

SECTION IV – QUALIFYING TENANTS FOR LIHTC UNITS

Potential tenants for low-income, rent-restricted units should be advised early in the application process that there are income limits that apply to these units. Management should explain to potential tenants that the anticipated income of all adult persons expecting to occupy the unit must be included and verified on a Tenant Income Certification (TIC) form prior to occupancy and, then, annually recertified for continued eligibility in mixed-use Tax Credit properties or for one additional income recertification for 100% Tax Credit properties.

Part 400 The Tenant Application

A fully completed application is critical to an accurate determination of tenant eligibility. The information furnished on the application should be used as a tool to determine all sources of income, including total assets and income from assets.

At the time of the application, it is the management agent's responsibility to obtain sufficient information on all prospective tenants to completely process the application and complete the Tenant Income Certification.

CTCAC requires criteria that should be captured in the tenant application. The application should include:

1. The name and age of each person that will occupy the unit (legal name should be given just as it will appear on the lease and tenant income certification).
2. All sources and amounts of current and anticipated annual income expected to be derived during the twelve month certification period. Include assets currently owned and indicate if household members disposed of assets for less than fair market value during the previous two years.
3. The current and anticipated student status of each applicant during the twelve month certification period.
4. A screening process, for example, previous landlord's credit information. Owners should ask applicants whether the family assistance or tenancy in a subsidized housing program has ever been terminated for fraud, nonpayment of rent or failure to cooperate with recertification procedures.
5. The signature of the applicant and the date the application was completed. It may be necessary to explain to the applicant that all information provided is considered confidential and will be handled accordingly.
6. Housing history for the past two years.

Part 410 Tenant Income Verification

IRS Revenue Notice 88-80 (Appendix 4) states that determination of annual income of individuals

and area median gross income adjusted for household size must be made in a manner consistent with HUD Section 8 Income definitions and guidelines. HUD Handbook 4350.3 REV-3, Occupancy Requirements of Subsidized Multifamily Housing Programs, can be used as reference guide and is included in Appendix 2. However, please keep in mind that the allocating agency (CTCAC) can impose stricter requirements for determining income eligibility beyond what HUD Handbook 4350.3 REV-3 requires.

“The accurate determination of a household’s income is a fundamental requirement of the IRC Section 42 Low-Income Housing Credit program. Not only is it necessary for identifying households most in need of housing, but the determination must be adequately documented in order for the owner to claim credits.” – IRS.

The income of every prospective occupant of the unit over the age of 18 must be verified. All regular sources of income including income from assets must be verified. Verifications must be received by the management agent prior to the execution of the Tenant Income Certification and actual move-in. Verifications must contain complete and detailed information and include, at a minimum, direct written verification from all sources of regular income and income from assets. It is the burden of the owner to perform adequate due diligence in obtaining verifiable information. Information that is not verifiable or is unclear, may be questioned by CTCAC during an audit, and may result in reportable noncompliance to the IRS.

A. Effective Term of Verification

Third-party verifications of income are valid for 120 days prior to move-in. If after 120 days the tenant has not yet moved in, a new written verification must be obtained.

B. Methods of Verification

1. Written Verification

Written, third party verification is required. Any request for income verification must:

- (a) State the reason for the request;
- (b) Include a release statement signed and dated by the prospective tenant;
- (c) Provide a section for the employer or other third-party source to state the applicant’s hire date, current anticipated gross annual income or rate of pay, number of hours worked, income YTD including when the annual pay period began, and frequency of pay. Bonuses, tips, commissions and any other additional income sources such as uniform allowance or mileage must be included. Spaces should also be available for a signature, job title, phone number, and date.
- (d) Probability and effective date of any increase during the next twelve (12) months.
- (e) CTCAC requires three months of consecutive pay stubs at initial move-in on addition to the Verification of Employment (VOE) for wage earners only.

2. Verbal Verification

In the past, CTCAC has accepted verbal verification when written verification is not possible prior to move-in, by direct contact with the source and at the owner’s risk.

Although verbal verification is acceptable in HUD Handbook 4350 Rev-3, as of January 1, 2009, verbal verification of income and assets will no longer be permitted by CTCAC due to the significant risk of Tax Credit noncompliance.

Verbal telephone clarifications of existing written documentation will still be allowed for minor issues relating to dates or blanks. However, if the verbal clarification would reduce the income calculation used to determine eligibility, third party clarification must be obtained.

3. Verification Requests

Income verification requests must be sent directly to the source of income by the owner or management agent and returned by the source to the owner or management agent. *Under no circumstances should the applicant or resident be allowed to send or deliver the verification form to the third party source.* It is suggested that a self-addressed, stamped envelope be included with the request for verification, to ensure a timely response.

All tenant income verifications should be date stamped as they are received. However, CTCAC will determine time validity of the verification based on when the source of income signed and dated the verification (120 days)

4. Acceptable Forms of Income Verification

For information concerning acceptable forms of income verification for Employment Income, Self-Employment Income, Social Security/Pensions/Supplemental Security Income (SSI)/Disability Income; Unemployment Compensation, Alimony or Child Support Payments; Recurring Contributions and Gifts; Scholarships, Grants, Veteran's Administration Benefits; etc., see the required CTCAC forms and/or the HUD Handbook 4350.3 REV-3 found in Appendix 2 of this manual.* Please note, CTCAC requirements may be more restrictive than HUD requirements.

**Additional guidance on verification requirements can be found in the IRS Guide to Form 8823, Chapter 4 – 21, Section 2 – Documentation Requirements. (Appendix 2)*

C. Discrepancies in Reported Income

The management agent should give the applicant the opportunity to explain any significant differences between the amounts reported on the application and amounts reported on third-party verifications in order to determine actual income. Discrepancies noted between the VOE and the paystubs may require third party clarification. (See Sect VII part #710)

D. Assets

Assets are items of value, other than necessary personal items. Income from assets must be taken into consideration when determining the eligibility of a household. Asset information (asset value and income from the asset) should be obtained at the time of application.

Third party verification of assets is required when the combined value of assets exceeds \$5,000. Owners of tax credit projects will not have to obtain third-party verification of income from assets if the tenant submits to the owner a signed, sworn statement that the value of their combined assets is less than \$5,000. The tenant's income from the net household assets that are less than \$5,000 must be included in the calculation of the annual income amount when initially qualifying a household and upon recertification.

For information regarding which net household assets are included or excluded to determine the value of and income from assets, see HUD Handbook 4350.3 REV-2

E. Real Estate

1. Normal Sale of Real Estate

Under Section 42, all assets that are disposed of must be accounted for, for two years after their disposal. To determine the asset value of real estate that has been sold at market value- management must calculate both the actual cash value of the property and if the value is over \$5000, the imputed value of the property, and take the **higher of the two amounts**. To do this, take the value of the property, subtract the costs of any outstanding mortgages, and subtract the closing costs for the property. The interest on the cash amount received for a home would be zero, unless the proceeds were put into an interest bearing account like a savings or CD.

Example: Mr. Smith just sold his house and is moving into a tax credit property. The House sold for \$325,000. Mr. Smith owed \$150,000 on his mortgage. Closing costs for the property were \$32,500. All of the proceeds for the sale of the home are currently in a CD earning 3.8% interest. The values of the property are:

$$\$325,000 - \$150,000 - \$32,500 = \$142,500$$

Cash Value: $\$142,500 \times 3.8\% = \5415 would be noted on the TIC as an asset.

Imputed Value: $\$142,500 \times 2\% = \2850

2. Real Estate used as a Rental Property

For real estate that is used as a rental property, two calculations must be completed and then compared. The first calculation is the same as the normal sale of real estate, noted above. The second calculation is the amount of monthly income from the rent, subtracting any mortgage or maintenance amounts. The final income amount that needs to be listed on the TIC is the higher of the two.

3. Foreclosure

A foreclosure is essentially to be treated as a zero asset, as the tenant will not be receiving any monies from the foreclosure. However, until the final foreclosure documents are provided, the house is resold at auction, or the title transfers ownership to an outside party, a tenant has the option to pay off the remaining balance and re-claim the house. CTCAC will require copies of the final foreclosure documents to be in the

file. Notices of Foreclosure will not be accepted as valid documentation.

4. Short Sale

A short sale is essentially to be treated as a zero asset, as the tenant will not generally be receiving any monies from the short sale. However, if there is a difference in the sale in favor of the tenant it must be 3rd party verified if it is over \$5000. The documentation that is required in the file is:

- 1099-C showing the amount and the final debt forgiveness

Or

If the tenant has not received the 1099-C, the following information needs to be 3rd party verified and in the file:

- Market Value (as determined by the bank and the tenant agreeing to a transaction)
- Minus, Costs of the Transaction (commission, closing costs, etc.)
- Minus, Loan Balance owed on Property
- Equals, Equity / Cash Proceeds from the Transaction

5. Reverse Mortgages

Income from a reverse mortgage is not counted as “income” for determination of income eligibility to an applicant of a tax credit unit. The income from a reverse mortgage is comparable to that of a loan that has to be paid back. However, the house is still considered an asset. To determine the value of the house, subtract the principal balance due on the reverse mortgage from the home’s market value to determine its cash value.

F. Computing the Total Household Income

After all income and asset information has been obtained and calculated, all qualified sources of income are added to derive the total household income. In order for the household to qualify for a tax credit unit, the total household income must be less than or equal to the maximum allowable qualifying income for household size in effect at the time of tenant certification. If the total household income is greater than the maximum allowable qualifying income, the household cannot be certified for a tax credit unit.

G. Anticipated Income

CTCAC does not calculate Anticipated Wages into income calculations, unless a definite offer of employment has been made and a start date is set. Instead, CTCAC asks that the Zero-Income Certification form be filled out for the tenant, stating how he or she will be paying the rent and/or other bills. *Please Note - If no tenant in the household is earning wages nor has a different source of income, CTCAC will question how the bills are being paid and an anticipated wage statement will not be sufficient documentation as there is no guarantee of wages.*

Employment that occurs later within the 1st year of tenancy will generally not be an issue for CTCAC. However, if at 1st recertification (for both 100% and Mixed-use properties) the VOE indicates that employment began within the 1st month of the lease, and there was a Zero-Income Statement from the tenant at move-in, CTCAC may request further documentation inquiring about the start date and the date the job was offered to determine income eligibility

H. Cash Payments

As of June 2004, in addition to the Verification of Employment (VOE) CTCAC requires 3 months of current consecutive pay-stubs at move-in. If the tenant is claiming that they do not receive pay-stubs as they are paid in cash, the IRS has determined that those individuals are considered “independent contractors” and as such should file a 1040 tax return. CTCAC will require a copy of the 1040 filing for the tenant and a third party statement from the employer on company letterhead, indicating the name of the tenant, the position title, and how much the employer pays the tenant in cash each week. If the tenant is claiming that he/she does not file tax returns, CTCAC will require a copy of completed Form 4506-T indicating the tenant did not file taxes with the IRS in place of the 1040 Return. The statement from the employer will still be required in addition to the 4506-T. CTCAC will question patterns of excessive use of Cash Wages statements in the 20% audit sample, and may request additional information or a larger audit sample.

Part 420 Initial Tenant Income Certification Guidelines

The initial move-in certification guidelines for 100% and Mixed-use Tax Credit Properties are as follows:

- A. Each adult tenant must sign the following:
 - Lease
 - Tenant Income Certification (TIC)
 - Good Cause Eviction Lease Rider
 - Application

- B. Each adult tenant must complete the required CTCAC forms:
 - Tenant Income Certification Questionnaire (TICQ)*
 - Child/Spousal Support Verification

- C. **If Applicable**, each adult must also complete the following required CTCAC forms:
 - Under \$5000 Asset Verification (*one for each adult, unless married and have joint asset accounts*)
 - Zero Income Certification
 - Marital Separation Status Form
 - Student Affidavit
 - Foster Care Affidavit
 - Single Parent Full-time Student Affidavit
 - Financial Aide Verification

- Live-in Aide Verification

D. Once all the income and asset information has been obtained and calculated, prepare the required CTCAC Tenant Income Certification (see sample, Appendix 3) for each household. The following guidelines apply:

1. Upon receipt of all verifications, owners or managers should review all documentation and calculations, as necessary. If all requirements for eligibility are met, the applicant can be considered as qualified.
2. Execute a lease agreement with a minimum of a 6 month term (*SRO properties may issue a month-to-month lease*). No one may live in a tax credit eligible unit in the project unless he/she is certified and under lease.
3. Management should instruct the prospective tenant(s) to sign the lease exactly as the name appears on the form.
4. It is preferred that the lease be executed on the date of move-in.
5. All adult members of the household must sign and date the lease.

please note that CTCAC requires a completed TIC Questionnaire for **each adult member of a household.*

Part 430 Income Recertification Requirements

A. **For 100% Tax Credit properties only – Please Note:** With the passage of federal legislation known as The Housing Recovery Act of 2008 (HR 3221), on July 30, 2008, the requirement for continuance of annual income recertifications beyond initial move-in certification was abolished. However CTCAC implemented final Regulations on February 25, 2009 requires one additional income annual recertification after initial move-in (1st income recertification) in our 2009 State Regulations.

Failure of 100% Tax Credit properties to perform the mandated 1st income recertification for all files, will put the property out of compliance and at risk of Negative Points given to both the Ownership and Management Company.

1. CTCAC monitors recertification 365 days from the later of the move-in date or the one-year anniversary of the previous certification.
2. Student Status must still be verified annually, to determine if the household met one of the five IRS student exceptions. *Applies to both 100% and Mixed-Use Projects.*
3. In the event a new member has been added to a qualifying household within the 1st year period, the following steps must be taken at 1st income recertification:
 - a. The additional tenant verifications of income and assets must be completed, as

with a new household;

b. The additional tenant's income must be added to the current household's previously certified income. The combined household income must be compared to the maximum allowable income limit in effect at the time and based on actual household size; and

c. If the combined household's income is greater than 140% of the current maximum allowable income, a determination must be made as to whether the building or project will be in violation of Section 42 requirements by adding the new tenant.

Example: 1 person household income limit = \$15,000

2 person household income limit = \$17,000

140% of 2 person income limit = \$23,800

Tenant A is a qualified tenant living alone in a one-bedroom unit. Her income at initial certification was \$10,500. Eight months after Tenant A moves into the project, she informs management that Tenant B will be moving into the unit in two months. Before moving in, Tenant B is certified as earning \$12,900. The household's combined income will be \$23,400.

The house will still qualify, since it is below the 140% limit of \$23,800. If the combined income of Tenants A and B would exceed 140% of the current income limit, the next available unit rule may go into effect.

3. If tenants in a previously qualified household become full-time students, the household can only be considered as a qualified tax credit household if at least one of the student criteria is met as described in Section III, #350 A of this manual.
4. In the event that a tenant occupies a unit in a building prior to the Placed In Service date of the building (as shown on the project's IRS Form(s) 8609), and the verification of the tenant's income was performed more than 120 days prior to the Placed In Service date, the tenant must be recertified on the Placed-In-Service date.
5. In the event the household composition changes in any way, i.e., birth, death, marriage, divorce, or a household member vacates the unit, the household must notify management of the changes throughout their tenancy. Management should keep a record of the reason for the changes in the tenant's file.
6. With the passage of HR3221 on July 30, 2008, and the change in performing annual recertifications in 100% Tax Credit projects, there is no longer a requirement to track transfers to different buildings in 100% Tax Credit projects. Once the IRS releases revisions to the Guide to Form 8823, CTCAC will provide additional guidance on unit transfers in 100% Tax Credit projects
7. For Section 8 recertification, follow the HUD Guidelines.

B. For Mixed-Income Properties – All of the above conditions apply, however, complete 3rd party income and asset recertifications must continue to be performed on an annual basis on the move-in anniversary date. Any transfers to different buildings must also be tracked to comply with the 140% Next Available Unit Rule. (*See Section VII 750 for more information on Mixed-Income properties*). Please note: During a State Agency Monitoring Review, the owner is required to have complete copies of each year's annual recertification in the tenant files for review. Failure to provide this documentation is a reportable issue of noncompliance to the Internal Revenue Service.

C. Recertification Procedure

1. Notify tenant that recertification is due.
2. Interview tenant and obtain information on income, assets and household composition.
3. Every tenant age 18 or over must complete the recertification documentation.
4. Verify each tenant's income and assets. Supporting documentation (third-party income verification, employment verification, child support affidavit, etc.) must be reviewed and added to the Tenant/Unit File each year. (See Maintain a Development File, Section II, #210-I).
5. Complete a Tenant Income Certification.
6. Review the income and asset verifications and the Tenant Income Certification to determine the tenant's eligibility for an LIHTC unit.
7. A renewal lease may be executed at the time all required forms are signed and approved, but is not required by CTCAC.
8. Notify tenants of any rent increase resulting from the recertification.

D. Annual Recertification Waiver (*pre-2008*)

With the enactment of Housing Bill HR 3221, the Annual Recertification Waiver program is no longer relevant and CTCAC's review of the feasibility of implementation has ceased.

Part 440 Students

A. Part-Time Student -

CTCAC has no restrictions on the number of part-time students occupying an apartment as long as there is third party documentation from the school in the file, showing the tenant as part-time only. This should be updated regularly (each semester/quarter) as student status can change and cause a household to become ineligible.

B. Full-time Student (including K-12 and adult dependents) -

In order for a household of full-time students to be considered eligible, they must meet one of the following criteria:

- **Any** member of the household is married and either files or is entitled to file a joint tax return.
- The household consists of a least one single parent and his or her minor children, and the parent is not a dependant of a third party. Any children may be claimed as a dependant of either parent, regardless of tenancy in unit.
- At least one member of the household receives assistance under Title IV of the Social Security Act. (AFDC, TANF, CalWORKS, etc. – Not SSA or SSI)
- At least one member is enrolled in a job training program receiving assistance under the Work Investment Act (WIA) formerly known as the Job Training Partnership Act, or similar federal, state or local laws
- At lease one member of the household is under age 24 and has exited the Foster Care system within the previous 6 years.

C. \$480 Student Income

Under special circumstances, HUD Handbook 4350.3 REV-2, allows only \$480 of a full-time student's income to be counted toward income eligibility. To be eligible all of the following criteria must be met:

- Student cannot be listed as Head, Co-head, or Spouse of Household
- The students full-time status must be 3rd party verified with their school/college
- The students wages must also be 3rd party verified with their employer

Additionally, CTCAC requires that to be eligible under this rule, all the following criteria must also be met and owner must include in the tenant file evidence of such:

- Student must be claimed as a dependent

OR:

- On student's tax filings he/she must show that he/she is a dependent

D. Financial Aid Verification

In February 2006, HUD announced changes to income calculations to include all forms (except loans) of Financial Aid above the cost of tuition (as determined by the school) for all households with students not claimed as a dependent on the Head of Household's Tax Return, or over age 23 with a dependent child(ren). This change applies to both full and part-time students. In July of 2006, CTCAC started to require the Financial Aid Verification form for all households with students in addition to the Student Status Verification form.

In Chapter 4 of the Revised IRS Guide to Form 8823 dated September 2009, the IRS states the treatment of educational scholarships or grants is dependent on whether the student is receiving Section 8 assistance.

CTCAC will no longer calculate any financial aid income for qualified students, except in the instances where Section 8 assistance is received. If Section 8 assistance is received, then the guidelines and exceptions noted in HUD Handbook 4350 Rev. 2, Chapter 5 will be in

effect.

E. Single Parent Full-time Student Affidavit

In January 2008, the IRS clarified the requirement of a single-parent full-time student household. As a result of this clarification, CTCAC is no longer requiring that all children in the household be claimed as a dependant on the Head of Household's 1040 tax return. In place of 1040 tax documentation, CTCAC has created the Single Parent Full-time Student Self Affidavit. **This is a required form as of July 2008.**

Part 450 The Lease and CTCAC Required Lease Rider

All residents occupying tax credit units must be certified and under lease no later than the time a tenant moves into the unit. Leasing guidelines are listed below.

- A. At a minimum, the lease should include (but is not limited to):
1. The legal name of all parties to the agreement and all other occupants.
 2. A description of the unit to be rented.
 3. The date the lease becomes effective.
 4. The term of the lease.
 5. The rental amount.
 6. Any mandatory charges to the tenants
 7. The use of the premises.
 8. IRS Section 42 requirements such as; the rights and obligations of the parties, including income requirements and the obligation of the tenant to certify income annually, as well as, language which addresses income, utility allowance increase/decrease, income limit increase, basic rent changes (in RHS or 236 projects), household composition change or any other change and its impact on the tenant's rent.
- B. Rents on the tax credit units may not exceed the amounts allowed by Section 42 of the Code or stated in the project's Regulatory Agreement (Gross Rent).
- C. There must be an initial lease term of at least 6 months on all tax credit units (except for housing for the homeless and single-room-occupancy). Succeeding leases are not subject to a minimum lease period.
- D. It is important for the lease to reflect the correct date of move-in, or the date the tenant takes possession of the unit. This date should match the move-in date reflected on the initial move-in Tenant Income Certification (TIC)
- E. **CTCAC Required Lease Rider (Good Cause Eviction Rider):**

The CTCAC Good Cause Eviction Lease Rider (Lease Rider) became a CTCAC requirement 2005, and must be executed by new tax credit households. The Lease Rider must be included with leases for all new tax credit households at initial leasing only. The Lease Rider is posted on CTCAC's website. The Lease Rider informs tax credit households

that they may not be evicted by the owner or management agent unless there is “Good Cause” to do so. Once signed, it is not necessary to re-sign a new lease rider at every recertification. If there are any new additions to a household, or a child reaches his or her majority, then the “new” tenant should sign the existing waiver with the current date.

Part 460 The Tenant/Unit File

The Tenant/Unit File must contain the following:

- A. Initial Application. This must include a minimum of a two-year housing history
- B. Tenant Income Certification. This certification should detail the annual income of each resident in the household, applicable area median income limit, and must be signed and dated by all adult household members.
- C. Third Party Verifications. Documentation verifying all income and assets of the household for each certification, and each annual recertification. At move-in, employment verification must be accompanied by three months of pay stubs for each employed adult. (see Appendix 11).
- D. Section 42 Lease Language and/or Addendum. The initial lease term for all Section 42 residents must be a minimum of six months in length, unless the unit is a qualified Single-room-occupancy Unit. It must also include documentation showing the property is monitored under the provisions of IRS Regulation Section 42, and must include information regarding recertification, rent restriction, and student requirements.
- E. Other Documents. These include any optional contract item that the tenant pays for and is not contained in the lease (parking, pets, etc.), or base rent; change in unit occupancy (increase or decrease in household); income and asset certification for all new adult residents.
- F. Applicable Housing and Financing Requirements specific to the Unit. If other housing or financing programs govern the development, the applicable documentation reflecting compliance to its requirements should also be in the resident’s file. These programs may include: HOME Investment Partnership, Tax Exempt Bond Financing, HUD or Rural Housing and Community Development Services (formerly Farmer’s Home Administration).
- G. A Release of Information Consent form signed by each adult member of the household.
- H. Student Eligibility Verification. For information on student eligibility, see Section IV, #440.
- I. If the project was funded as a designated senior property, documentation that the tenant and household is eligible as a “senior” person (Section III, #380).

Annual Recertification:

For 100% properties – one 1st Income Recertification is required on the 1st anniversary date. Subsequent years must have either the Tenant Household Information Form (THIF) or owner's may elect to continue with full recertifications.

For mixed-income properties – annual income recertifications must be done on a yearly basis on the anniversary date of move-in. IRS regulations do not permit mass recertifications of mixed-income tax credit properties.

Part 470 Qualifying Section 8 Tenants for LIHTC Units

An owner's management agent may substitute a completed, executed copy of the HUD 50059 form in lieu of the completed Tenant Income Certification (TIC). A blank TIC signed by all adult household members that includes the following information must accompany the HUD 50059: street address, Building Identification Number (BIN) where the unit is located written at the top.

The substitution of this form does **not** waive the requirement for the owner to maintain supporting income documentation. The income verification procedures outlined in Section IV- 410, and the supporting documentation outlined in Section IV- 460, must be followed when certifying the eligibility of Section 8 certificate and/or voucher holders, and tenants in Section 8 project-based developments. The following modification must be made to the HUD 50059: The street address and BIN of the building in which the unit is located must be written or typed at the top of each form.

The HUD 50059 with supporting documentation replaces only the items outlined in the paragraph above. No other substitution of forms or certification procedures will be permitted. ALL other initial certification and recertification procedures outlined in Section IV, #420, # 430, and #440, and throughout this manual must be followed. ALL of the annual certification requirements, outlined in Section V, #540, must be completed and submitted to CTCAC as described. All other tax credit policies and guidelines outlined in this manual and in federal and state regulations apply to Section 8 projects, except as noted therein.

The Tenant/Unit File must contain a HUD 50059 with supporting documentation for the initial certification and an updated HUD 50059 for every annual recertification. The Tenant/Unit File must contain all other documentation outlined in this section, including, but not limited to, an application and lease agreement.

If a HUD 50059 or updates cannot be obtained by the owner/management agent or the tenant discontinues participation in the Section 8 program, all of the initial certification and/or interim and annual recertification procedures outlined in Section IV, #420, #430, and #440 must be followed.

Using the HUD 50059 to Qualify Tenants for LIHTC Units

Use lines 90-92 from the HUD 50059 to compare to the appropriate area median gross income limit as adjusted for household size. Tax credit income limits are based on the gross annual income of a household, not adjusted annual income.

Use line 111, Total Tenant Payment, to compare to the maximum allowable tax credit rent. Tax credit rent limits are based on the tenant-paid portion of the rent and tenant-paid utilities and do not include any subsidy payments.

In order to maintain Section 42 compliance it is strongly recommended that owner's maintain a section of the tenant file with all required CTCAC verification requirements and mandated forms separate from the section containing the HUD paperwork. **CTCAC does not require the use of separate files for HUD and Tax Credit.** However, if HUD requires separate files from Tax Credit, copies of employment verifications, leases, or other income documentation required by CTCAC may be included in a tax credit file if the originals are required to be in the HUD file. Failure to maintain third party verification of supporting income documentation can result in an issue of noncompliance.

Tax Credit and the Employment Income Verification (EIV) System

CTCAC is currently not authorized to see any income or asset information obtained by using the EIV or TRACS system as required by HUD. Management companies operating project-based Section 8 properties layered with tax credits or those properties with Section 8 voucher holders will have to 3rd party verify income and assets separately following the standard CTCAC procedure.

Part 480 Qualifying Tenants in RHS Projects for LIHTC Units

An owner/management agent of a project financed by the Rural Economic and Community Development (RHS, formerly Farmers Home Administration) may substitute a completed RD 3560-8 form in lieu of the completed TIC. A blank TIC that includes the following information must accompany the RD Form 3560-8: the address, number of bedrooms in the units, the date household moved into the particular unit including the BIN the unit is located in written at the top of the TIC.

The substitution of this form does not waive the requirement for the owner to maintain supporting income documentation. All other initial certification procedures outline in Section IV, #420, #430 and #440, and throughout this manual must be followed.

- A. A worksheet calculating net household assets, detailing:
 1. For each type of asset, the following information:
 - a. the type of asset (cash, real estate property, stocks, etc.).
 - b. the cash value of the asset.
 - c. the actual yearly income from the asset.
 2. The combined total cash value of all assets
 3. The combined total actual yearly income from all assets.
 4. For households with assets with a total cash value exceeding \$5,000 the imputed income from assets based on the HUD approved passbook rate.
- B. The following written or typed at the top of the RD Form 3560-8:
 1. The number of bedrooms in the unit;
 2. The street address and BIN number of the building in which the unit is located

3. The date the tenant moved into the unit.

The RHS 1944-8 replaces only the Tenant Income Certification. No other substitution of forms or certification procedures will be permitted. All other initial certification and recertification procedures outlined in Section IV, #420, #430, and #440, and throughout this manual must be followed. All of the annual certification requirements, outlined in Section V, #540, must be completed and submitted to CTCAC as described. All other tax credit policies and guidelines outlined in this manual and in federal and state regulations apply to RHS projects.

The Tenant/Unit File must contain a RD Form 3560-8 for the initial certification and an updated RHS 1944-8 for every annual recertification. The Tenant/Unit File must contain all of the other documentation outlined in Section IV, #470, including, but not limited to, third party verifications and lease agreement.

If an RD Form 3560-8 is not completed, all of the initial certification and annual recertification requirements and procedures outlined in Section IV, #420, #430, and #440 must be followed.

Using the RHS Forms to Determine Rent and Income

Use Line 18f, from the RD Form 3560-8 to compare to the appropriate area median gross income limit as adjusted for household size. Tax credit income limits are based on a household's gross annual income, not adjusted annual income.

Use Line 33 the Final Net Tenant Contribution, to compare to the maximum allowable tax credit rent. Tax credit rents are based on the tenant-paid portion of the rent and tenant-paid utilities and do not include any subsidy payments.

In order to maintain Section 42 compliance it is strongly recommended that owner's maintain a section of the tenant file with all required CTCAC verification requirements and mandated forms separate from the section containing the RHS paperwork.

Part 490 Acquisition and Rehabilitation

In January of 2007 The IRS released the Guide to Completing Form 8823. Within the guide, Chapter 4 contains a section on Income Certifications when completing an Acquisition / Rehab property. The chapter states that a unit occupied before the beginning of the credit period will be considered to be a low-income unit at the beginning of the credit period, even if the household income exceeds the income limit at the beginning of the first year of the credit period, if two conditions related to income qualifications are met and the units remain rent restricted:

- The household must be income qualified at the time of Acquisition or the date the household started occupying the unit, whichever is later.
- The owner must maintain documentation of the income qualification

If a household is already occupying a unit at the time of Acquisition, the initial Income Certification must be completed within 120 days **after** the date of the acquisition using the current limits in

effect on the day of acquisition. The effective “move-in” date would be the date of acquisition, since the household is already occupying the unit. All CTCAC required documentation must be in the file as well as an updated Application showing the current household composition. However, CTCAC will not require a new lease to be signed, providing there is already a valid lease in effect and a copy of that lease is in the file.

If a household is already occupying a unit at the time of acquisition, but the Income Certification is completed more than 120 days from the Acquisition date, the household must be treated as a new move-in. A new lease and all required CTCAC documentation must show the household is income eligible. The owner would use the income limits in effect at the time of certification, and the effective date would be the date the last adult household member signs the TIC.

Section 42 requires that the Applicable Fraction for the first year of the credit period be calculated based on a month-to-month accounting of units or floor space occupied by income qualified households. For Acquisition/Rehab projects there are two separate allocations of credits – one for Acquisition, one for Rehabilitation. However, there does not need to be a separate calculation for the applicable fraction of both credit allocations. The IRS mandates that the Applicable Fraction for the Rehabilitation will be the same as the Acquisition.

Households that are eligible for the Applicable Fraction calculation are:

- Units that are occupied before the beginning of the credit period providing they are income qualified at the start of the credit period.
- Units that become occupied by a qualified household after the beginning of the credit period (regardless of rehabilitation costs)
- Units that are occupied by a qualified house that transferred from another unit in the project. **Please note** – a household can only be used to qualify a unit once in the 1st year period. If, during the 1st year period, a household transfers from one unit to a vacant unit that had never been occupied, the units swap status. (*see IRS Guide to Form 8823 for rules on Tenant transfers*)
- Vacant units that are suitable for occupancy AND were previously occupied by an income qualified household.

Households that are not eligible for the Applicable Fraction calculation are:

- Units occupied by nonqualified households
- Vacant unit last occupied by a nonqualified household
- Units not suitable for occupancy – including units that are undergoing Rehabilitation CTCAC strongly recommends keeping a chart or spreadsheet that summarizes the current status of each unit during the Rehabilitation process.