

CTCAC ADVANCED COMPLIANCE WORKSHOP

Rose Guerrero – Compliance Section Chief

rguerrero@treasurer.ca.gov

Shannon Nardinelli – Compliance Program
Manager

snardinelli@treasurer.ca.gov

WASHINGTON UPDATE

- New President/New Administration
- Republican majority in both Senate and House
- Ben Carson appointed new HUD Secretary
- Steven Mnuchin awaiting confirmation as Treasury Secretary

WASHINGTON UPDATE

- Talk of changing the tax rate from current 35% to 20%
- The LIHTC program has strong support in both houses of congress
- IRS – Utility Allowance Regulations of 3/2016 – principles of sub metering rules

WASHINGTON UPDATE

- IRS 2016/2017 Priority Guidance Plan will look at finalizing renewal energy for Section 42 Rents
- IRS has no current plan to issue further guidance on Resyndication and existing tenants
- IRS is requesting more timely issuance of Form 8823 from State Allocating Agencies

CTCAC COMPLIANCE UPDATE

- Compliance Monitoring list is on webpage:
WWW.Treasurer.ca.gov/ctcac/compliance/asp
- CTCAC to audit over 1, 200 projects in 2017
- On line Compliance Manual revision for 2017 – several new sections added/clarifications – webpage is:
www.treasurer.ca.gov/ctcac/compliance/manual.asp

CTCAC COMPLIANCE UPDATE

- Several Compliance required forms have been updated:
 - TIC
 - THIF
 - Live-in Aide
 - Under \$5,000 verification)

Tenant Income Certification (TIC)

TENANT INCOME CERTIFICATION							
<input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other				Effective Date: _____ Move-In Date: <u>MM/DD/YYYY</u>			
PART I - DEVELOPMENT DATA							
Property Name: _____		County: _____		TCAC#: _____ BIN#: _____			
Address: _____		If applicable, CDLAC#: _____					
Unit Number: _____		# Bedrooms: _____		Square Footage: _____			
PART II - HOUSEHOLD COMPOSITION							
<input type="checkbox"/> Vacant (Check if unit was vacant on December 31 of an Effective Date Year)							
HH Nbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Last 4 digits of Social Security #
1				HEAD			
2							
3							
4							
5							
6							
7							
PART III - GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)							
HH Nbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income			
TOTALS \$				\$	\$	\$	
Add totals from (A) through (D), above				TOTAL INCOME (E): \$			
PART IV - INCOME FROM ASSETS							
HH Nbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset			
TOTALS \$				\$	\$	\$	
Enter Column (H) Total		Passbook Rate	= (J) Imputed Income		\$		
If over \$5000		X	0.06%			\$	
Enter the greater of the total of column I, or J; imputed income				TOTAL INCOME FROM ASSETS (K) \$			
(L) Total Annual Household Income from all Sources [Add (E) + (K)]				\$			
HOUSEHOLD CERTIFICATION & SIGNATURES							
The information on this form will be used to determine minimum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current and projected annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full-time student.							
Under penalty of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of this lease agreement.							
Signature _____ (Date) _____		Signature _____ (Date) _____		Signature _____ (Date) _____			
Signature _____ (Date) _____		Signature _____ (Date) _____		Signature _____ (Date) _____			

Tenant Income Certification (TIC)

PART V - DETERMINATION OF INCOME ELIGIBILITY		RE CERTIFICATION ONLY	
TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (E) on page 1	\$ _____	Unit Meets Federal Income Restriction at:	Current Federal LIHTC Income Limit x 140%: \$ _____
Current Federal LIHTC Income Limit per Family Size:	\$ _____	<input type="checkbox"/> 60% <input type="checkbox"/> 50%	Household Income exceeds 140% at re-certification: <input type="checkbox"/> Yes <input type="checkbox"/> No
If Applicable, Current Federal Bond Income Limit per Family Size:	\$ _____	Unit Meets Deeper Targeting:	
Household Income as of Move-in:	\$ _____	<input type="checkbox"/> Other _____ %	
Household Size at Move-in:			
PART VI - RENT			
Tenant Paid Monthly Rent:	\$ _____	Federal Rent Assistance:	\$ _____ *Source: _____
Monthly Utility Allowance:	\$ _____	Non-Federal Rent Assistance:	\$ _____
Other Monthly/Non-optional charges:	\$ _____	Total Monthly Rent Assistance:	\$ _____
GROSS MONTHLY RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)	\$ _____	*Source of Federal Assistance: 1 HUD Multi-Family Project Based Rental Assistance (PBRA) 2 Section 8 Modern Rehabilitation 3 Public Housing Operating Subsidy 4 HOPE Rent Assistance 5 HUD Housing Choice Voucher (HCV), tenant-based 6 HUD Project-Based Voucher (PBV) 7 USDA Section 521 Rental Assistance Program 8 Other Federal Rental Assistance 0 Missing	
Maximum Federal LIHTC Rent Limit for this unit:	\$ _____	** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation; Section 8 Loan Guarantees; Section 8 Property Disposition; Section 800 Project Rental Assistance Contracts (PRAC)	
If Applicable, Maximum Federal & State LIHTC Bond Rent Limit for this unit:	\$ _____	If yes, Enter student explanation* (also attach documentation): 1 AFDC / TANF Assistance 2 Job Training Program 3 Single Parent/Dependent Child 4 Married/Join Return 5 Foster Parent Care	
Unit Meets Federal Rent Restriction at:	<input type="checkbox"/> 60% <input type="checkbox"/> 50%	ARE ALL OCCUPANTS FULL TIME STUDENTS? <input type="checkbox"/> yes <input type="checkbox"/> no	
If Applicable, Unit Meets Bond Rent Restriction at:	<input type="checkbox"/> 60% <input type="checkbox"/> 50%	Enter 1-5	
Unit Meets Deeper Targeting Rent Restriction at:	<input type="checkbox"/> Other _____ %		
PART VII - PROGRAM TYPE			
Mark the program(s) listed below (a through e) for which this household's unit will be counted and the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.			
a. Tax Credit <input type="checkbox"/>	b. HOME <input type="checkbox"/>	c. Tax Exempt Bond <input type="checkbox"/>	d. AHDP <input type="checkbox"/>
See Part V above.	Income Status: <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> Q**	Income Status: <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 60% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> Q**	Income Status: <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 60% AMGI <input type="checkbox"/> Q**
*** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.			
SIGNATURE OF OWNER REPRESENTATIVE _____			
Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Regulation Agreement (if applicable), to live in a unit in this Project.			
SIGNATURE OF OWNER REPRESENTATIVE _____ DATE _____			

Tenant Income Certification (TIC)

PART IX. SUPPLEMENTAL INFORMATION FORM

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes)

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:
 1 - White - A person having origins in any of the original people of Europe, the Middle East or North Africa.
 2 - Black/African American - A person having origins in any of the black racial groups of Africa. Terms such as "African" or "Negro" apply to this category.
 3 - American Indian/Alaska Native - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
 4 - Asian - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent:
 4a - Asian India 4b - Korean
 4c - Chinese 4d - Vietnamese
 4e - Filipino 4f - Other Asian
 4g - Japanese
 5 - Native Hawaiian/Other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands:
 5a - Native Hawaiian 5c - Samoan
 5b - Guamanian or Chamorro 5d - Other Pacific Islander
 6 - Other
 7 - Did not respond. (Please initial below)

Note: Multiple racial categories may be indicated as such: 31 - American Indian/Alaska Native & White, 14b - White & Asian (Chinese), etc

The Following Ethnicity Codes should be used:
 1 - Hispanic - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as "Latino" or "Spanish Origin" apply to this category.
 2 - Not Hispanic - A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
 3 - Did not respond. (Please initial below)

Disability Status:
 1 - Yes
 If any member of the household is disabled according to Fair Housing Act definition for handicap (disability):
 • A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment or being regarded as having such an impairment. For a definition of "physical or mental impairment" and other terms used, please see 24 CFR 100.201, available at http://www.fairhousing.com/index.cfm?method=pages.display&systemname=craa_100-201.
 • "Handicap" does not include current, illegal use of or addiction to a controlled substance.
 • An individual shall not be considered to have a handicap solely because that individual is a tenant/votee.
 2 - No
 3 - Did not respond. (Please initial below)

Resident/Applicant: I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials)
 (PHH) _____

Tenant Household information Form (THIF)

Tenant Household Information Form
(Use in Year 3 - 100% Tax Credit Properties only)

Effective Date: _____
 None in Date: MM/DD/YYYY

PROJECT DATA

Project Name: _____ County: _____ TCAC#: _____ BIN#: _____
 Address: _____ # Bedrooms: _____ Square Footage: _____ If applicable, CDLAC#: _____
 Unit Number: _____

HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Last 4 digits of Social Security
1			HEAD			
2						
3						
4						
5						
6						
7						

Household Income as of LIHTC Mbr #1's: _____ Effective Date of LIHTC Income Certification: _____
 Household Size as LIHTC Mbr #1's: _____ Household Size as LIHTC Certification: _____

Tenant Paid Monthly Rent: \$ _____	Federal Rent Assistance: \$ _____	*Source: _____
Monthly Utility Allowance: \$ _____	Non-Federal Rent Assistance: \$ _____	(%G)
Other Monthly Non-Optional Charges: \$ _____	Total Monthly Rent Assistance: \$ _____	

GROSS MONTHLY RENT FOR UNIT: _____
(Tenant paid monthly rent plus monthly Utility Allowance & other non-optional charges)

Maximum Federal LIHTC Rent Limit for this unit: \$ _____
 If Applicable, Maximum Federal & State LIHTC Bond Rent Limit for this unit: \$ _____

Units Meet Federal Rent Restriction at: 60% 50%

If Applicable, Unit Meets Bond Rent Restriction at: 60% 50%

Unit Meets Deeper Targeting Rent Restriction at: Other %

***Source of Federal Assistance**
 1 **HUD Multi-Family Project Based Rental Assistance (PBRA)
 2 Section 8 Modern Rehabilitation
 3 Public Housing Operating Subsidy
 4 HOME Rental Assistance
 5 HUD Housing Choice Voucher (HCV), tenant-based
 6 HUD Project-Based Voucher (PBV)
 7 USDA Section 521 Rental Assistance Program
 8 Other Federal Rental Assistance
 0 Missing

**** (PBRA) Includes:** Section 8 New Construction/Substantial Rehabilitation; Section 8 Loan Management; Section 8 Property Disposition; Section 202 Project Rental Assistance Contract (PRAC)

STUDENT STATUS

ARE ALL OCCUPANTS FULL-TIME STUDENTS? Yes No

If Yes, Enter student explanation* (to be attached to documentation)

*Student Explanation:
 1 *FDC/TAMP Assistance
 2 Job Training Program
 3 Single Parent Independent Child
 4 Married/Divorced
 5 Former Foster Care

Enter I.S. _____

*If it shows a cover is yes, a Student Verification Form completed via 3rd party must be attached to this form

Under \$5000 Asset Form

UNDER \$5,000 ASSET CERTIFICATION

For households whose combined net assets do not exceed \$4999.99.

Complete one form for households with joint assets or one form per person with separate assets. If a household contains both joint and separate assets, use separate forms and list the joint assets on both forms with the statement (best) next to the applicable asset.

Household Name: _____ Unit No. _____
 Development Name: _____ City: _____

Complete the following:

1. Choose one:
 I've do not have any assets at this time. (If this box is checked, draw a line through the asset information below, place a zero in the sign and date.)
 OR
 My/our assets include:
 (Please complete this table. Put a zero in any columns that do not apply.)

(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source	(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source
\$ _____	_____	\$ _____	Savings Account	\$ _____	_____	\$ _____	Checking Account
\$ _____	_____	\$ _____	Cash on Hand	\$ _____	_____	\$ _____	Safety Deposit Box
\$ _____	_____	\$ _____	EBT/Debit Visa or MC	\$ _____	_____	\$ _____	Certificates of Deposit
\$ _____	_____	\$ _____	Stocks	\$ _____	_____	\$ _____	Money market funds
\$ _____	_____	\$ _____	IRA Accounts	\$ _____	_____	\$ _____	Bonds
\$ _____	_____	\$ _____	Keogh Accounts	\$ _____	_____	\$ _____	401K Accounts
\$ _____	_____	\$ _____	Equity in real estate	\$ _____	_____	\$ _____	Trust Funds
\$ _____	_____	\$ _____	Lump Sum Receipts	\$ _____	_____	\$ _____	Capital investments
\$ _____	_____	\$ _____	Life Insurance Policies (excluding Term)				
\$ _____	_____	\$ _____	Other Retirement/Pension Funds not named above:				
\$ _____	_____	\$ _____	Personal property held as an investment**				
\$ _____	_____	\$ _____	Other (list):				

PLEASE NOTE: Certain funds (e.g., Retirement, Pension, Trust) may or may not be (fully) accessible to you. Include only those amounts which are available to you.

*Cash value is defined as market value minus the cost of converting the assets to cash, such as broker's fees, retirement costs, outstanding loans, early withdrawal penalties, etc.

**Personal property held as an investment may include, but is not limited to, gems or coins, collectibles, art, antique cars, etc. Do not include necessary personal property, such as, but not necessarily limited to, household furniture, dish-ware, auto, clothing, assets of an active business, or special equipment for use by the disabled.

2. Choose one:
 I've have not sold or given away assets (including cash, real estate, etc.) for less than fair market value during the past two (2) years.
 OR
 Within the past two (2) years, I've have sold or given away assets (including cash, real estate, etc.) for more than \$1,000 below their fair market value (FMV). Those amounts* are included above and are equal to a total of: \$ _____ (*the difference between FMV and the amount received, for each asset on which this occurred).

3. Please complete:
 The net family assets (as defined in 24 CFR 812.102) above do not exceed \$5,000 and the total annual income (add all annual income columns) from the net family assets is \$ _____ This amount is included in total gross annual income.

Under penalty of perjury, I/we certify that the information presented in this certification is true and accurate to the best of my/our knowledge. The undersigned further understand(s) that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of a lease agreement.

Applicant/Tenant: _____ Date: _____ Applicant/Tenant: _____ Date: _____
 CA Tax Credit Allocation Committee (January 2017)

Live-In Aide Verification Form

Live-In Aide Request for Verification
 (California Tax Credit Properties)

Date: _____

Household Member's Name: _____ From: _____
 _____ To: _____

The household member named above has applied for or is currently residing in a unit that is part of the Low Income Housing Tax Credit program under IRS Section 42. The household member has indicated that he/she is disabled and requires a live-in aide in order to have equal access to housing the same as if he or she was not disabled. The LIHTC program has specific verification requirements for all households indicating a need for a live-in aide, including, but not limited to: (1) the aide is there for the sole purpose of providing supportive services essential to the member's care and well being; and (2) the aide would not otherwise be occupying the unit except to provide the necessary supportive services.

The household member named above has indicated that you are a third party professional competent to verify the disability and the need for the requested accommodation. We ask that you provide the following general information to determine if a live-in care attendant is required to provide necessary supportive services in order for the member to use and enjoy the dwelling.

Please Note: The information provided should respond to the general questions and not disclose any confidential information regarding the nature of the disability of the household member.

I hereby authorize the release of the information on this verification form:

Household Member's Signature _____ Date _____

Information Requested:

- Is the household member disabled as defined below? Yes No
- In your professional opinion, and with knowledge of the member's disability, does the member require the services of a live-in care attendant in order to use and enjoy the dwelling? Yes No
- Is the household member's disability permanent and/or without the potential for improvement such that the household member would continue to need the services of a live-in care attendant? Yes No
 (CTAC will require that any "No" response be verified annually.)
- Does the member require more than one aide to occupy the unit? Yes No
 Number of Aides needed: _____

Under applicable law, an individual is disabled if he/she has, is regarded as having or perceived as having a physical or mental impairment that limits a major life activity such as caring for one's self, performing manual tasks, participating in social activities, walking, seeing, hearing, speaking, breathing, learning and working, and includes, but is not limited to, conditions such as cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, Human Immunodeficiency Virus infection, mental retardation, and emotional illness. This definition does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Printed name of Person supplying information: _____
 Title of Person supplying information: _____
 Firm/Organization: _____
 Phone Number: _____ Fax: _____

Signature of Person supplying information: _____ Date: _____
 By signing above, I certify, under penalty of perjury, that the information presented in this verification is true and accurate to the best of my knowledge and belief. I further understand that providing false representations herein constitutes an act of fraud.

Please attach a business card or stamp here:

CTCAC COMPLIANCE UPDATE

Beginning in 2017, CTCAC will have the authority to levy monetary fines for compliance violations – Implementation April 2017

- CTCAC will either issue an 8823 or levy a fine depending on the circumstances
- Most findings have a correction period
- Fines may be charged monthly until corrected
- Approval pending at March Committee Meeting

Compliance Fines Schedule

Compliance Violation Fines		
All payments due within 30 days of assessment or completion of appeal		
Compliance Violation (per unit unless otherwise noted)	Corrective Time Period	Fines after Corrective Period
Life and Safety Violations Life-threatening (post Y15)	24hr – 1 week to correct	\$250 fine and \$50 per month until corrected
Life and Safety Violations Non-Life threatening and UPCS Violations – Level 2 and 3 (post Y15)	30 days to correct. Refer to NCL letter for specific violation	\$250 fine and \$50 per month until corrected
Incorrect eligibility documentation or unable to determine eligibility (post Y15)	30 days to correct	\$250 fine and \$100 per month until corrected
Incorrect rent of \$15 or less (post Y15 for all units; Initial credit period for all deeper targeted units)	30 days to correct and reimburse tenants the overage amount	The greater of \$100 or twice the monthly financial gain per month until corrected
Incorrect Rent of more the \$15 (post Y15 for all units; Initial credit period for all deeper targeted units)	Immediate \$250 fine or twice the financial gain, whichever is greater, and owner must correct the rents and reimburse tenants the overage amount	After 30 days, an additional fine equal to the greater of \$100 or twice the monthly financial gain per month until corrected
Failure to submit reports – AOC (post Y15) (per project)	30 days to correct	\$250 fine and \$50 per month until corrected
Failure to submit Reports –AOE, Tenant Demographic Data (Initial credit period and post Y15) (Per project)	30 days to correct	\$250 fine and \$50 per month until corrected

Compliance Fines Schedule

Vacant/off-line unit (post Y15)	Immediate \$250 fine if unit is vacant more than 60 days, not being advertised, and not ready to rent. TCAC may extend the 60-day period for situations beyond the owner's control or involving particularly lengthy rehabilitation, provided that the owner is diligently working to correct the situation.	After 30 days, an additional \$250 fine per month
Failure to Provide Service Amenities (Initial credit period) (Per project)	Immediate fine of twice the financial gain, based on the service costs presented in the application or, if none, an assumed cost of \$20,000 per year, except that no immediate fine shall be imposed for a lapse of 30 days or less within a calendar year.	After 30 days, an additional fine of twice the monthly financial gain.
Lack of cooperation to monitor (post Y15) (Per project)	90 days to correct from date of initial letter notifying of inspection	\$500 per month
RUBS (Ratio Utility Billing Service) and Mandatory Fees (examples but not inclusive – Renter's Insurance, W/D hook-ups, cable, storage, parking) (Initial credit period and post Y15)	Immediate fine of \$100 or twice the financial gain, whichever is greater. If over maximum TCAC rent, owner must also reimburse tenants for overage.	After 30 days, an additional fine of \$100 per month or twice the monthly financial gain, whichever is greater, until corrected
Student Rule (post Y15)	Immediate \$250 fine	After 30 days, an additional fine of \$100 per month until corrected

Compliance Fines Schedule

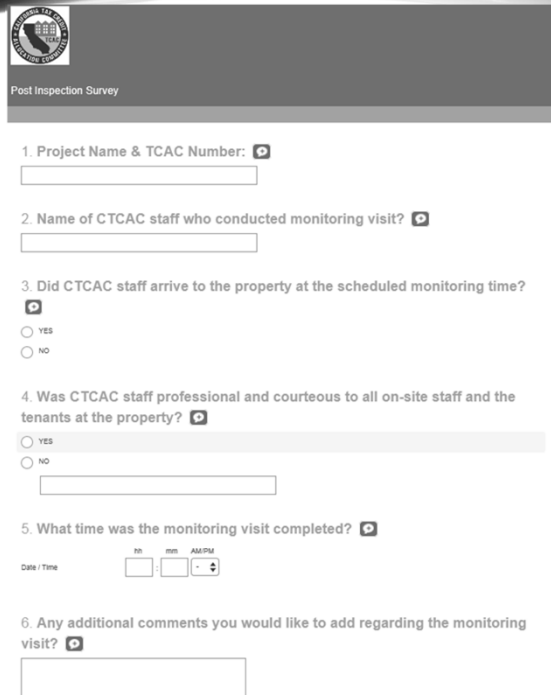
Change of Ownership or Management without TCAC Approval (Initial credit period and post Y15) (Per project)	Immediate \$500 fine	After 30 days, an additional fine of \$500 per month until corrected
Transfer event without TCAC approval (Per project) (Initial credit period and post Y15)	Immediate \$500 fine or twice the financial gain, whichever is greater	After 30 days, an additional \$500 fine or twice the monthly financial gain, whichever is greater
Change in Unit Mix without TCAC Approval (Initial credit period and post Y15)	Immediate \$500 fine	After 30 days, an additional \$500 fine per month until corrected unless TCAC approves the change
Not using TCAC required forms - TIC - TICQ - THIF (if applicable) - Under \$5k Asset - Child/Spousal Support Verification - Zero Income Certification (if applicable) (Initial credit period and post Y15) (Per project)	Immediate \$250 fine	After 30 days, an additional fine of \$100 per month until forms are in use
Failure to maximize utilization of accessible units and give priority for accessible units to persons already residing in the complex or on the waiting list who need the accessibility features (Initial credit period and post Y15) (per project)	30 days to correct	\$250 fine and \$100 per month until corrected

CTCAC COMPLIANCE UPDATE

Beginning in 2017 – CTCAC Compliance Section will use Survey Monkey to assess quality control after every monitoring visit

- Post – Inspection Survey
- CTCAC Number and Project Name
- Analyst Conducting the Inspection
- Notes and General Feedback regarding the monitoring visit

Survey Monkey Sample



The screenshot shows a survey form titled "Post Inspection Survey" with the CTCAC logo in the top left corner. The form contains six numbered questions:

1. Project Name & TCAC Number: [Text input field]
2. Name of CTCAC staff who conducted monitoring visit? [Text input field]
3. Did CTCAC staff arrive to the property at the scheduled monitoring time?
 YES
 NO
4. Was CTCAC staff professional and courteous to all on-site staff and the tenants at the property?
 YES
 NO
[Text input field]
5. What time was the monitoring visit completed?
Date / Time: [Hour] [Min] AM/PM [Dropdown arrow]
6. Any additional comments you would like to add regarding the monitoring visit?
[Text input field]

CTCAC COMPLIANCE UPDATE

- No changes to CTCAC LIHTC requirements for paystubs, 3rd party verifications – continue following our stated policies
- Annual Reporting Requirements – AOC and POP due on Monday, March 30th, 2017, HUD Tenant Demographic Data Collection for 2016 data due on Friday, March 17th, 2017,
- AOE and Lender Reports due May 15th, 2017
- Starting in 2017, CTCAC will be filing Form 8823 more timely to IRS

CTCAC HANDOUTS

New Construction Compliance Guidance

1. Renting Up
2. Important Terms
3. Source Documents
4. State Agency Monitoring
5. Annual Reporting

CTCAC HANDOUTS

Acquisition and Rehabilitation Compliance Guidance

1. Renting Up
2. Important Terms
3. Source Documents
4. State Agency Monitoring
5. Annual Reporting

CTCAC HANDOUTS

Resyndication Guidance

1. Renting Up
2. Important Terms
3. Source Documents
4. State Agency Monitoring
5. Annual Reporting

Resyndication Clarification Form

Resyndication Clarification Form

For existing households that qualified under the original allocation of credits and now exceed the current tax credit limits at resyndication. Please print on a colored paper.

1. Name of tax credit property: _____
2. Original CTCAC project number: _____
3. Resyndicated CTCAC project number: _____
4. Household name: _____
5. Original move-in date: _____
6. Original unit and building number: _____
7. Number of members in original household: _____
8. Original household, currently income eligible at resyndication? _____
9. Current household eligible to be grandfathered, as a tax credit unit? _____
10. Is a complete copy of initial move-in certification attached? _____
11. If No was answered for question 10, what complete subsequent certification is attached? _____
12. Most current certification date for household: _____
13. Current income of household: _____

Certification by Owner/ Manager Company Agent:

Print Name: _____

Signature: _____ Date: _____

Title: _____

I certify under penalty of perjury that the above information is true and correct to the best of our ability the owner has provided either the initial move-in certification for this original household or the next most current completed recertification to show the household was initially an income eligible household under the old allocation of tax credits for this project.

IMPORTANT COMPLIANCE RULES – RENTS AND INCOMES

- In 2017 going forward, HUD has stated that the applicable LIHTC income limits will be released in March of each year
- CTCAC will try to post the rent and income limits on our webpage within the same week they are released
- Management agents must know the placed in service date (PIS Date) for all projects they oversee

IMPORTANT COMPLIANCE RULES – RENTS AND INCOMES

- Projects placed in prior to 12/31/2008 - one rent table per county
- Projects placed in service after 12/31/2008 –applicable rent table will depend on the PIS Date for project or the project’s Gross Rent Floor Election (GRFE)
- For 9% projects – GRFE will be the date of carryover allocation (unless owner chooses PIS date)

IMPORTANT COMPLIANCE RULES – RENTS AND INCOMES

- For 4% projects – GRFE will be the date of the Reservation Letter from CTCAC
- For Acq/rehab projects – the applicable limits will be those in place at the time the owner is tax credit certifying each existing household, for new move-in’s use the current limits in place at the time of the move-in

IMPORTANT COMPLIANCE RULES - TRANSFERS

Line 8b Election – Part II of Form 8609

- For 100% Multiple Building Project – Yes = ok to transfer without income qualifying
- For 100% Multiple Building Project – NO = must income qualify before transferring

IMPORTANT COMPLIANCE RULES - TRANSFERS

- IRS permits no Exceptions
- If project is Mixed-Use – if Line 8b is a Yes = must test for 140% rule prior to allowing transfer
- If project is Mixed-Use – if Line 8b is a NO = must income qualify before transferring

IMPORTANT COMPLIANCE RULES - STUDENTS

- Applicable when all members of the household are full-time students
- Applicable for K-12th grade and all upper educational institutes and trade schools
- Must meet one of the 5 IRS full-time exceptions

IMPORTANT COMPLIANCE RULES - STUDENTS

- IRS has stated that if a student attends 2 different colleges on a part-time basis, and school verifies their part-time status, they are considered a part-time student
- Keep in mind the 5 month rule
- Student status must be reviewed and if applicable verified at each annual recertification

IMPORTANT COMPLIANCE RULES - STUDENTS

- Anyone at any age can become a full-time student
- Remember that student rules for Section 42 conflict with Student rules for most HUD programs
- If project is layered and there's a conflict talk to owner and tax credit investor and let them guide you on what they want you to do

IMPORTANT COMPLIANCE RULES – TOTEM POLE RULE

- A rule often over looked
- Applies throughout the tenancy of a household
- When **all members** of a household that originally income qualified the unit have moved out

IMPORTANT COMPLIANCE RULES – TOTEM POLE RULE

- Any **remaining member** that **joined the household after initial move-in** must be income qualified to remain in unit
- Management should independently income qualify any additional member to a household and if they income qualify clearly note that in the file for future reference
- This will become very important if a project undergoes resyndication at a future date

IMPORTANT COMPLIANCE RULES – MANAGER'S UNIT

- Know what the project's regulatory agreement allows
- Should hire the on-site manager with condition that they have to live at project
- Manager must work at same project as the unit they are occupying

IMPORTANT COMPLIANCE RULES – MANAGER’S UNIT

- IRS no longer requires manager to work on a “Full-time” basis at same project they live at
- Be careful if splitting the manager’s time between two different tax credit projects!
- CTCAC will start looking at this issue more closely in 2017

IMPORTANT COMPLIANCE RULES – VACANT UNITS

- Vacant units need to be turned over **timely**
 - IRS states 2 weeks should be sufficient
- CTCAC will allow a 2 month vacant period before reporting to IRS
- Vacant units in turn-key ready condition must be advertised to the General Public

IMPORTANT COMPLIANCE RULES – VACANT UNITS

- Vacant units in turn-key ready condition, not advertised will be reported to IRS
- Be careful of “holding units vacant” awaiting tenant referrals from different agencies
- Be careful of keeping vacant units in uninhabitable condition waiting for resyndication

IMPORTANT COMPLIANCE RULES – CASUALTY LOSS

- IRS requires an owner of a tax credit project to immediately report to allocating agency when a building(s) and unit(s) are off-line
 - Due to fire
 - Due to flood
 - Due to mold
 - Due to construction defects
 - Due to unit being left trashed

IMPORTANT COMPLIANCE RULES – CASUALTY LOSS

For any reason -

- Allocating agency must immediately report circumstance to IRS on Form 8823
 - Either corrected or uncorrected
 - If Uncorrected – A Corrected 8823 will be issued when documentation is submitted to CTCAC showing the unit is inhabited again

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- Initial letter sent out to owner notifying of a Monitoring Inspection
- A 30 day notification is given, but can be shorter if necessary
- Monitoring visit by state agency occurs
- Within 30 days, the owner and management company receive a findings letter

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- A Good letter is sent if no issues with files, rents, physical inspection of units, site and service amenities and common areas are found
- A Noncompliance Letter or (NCL) will be sent if any issue of noncompliance is found
- The NCL is broken down by: Files, Physical Inspection, Other Issues

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- The NCL is specific to what was missing, found lacking, not working, not operable, not in place, not being conducted, expired, vacant units not turnkey ready, unable to access entry to unit, to common areas, to any area of the project needed to be reviewed, changes or violations of eligible basis (turning a low income unit into different use, charging for community room, parking)
- Please review each and every issue noted and respond to the noncompliance by providing exactly what is being requested –need to analyze letter carefully

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- NCL letter will have a correction period
- At the end of the correction period the owner response is due to our office
- Issues corrected during the inspection will need to be noted in the NCL
- IRS requires we file an 8823 for any issue found during the monitoring visit whether corrected or not corrected

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- IRS requires we file the 8823 timely
- 8823's reported by building
- Three types of 8823's can be filed: Informational, Corrected, Uncorrected
- **Informational 8823** - to report a sale, foreclosure, destruction, Other

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- **Corrected 8823** – The monitoring agency found an issue(s) of noncompliance and during the correction period given the owner, the owner corrected **all** the noncompliance – IRS determines if there will be any penalty
- Nothing further needs to be done by owner – **matter is closed**
- This action closes the Monitoring visit until the next monitoring rotation in 3 years

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- **Uncorrected 8823**- The owner was able to correct **some but not all** of the issues, or the owner was **unable to correct any of the issues** – IRS determines if there will be a penalty - * IRS has stated they take special interest in these 8823 filings
- **Owner will want to correct the outstanding issues of noncompliance with the state agency**
- This action closes the Monitoring visit until next monitoring rotation in 3 years

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- However, **if** the owner corrects all the outstanding noncompliance reported that was not previously corrected, the state agency will file a “**Corrected 8823**”
- Work closely with the Chief of Compliance and the analyst in charge of inspection at this point
- Please note that there is no automatic guarantee that the owner will receive a 2nd and final NCL from the state agency

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- A 2nd and final NCL is done as a courtesy and when time permits
- There is no time period dictated by IRS on when “Corrected 8823’s” need to be filed
- The IRS will never share with the state allocating agency what the ramifications or loss of credits, penalties will be when an 8823 is filed, they consider this a confidential matter between the Taxpayer and the IRS

IMPORTANT COMPLIANCE RULES – 8823 ISSUANCE

- IRS requires that the state agency discuss any issuance of an 8823 with only the owner of the tax credit project
- The state agency cannot release a copy of a filed 8823 with anyone but the owner of the tax credit project – please note in most cases the management company is not the owner of the project

TRANSFER EVENTS

In October of 2015, CTCAC released an updated Memo and Questionnaire to correspond with the State Regulation Changes for 2016:

- Questionnaire can be found at:
<http://www.treasurer.ca.gov/ctcac/compliance.asp>

TRANSFER EVENTS

Easy to follow questions will determine what needs to be submitted for each type

- Ownership Transfer
- Sale
- Re-finance,
- Other change in partnership (either limited partner or general partner)

TRANSFER EVENTS

- In order to start the review process, CTCAC must receive the documents noted as necessary on the questionnaire
- The review can take from 2 ½ to 4 weeks depending on whether the correct documentation was submitted and how many reviews are being conducted.

TRANSFER EVENTS

- Currently we receive on average 3-4 Transfer Events a week to process
- Please factor review processing time into your submission for review. We cannot push projects to the top of the queue because of late submission too close to a close date.

TRANSFER EVENTS

- Please submit completed Word versions of the following forms:
 - Assignment and Assumption Agreement
 - Stand Still Agreement
 - Capital Needs Agreement
- This allows us to edit if necessary and will speed up the review process

TRANSFER EVENTS

- Transfer Events as part of a Resyndication where a new allocation of credits has already been awarded go to Jewel Chen in Development
- All other transfer events go to Ammer Singh or Shannon Nardinelli

TRANSFER EVENTS

Mandatory CTCAC Training

- For new owners who are intending to purchase Tax Credit Properties in California and do not meet the same qualifications as the outgoing ownership entity and/or management company, CTCAC will require that the new owners, their management company, and their maintenance staff attend a one day training class held by CTCAC at our offices in Sacramento.

TRANSFER EVENTS

Occasionally, CTCAC may also require ownership entities who have never owned Tax Credit properties to partner with a bone-fide management company familiar with the LIHTC in the state of California for a minimum of 2 years before the owner can self-manage.

MANAGEMENT COMPANY CHANGES

Management Agent Transfers:

- 9% tax credit projects require TCAC consent and equivalent management agent experience as existing entity:
 - Substitution of Property Management Agent
- 4% tax credit projects require TCAC management experience similar to the exiting management company

MANAGEMENT COMPANY CHANGES

- All letters and notices of intent to conduct a monitoring inspection go to the Owner and Management Contact CTCAC has on file
- Starting in April of 2017, CTCAC will have the authority to issue fines to owners who change management companies without notifying and receiving approval from CTCAC first.

CONVERSATIONS WITH THE IRS

- Please confirm that IRS now permits the owner of a tax credit property to charge the exempt manager unit rent and utilities
 - ***IRS Response:*** Yes, charging rent and utilities to manager unit is now permitted (as long as the unit is not considered a LIHC unit).
- Please confirm that IRS no longer requires the on-site manager to have to work on a full-time basis at the tax credit property they live at.
 - ***IRS Response:*** Yes, the on-site manager no longer has to work on a full-time basis however, the manager must live in the same property where they work

CONVERSATIONS WITH THE IRS

- Please confirm that the Line 8b election of NO, in a multi-building project will require all transferring households to have to income re-qualify in order for the unit to continue to generate a tax credit, this holds true even if: 1) a VAWA issue or a 2) Medical reasonable accommodation issue?
- ***IRS Response:*** Yes, there are no exceptions, unless the owner were to request a PLR from the IRS * please note that an owner can always make the transfer to avoid a fair housing issue but the unit will not generate any more credits as long as there is an over-income household occupy it

CONVERSATIONS WITH THE IRS

- Please confirm that holding a unit vacant because of an agreement with a social services provider that you have a Master Rental Lease Agreement with to hold (X) number of tax credit units for their clients, will be in violation of the vacant unit rule? - What time period does IRS expect the unit to be occupied after it's been vacant?
- ***IRS Response:*** An owner cannot hold a tax credit unit **vacant** that is ready for occupancy and expect to get credits for the period the unit remains vacant because they are holding it under an agreement with a specific program.

CONVERSATIONS WITH THE IRS

- How does the IRS look at rent payments made on behalf of a tenant via a “social services provider” paid directly to the owner? These are not rental assistance payments via Project Based Section 8 contract or Section 8 Vouchers or Shelter Care Plus program that are typically exempt by HUD for being counted towards annual income?
- **IRS Response:** IRS would look at this as “Income” to the household as per the HUD 4350.3 REV 4 handbook, where rental assistance income is considered counted towards annual income

CONVERSATIONS WITH THE IRS

- For Resyndications where various projects are bundled together as one new project, (for example, 3 different LIHTC projects located within the same town may-be 5 miles apart) is the owner permitted to transfer the over-income households among the various 3 existing projects? Or the just among the same project where they originally moved into?
- **IRS Response:** The owner can only transfer **over-income** grandfathered tenants within *the same existing tax credit project* where they initially moved into and where they initially income qualified.

CONVERSATIONS WITH THE IRS

- On a Resyndication of an existing tax credit project if an owner or new owner demolishes the existing tax credit project and intends to re-build a new project on same site, does the owner lose the ability to “grandfather the over-income tenants”? And additionally, will the resyndicated project be considered “acquisition rehab” or “new construction” on the *new Forms 8609's*?

CONVERSATIONS WITH THE IRS

- **IRS Response:**
- Based on the response to these questions then the following would apply:
 - What is the reason for the demolishing?
 - At what period of the allocation is the demolishing occurring? Compliance, post compliance at the end of the QAP?
 - By what you say above this is occurring during the compliance period. Grandfathering the over-income may occur if the owner plans to continue the low income housing after the rehab.

CONVERSATIONS WITH THE IRS

IRS Response (cont.):

- If the owner demolishes buildings in phases and the tenants are moved back into the new units within 24 months, the grandfather provision would not be lost (State discretion as to the months however 24 should be the maximum).
- However, if the building is demolished the owner may want to consider this a new construction or acq/rehab.

CONVERSATIONS WITH THE IRS

- An act of foreclosure at a project that's in the 15 year Federal Compliance Period, requires the state agency to file an uncorrected Form 8823 on the project, does the IRS also require the state agency to remove the recorded regulatory agreement off title?
- *IRS Response:* Yes, the state agency must file a Form 8823 on the project

CONVERSATIONS WITH THE IRS

Preferences for employee housing

For example: A Unified School District owns the land and enters into a "ground lease agreement" with a developer that stipulates the housing will be exclusively for ***their employees***. What if the ground lease agreement is between a developer and a University and the University stipulates that the housing will all be exclusively to house ***part time and/or full-time students only***?

CONVERSATIONS WITH THE IRS

- ***IRS Response:*** Imposition of a local preference is not a per se violation of the Section 42 requirement public use requirement.
 - Under Section 42 and IRS Regulation there is a student rule that must be followed. Housing strictly for students must follow the student rule.
 - Under Section 42 and IRS Regulation 1.42-9, a qualified LIHTC project will meet the general public use requirement, even if it is subject to a local live work preference, so long as the residency preference: (1) is consistent with housing policy governing non-discrimination using the HUD Multifamily Occupancy Handbook as guidance; and (2) does not otherwise violate any applicable fair housing laws.

CONVERSATIONS WITH THE IRS

IRS Response (cont.):

- A local live work preference may be permissible under federal and state fair housing laws, if the local agency imposing the preference can articulate a clear public purpose or policy goal that will be furthered by the preference and if the policy does not act to exclude members of a protected class, and is sufficiently narrowly tailored. Even if the imposition of the local preference results in statistical disparities on protected classes, under *Texas Dept. of Housing and Community Affairs, et al. v. Inclusive Community Project, et al.*, the United States Supreme Court emphasized the "robust causality requirement" reinforcing the concept that liability will not result, unless the plaintiff can prove that there is another means to achieving that governmental interest with less disparate impact, which is more narrowly tailored to achieve the governmental interest.

CONVERSATIONS WITH THE IRS

IRS Response (cont.):

- The imposition of live work preference may not result in longer than typical vacancy of a tax credit units.
- The local preference may not limit the availability of a unit only to members of a social organization or a particular employer.
- If HUD, the DOJ, or a substantially equivalent state or local agency notifies the state tax credit agency of a determination of a fair housing violation, the state tax credit agency should report receipt of the notification to the IRS.

CONVERSATIONS WITH THE IRS

IRS Response (cont.):

- Based on the findings in the court proceedings, the IRS will make a determination as to whether the owner of the LIHTC property is out of compliance with Section 42 based on facts of the individual case.
- Depending on the nature of the violation, noncompliance may be determined at the unit, building, or project level.

CONVERSATIONS WITH THE IRS

- We know that IRS permits a tax credit tenant to work out of their unit as long as the primary use of the unit is to live in it. Because these tenants usually file "self-employment tax returns", does IRS also permit the tenant to write off all or partial cost of the utilities and rent of the tax credit unit when completing their tax return as these are "business expenses?"
- **IRS Response:** It depends – mostly no since the property use has to be exclusively for business. For example the business person/tenant must prove the amount of utilities claimed was exclusive used for business.

CONVERSATIONS WITH THE IRS

- If an owner of a tax credit property finds and self-corrects over charging rent on a unit or various units of a project and this is found and corrected PRIOR to the state agency sending a notification of a Section 42 Monitoring Review, is this considered a non- 8823 issue?
- ***IRS Response:*** Yes, if owner corrects prior to a Section 42 monitoring visit by state agency, a Form 8823 does not need to be filed.

CONVERSATIONS WITH THE IRS

- If during a state agency Monitoring review a file is found that shows the household was not income eligible at initial move-in, but it's been over 10 years since move-in and on a subsequent recertification the file documents show that the household become income eligible 2 years later, does the state agency still need to report this issue of noncompliance to the IRS?
- ***IRS Response:*** Yes, state agency needs to report the noncompliance issue on Form 8823



Questions?