

## CTCAC 2018 Compliance Workshops – Frequently Asked Questions

### Violence Against Women Act

#### **Q: Is VAWA exclusively for women?**

A: The Violence Against Women Act is designed to protect anyone who is a victim of domestic violence, stalking, sexual assault, and/or dating violence (“VAWA Crimes”) from discrimination in accessing and maintaining federally assisted housing because of the violence committed against them. It is not gender discriminatory and applies to women, men, and transgender.

#### **Q: What documents do we need to have in the Tax Credit File for VAWA?**

A: TCAC will require the HUD VAWA Lease Rider (Form 91067) to be in all Tax Credit files starting in 2018. The lease rider can be signed by all adult household members on one form and is only required at initial move-in.

#### **Q: When do we have to implement the VAWA lease rider in Tax Credit Properties?**

A: The HUD VAWA Lease Rider needs to be in all Tax Credit Files by July 1, 2018.

#### **Q: Does there need to be a separate VAWA Lease Rider for each tenant?**

A: No. For CTCAC purposes, you only need one lease rider that each adult member of the household signs (similar to the Good Cause Eviction Lease Rider). It is only required at move-in. If someone is added to the household at a later date or a minor child turns 18, then they would sign the existing VAWA lease rider at the next annual recertification for the household.

#### **Q: For the VAWA documents (HUD 5380 and HUD 5382) who is the contact? Would it be CTCAC?**

A: No. Since CTCAC is not the enforcing agency for VAWA it should not be listed as the contact. The contact should be the Department of Fair Employment and Housing or the local HUD Office.

#### **Q: Does VAWA trump the requirement for 3 months’ worth of paystubs for an applicant moving onto a property?**

A: No. The requirement for 3 months’ worth of paystubs is an income eligibility requirement for the Tax Credit Program. VAWA is a fair housing guideline that states that you cannot deny based solely on the tenant being a victim of a VAWA Crime.

## Exempt Units

**Q: We have a manager or maintenance person who works at a few different properties. Can they occupy an exempt unit at one of the properties?**

A: Per the IRS, the person occupying the exempt unit must work **primarily** at the property that has the unit they are occupying. They can assist at another property, but the majority of their time needs to be providing service to the property where they are living.

**Q: What are the minimum hours that the manager needs to work at a property to be able to live in an exempt unit?**

A: The IRS considers an Exempt/Manager's Unit is a "facility reasonably required" for the needs of the property. The IRS doesn't define the number of hours. CTCAC will look at the size of the property and if it is determined that the person occupying the unit is working primarily at another property it will be reported to the IRS on Form 8823.

**Q: Can a night manager, groundskeeper, key holder, or on-call manager occupy the Exempt Unit?**

A: No. They do not meet the IRS definition of working primarily for the needs of the property. The only people who are able to occupy the Exempt Unit are the On-site Manager, Assistant Manager, and Maintenance Person who work their primary hours at the same project.

## Vacant Units

**Q: If a property has a vacant unit, management is advertising, and the unit is rent ready, but there hasn't been any interest in it and we don't have a waitlist, would it be reportable to the IRS on Form 8823?**

A: No. As long as the unit was previously occupied by a qualified tenant, it is rent ready and you are actively marketing it (CTCAC requires 3 forms of advertising), then the owner can continue to claim credits on it. CTCAC auditors will inspect the unit and ask for the current marketing materials for the unit at the time of the inspection.

**Q: My property received MHSA funding in addition to Tax Credits and we are required to fill 10 units with the qualified tenants that they send us. What happens if we have a MHSA unit that is vacant for more than 60 days because they are backlogged on their approval process and don't have an applicant to send us?**

A: If the unit is vacant and turn-key ready but you are holding it for more than 60 days waiting for another entity to provide you with an applicant to fill the vacancy, it will be reported to the IRS on Form 8823. This is a risk the owner needs to be aware of if they are taking funding from multiple sources. Occasionally there may be conflicting program requirements. One program does not trump another for

priority; the owner must remain in compliance with both or choose which program they will be out of compliance with.

### **Income Eligibility**

**Q: How do we verify employment from Uber/Lyft or other driver services since they won't complete a VOE?**

A: For Uber, Lyft, Door Dash, etc. the applicant/tenant should be able to print out a record of their earnings for the past 3 months and you can use that to average out their income. Because this kind of driving is considered part self-employment / part cash wages, they can deduct out costs that the IRS allows for this type of income (mileage/maintenance). Alternatively, if they have been driving for over a year and they filed taxes with the IRS, you can use the wages from the previous year's tax return, like you would for other kinds of self-employment.

**Q: For Farm Labor - could you use a tenant's employment documentation from a previous farm (printout, stubs, etc.) if the household will be employed at a different farm picking the same types of fruits or vegetables and will be paid around the same amount of money?**

A: No. You will need to get the VOE or other income documentation from the farm they are currently working at or will be working at move-in.

### **Miscellaneous Questions**

**Q: Can a tenant move from one building to another, if the owner elected a "No" on Line 8b of the 8609 Form if the tenant has a reasonable accommodation request?**

A: No. For a multiple building property where the owner has elected "No" on Line 8b, the IRS treats each building as a separate project for IRS purposes. If a tenant requires a transfer to a unit in another building the management will need to move them out of their current building and income qualify under the current limits for the new building they are requesting a transfer to. If the owner has a reasonable accommodation conflict, the owner and tax credit investor should discuss transferring the household but **not claiming tax credits** on the unit if the household does not income qualify to transfer.

**Q: On a resyndication – what date should you start certifying households?**

A: It is up to the owner/investor. The IRS has stated that for a resyndication the owner needs to certify all existing households under the current limits. For those households that may be over the current limit, they may be grandfathered if there was Tax Credit Regulatory Agreement on the property with Section 42 language and there is a complete certification that clearly shows that the household was income qualified under the previous allocation. Most owners are choosing to certify all households as of one date (for ease of claiming the new credits and tracking purposes), but the IRS does allow that the

certification may occur at the household's next annual recertification date, if the owner should so choose.

**Q: Is Spectrum going to be the contractor for collecting tenant demographic data?**

A: Spectrum has been awarded the contract to collect tenant demographic data for the State of California until 2021.

**Q: It appears that Mark Stivers put out an Emergency Memo in regards to income averaging, does that mean that income averaging is going to happen or will we have to wait until the committee meeting to know if this passed?**

A: The Federal Omnibus Bill that was passed on March 23, 2018 had provisions that allowed for the States to start allowing income averaging. The CTCAC Executive Director Mark Stivers put out a Memo and proposed Emergency Regulations that would allow income averaging under certain circumstances. Please see the current [California Regulations](#) [Section 10325(f)(13) and Section 10326(g)(9)] that were adopted on May 16, 2018 for further detail and restrictions.

**Q: Can income averaging be used on an existing tax credit project?**

A: Income averaging can only be used on properties that have received an allocation of credits after March 26, 2018. Projects that received an award of credits prior to or a pending application as of March 26, 2018 and who have not received their Regulatory Agreement or 8609 Forms, may revise their targeting to accommodate existing over-income tenants only. Existing projects that have already received their 8609 Forms are not eligible to use income averaging. All requests for income averaging must go directly to the Executive Director, Mark Stivers attention. He can be contacted at: [mstivers@treasurer.ca.gov](mailto:mstivers@treasurer.ca.gov)