



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

915 Capitol Mall, Suite 485
Sacramento, CA 95814
p (916) 654-6340
f (916) 654-6033
ctcac@treasurer.ca.gov
www.treasurer.ca.gov/ctcac

MEMBERS

JOHN CHIANG, CHAIRMAN
State Treasurer

BETTY YEE
State Controller

MICHAEL COHEN
Director of Finance

EXECUTIVE DIRECTOR
Mark Stivers

DATE: March 25, 2015
TO: Low Income Housing Tax Credit Applicants, Owners and Interested Stakeholders
FROM: Mark Stivers, Executive Director
SUBJECT: CUAC Utility Allowance for Tax Credit Projects – Submission Requirements and Institution of Fee

Projects funded with Low Income Housing Tax Credits (tax credits) are required to deduct from gross rent an allowance for utilities paid directly by tenants (Internal Revenue Code Section 42(g)(2)(B)(ii)). Treasury regulations (26 CFR 1.42-10) permit a number of options for utility allowance estimates, including an energy consumption model. For some projects, the California Tax Credit Allocation Committee (TCAC) will permit a tenant utility allowance calculated using the California Utility Allowance Calculator (CUAC), an energy consumption model. The CUAC is available to: (1) new construction and adaptive reuse tax credit applicants; and (2) existing tax credit projects with PV system installation through the California Solar Initiative MASH Program (established in 2008 and including the program's extension with Assembly Bill 217) with systems installed that offset tenant area loads. Use of CUAC utility allowances is currently not permitted for all other existing tax credit projects.

TCAC regulations adopted January 21, 2015 included changes to Section 10322(h)(21), utility allowance estimates, including establishing a fee to be paid by applicants and owners proposing the use of the CUAC utility allowance. The fee covers the cost of CUAC quality control reviews, which are required prior to approval of CUAC utility allowances. Previously, TCAC paid for the cost of each CUAC quality control review performed by firms contracted with TCAC (Benningfield Group, Inc. and Build It Green). The cost of each review is dependent on factors including the complexity of the review and the number of issues identified by the quality control reviewer. Each review cost is between \$500 and \$2,500. Project owners will submit a \$500 fee to TCAC with their CUAC documentation and will receive an invoice for any additional costs due (up to \$2,500 total) once the CUAC utility allowance is approved. Please see below for CUAC submission requirements.

CUAC Submission Instructions: New Construction

With the tax credit application, owners should indicate whether they expect to use a CUAC utility allowance, and submit CUAC modeling performed by a qualified energy analyst in Tab 2 of the application attachments. TCAC staff will review the documentation; no CUAC fee is required at the application stage. Final CUAC documentation requirements, located on the TCAC website: <http://www.treasurer.ca.gov/ctcac/cuac/requirements.pdf>, should be submitted 60 days prior to the estimated issuance of a project's Certificate(s) of Occupancy. A fee of \$500 is required with this submission. A quality control review will be done, and the project's energy analyst will be contacted with any questions about the CUAC modeling or documentation. Once the review is complete and the CUAC utility allowance is approved, the quality control firm will provide written documentation of the accuracy of the CUAC report to TCAC, and TCAC will notify the project owner in writing, including an invoice for any additional amount owing.

If for any reason, a new construction project owner initially establishes tenant utility allowances from a public housing authority (PHA) utility allowance schedule, a notice must be provided to tenants informing them of the change to a CUAC utility allowance at least 90 days prior to the effective date (Treas. Reg. 1.42-10) and include the amount of the tenant rent increase. Supporting documentation should be available to tenants or their representatives upon request at an easily accessible location. Please see [here](#) for the TCAC Compliance Manual's utility allowance chapter. Utility allowances may be changed once per calendar year and always require a 90 day tenant notice.

An annual update of the CUAC is required (Treas. Reg. 1.42-10(c)(2)) and should be submitted to TCAC. A fee is not required for the annual update.

CUAC Submission Instructions: Existing Tax Credit Projects with MASH Awards

Owners of existing tax credit projects with MASH awards with PV systems installed that offset tenant area loads must submit the CUAC documentation requirements located on the TCAC website: <http://www.treasurer.ca.gov/ctcac/cuac/requirements.pdf>.

In addition, project owners must submit:

1. **The project's audited financial statements for the period since the PV installation** or, if not available, the most recent audited financial statements (TCAC staff understands that the most recent financial statements could be pre-PV system installation). TCAC staff will review project financial statements. Projects must meet the following cash flow limitations: **Project has cash flow of 15.0% or less of residential income and a 1.50 or less debt service coverage (DCR) ratio.** The project's audited financial statements should support the cash flow limitations. Please include the calculations demonstrating this requirement.

Cash flow is defined per TCAC Regulation Section 10327(f): Revenue less operating expenses, property taxes, service amenity expenses borne by the project, replacement reserves, and debt service. For purposes of this calculation, "revenue" is net residential revenue and includes actual rent collected plus laundry/other revenue but does not include any income the project receives from a commercial or retail tenant. Debt service includes hard debt only, and excludes public soft debt or any debt payable from residual

receipts. Operating expenses are consistent with the line items included in the TCAC application and do not include depreciation expense.

2. **The projected tenant rent increases resulting from the use of CUAC utility allowances.** Please use the TCAC spreadsheet, [MASH CUAC Project – Tenant Rents](#). TCAC urges caution to project owners considering a general rent increase in combination with a CUAC utility allowance decrease. This combination could create tenant economic distress and should be avoided.
3. Project owners must also implement a tenant notification process that includes the following, with a copy submitted to TCAC:
 - An informative summary notice about the proposed allowances under the CUAC, the current utility allowance and method, and the impact on tenant rent payments. This must be provided to tenants at least 90 days prior to the effective date (Treas. Reg. 1.42-10) and include notice of the amount of the tenant rent increase;
 - Supporting documentation should be available to tenants or their representatives upon request at an easily accessible location.

Utility allowances may be changed once per calendar year and always require a 90 day tenant notice.

An annual update of the CUAC is required (Treas. Reg. 1.42-10(c)(2)) and should be submitted to TCAC. A fee is not required for the annual update. **The first year's update submittal must also include a [MASH CUAC Project – Tenant Rents](#) update.**