when the employer charges to complete verifications; HUD also approves the use of bank statements when an owner has documentation that the bank charges to complete asset verifications. TCAC will implement this guidance.

Record Retention

Contrary to recent reporting in industry newsletters, the Internal Revenue Service **has not** approved record retention in electronic format. Please continue to maintain paper copies with the original signatures in accordance to the Record Retention schedule issues in the Compliance Regulations.

Inspection Requirements

TCAC requires that all original documents be in the tenant files when compliance monitoring reviews are conducted. Copied documents in place during an inspection will be noted as noncompliance and will be considered a reportable issue to the IRS.

Private Ruling 200339022 (relating to Student household)

The Internal Revenue Service issued Private Letter Ruling (PLR) 200339022 which, in summary, stated that a 50 year old full-time student who did not meet any of the student exceptions provided under Internal Revenue Code Section 42(i)(3)(D), was determined by the PLR to be an eligible household.

This PLR was for a specific property and TCAC will not relax its current practice regarding full-time students. Please note that this PLR is neither regulation nor a Revenue Procedure and is directed only to the taxpayer who requested it and may not be used or cited as precedent.

8823 Guidebook

The Internal Revenue Service released the draft guidebook for public comment. You may request a draft copy from Grace Robertson at grace.f.robertson@irs.gov

Please understand that the 8823 Guidebook is a draft and may not be cited as authority.

Compliance Monitor Inspector Contract

TCAC has entered into a contract with the firm Compliance Solutions, Inc. to conduct compliance monitoring inspections. Compliance Solutions will assist TCAC staff in meeting the federal mandate for property compliance monitoring. The firm will conduct inspections in the Southern portion of the state only. If your property is chosen to be inspected by this firm, we trust you will give them the same courtesies and cooperation as you do the TCAC staff.

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Thank you for your cooperation with these new policies. We look forward to a productive and positive working relationship in 2004 and beyond. If you have any questions regarding this letter and the additional requirements, please feel free to contact me, or any of the Compliance staff at (916) 654-6340.

attachment