Contents

Introduction

While intended primarily for projects financed with Low-Income Housing Tax Credits (LIHTC), the Ohio Housing Finance Agency (OHFA) utility allowance procedures are applicable to any multifamily project assisted by OHFA. On March 3, 2016, the IRS **issued a final utility allowance regulation** (IRS Regulation §1.42-10).

The final regulation provides clarification on the available methods for calculating utility allowances, incorporated IRS Notice 2009-44 relating to sub-metering and provided guidance on energy obtained directly from a renewable energy source.

Note: *Due to HUD's 2025 HOME Rule published January 6, 2025, the PHA utility allowance can now be used for all OHFA funded HOME, HOME-ARP, and Ohio Housing Trust Fund (OHTF) projects . The 2013 Final HOME Rule eliminated the option for owners/management agents to use the PHA allowance for HOME-assisted units allocated funding on/after August, 2013.* ***The 2025 HOME Rule reinstates the use of the PHA option.***

Section 1: Utility Allowance Overview

Utility Allowances

While Utility Allowances are calculated on a building-by-building basis, they must be submitted as one project. As long as the buildings are not Rural Housing Service (RHS) buildings or buildings with RHS assisted tenants and/or HUD regulated buildings, the owner/management agent can choose the method to calculate the utility allowance for any utility for which the tenant is financially responsible. For example, a project currently using a PHA allowance could use the HUD Utility Schedule Model for gas and a utility company estimate for electric. Use of the PHA allowance does not require OHFA approval.

Utilities Included in Allowance:

- Electric
- Gas
- Air Conditioning
- Water/sewer (if individually billed, it must be separated as two different charges on OHFA's PC-E30 form)
- Trash
- Or any item tenant must pay in addition to rent including a range or refrigerator not supplied by the project owner.

Utilities Excluded from Allowance:

- Telephone
- Cable
- Internet service
- Items not included in the eligible basis
- Or any item that is a project expense paid with operating funds.
- With the 2025 HOME Rule, HUD lists broadband as an exclusion from the utility allowance. (24 CFR 92.252(b)) This is applicable to HOME, HOME-ARP, and the Ohio Housing Trust Fund (OHTF) projects.

1. Utilities paid directly to the utility provider or to/through the owner of the building, where the manner in which the tenant is billed is based on their actual consumption (e.g. sub-metering), are included in the Utility Allowance.
2. For sub-metered utilities, the tenant may be charged a fee for the administration of actual-consumption sub-metering. The fee is not part of the gross rent. The fee must be computed in the same manner for every unit receiving the same sub-metered utility service. The fee does not apply to any amount in which the aggregate monthly fee(s) for all the unit's utilities under one or more actual-consumption sub-metering arrangements exceed the greater of:
    a. $5 per month;
    b. An amount designated by publication in the Internal Revenue Bulletin; or,

The lesser of:

a. The dollar amount specifically prescribed under a State or local law; or,
b. A maximum amount designated by publication in the Internal Revenue Bulletin.

3. Ratio Utility Billing Systems

A ratio utility billing system (RUBS) is a billing system, usually used only for water and sewer, that uses one master meter for the entire project or building instead of separate sub-meters for each unit. The owner/ management agent then divides the total utility cost for the project among all tenants using a determined formula. The formula is generally based on factors such as number of occupants, square footage of the unit, number of bathrooms in the unit, etc. Utilities paid through RUBS are not included in utility allowances when determining gross rent because RUBS bills tenants using an allocation formula instead of actual consumption data. Owners/management agents must ensure on a monthly basis that the gross rent (including the RUBS-based utility fee for the month) does not exceed the HOME, NHTF, or LIHTC maximum rent limits.

Included in Utility Allowance:	Excluded from Utility Allowance:
Taxes/fees from the utility company {e.g. service charges, riders, etc.}	Fees charged by a third-party billing company {i.e., Ratio Utility Billing Systems (RUBS)}

Section 2: Applications for Funding

1. New Construction - all utility allowance requests must be submitted to OHFA's Office of Multifamily Housing 10 business days before submission of the final application for 9% competitive, 4% bond, or Housing Development Gap Finance (HDGF) programs.
2. Acquisition/Rehab - all requests must be submitted to OHFA's Office of Multifamily Housing by the date on which the final tax credit application is due.

In the case of newly constructed or renovated buildings with less than 12 months of consumption data, the qualified professional (properly licensed engineer) may use consumption data for the 12-month period of units of similar size and construction in the geographic area in which the building containing the units is located. Reference Section 1.42-10.

Section 3: Utility Allowance Request and Renewals

Requests

All requests to use an alternative utility allowance source must be submitted to **UARequest@ohiohome.org**. Requests must be in pdf format or it will be rejected by OHFA. The following documentation is required:

1. A signed and dated cover letter outlining the utility allowance amounts requested.
2. **OHFA's Utility Allowance Request form**
3. A copy of the 90-day notice to tenants showing the utility allowance amounts requested for each bedroom size and unit type in the project.
4. All documents supporting the request as outlined in Section 5 of this policy. All data must be no older than 60 days prior to the start of the 90-day tenant notice period (Section 1.42-10).
5. Tariffs for all utilities requested. Only pages that refer to Residential Services are required. Designate which riders and numbers are being used.
6. If utilizing a submeter box, a picture of the box must be submitted.

If a utility allowance request/renewal requires additional documentation or corrections, OHFA will send a notice to the owner/management agent. Owners/management agents must respond by the deadline provided on the notice.

Renewals

Owners/management agents must review utility allowances at least once per calendar year and must update the applicable utility allowance in accordance with IRS 1.42-10. The review must take into account any changes to the building such as energy conservation measures that affect energy consumption and changes in utility rates. Utility rates for renewal requests must be no older than the rates in place prior to the beginning of the 90-day tenant notice period.

If the owner/management agent chooses not to renew the OHFA-approved utility allowance **OHFA's Utility Allowance Statement of Non-Renewal form** must be submitted 90 days prior to the expiration date of the existing utility allowance.

Note: *If the owner/management agent fails to conduct an annual review of an OHFA-approved alternative utility allowance source, the owner/ management agent must revert to the current PHA utility allowance.*

Section 4: Projects Initially Placing in Service

Threshold

The owner/management agent is not required to review the utility allowances, or implement new utility allowances until the building has achieved 90% occupancy for 90 consecutive days or the end of the first year of the credit period, whichever is earlier.

Note: *Owners/management agents should continue using the utility allowance listed in the application for funding until the threshold has been met. At that time, the owner/management agent must submit a utility allowance request to OHFA as outlined below in Sections 4 and 5 of this policy unless the PHA allowance will be used. Importantly, the project must be set-up in DevCo with the building and units before a utility allowance request can be approved by OHFA's Office of Program Compliance.*

Section 5: Allowable Utility Allowance Sources

The IRS requires utility allowances are in accordance with IRS Notice 89-6 and Treasury Regulation 1.42-10 which list the following sources of allowable utility allowances for OHFA projects. Utility allowances are a building rule and must be applied on a building basis.

The following utility allowance sources do **not** require OHFA approval:

- Rural Development (RD) Assisted Buildings: Buildings assisted by RD or with RD-assisted tenants must use the applicable USDA Rural Development approved utility allowances. If a building is both RD-assisted and HUD-regulated, use the RD approved utility allowance.
- HUD-Regulated Buildings (i.e., Section 8 Project Based Rental Assistance): Must use the applicable HUD approved utility allowance that is specific to the building. However, if the building is also RD-assisted, use the RD approved utility allowance instead. A building is considered HUD-regulated if HUD reviews the rents and utility allowances for the building on an annual basis.
- HUD Assisted Units (i.e., Section 8 Housing Choice Voucher Tenant-Based Rental Assistance): For those individual units occupied by residents that receive HUD tenant-based rental assistance (i.e., a Section 8 Housing Choice Voucher), must use the applicable HUD utility allowance as given by the Public Housing Authority (PHA) administering the assistance.
- The applicable local Public Housing Authority (PHA) allowance. Owners/management agents must check every 60 days to see if the PHA has updated its UA.

Buildings that are not RD-Assisted or HUD-Regulated may use any of the following utility allowance alternative sources:

- Utility Company Estimate
- HUD Utility Schedule Model
- Engineer's Energy Consumption Model
- Renewable Energy Source

These utility allowance alternative sources and required supporting documentation is outlined in Section 5 of this policy.

Use of any of these alternative sources must be approved by OHFA.

Note #1: *These sources are project-specific allowances. HDAP projects are eligible to use these sources.*

Note #2: *Utility allowances must be updated annually for projects funded with 811 project rental assistance in accordance with* **OHFA's Rent Adjustment Policy***. The utility allowance for the 811 units is the same as the OHFA approved utility allowance for the project as outlined in Exhibit 2 of the project's Rental Assistance Contract (RAC).*

Section 6: Utility Allowance Alternative Sources and Required Documentation

Dates

1. OHFA approved alternative utility allowance sources are made effective on the 91st day to allow for the 90-day waiting period.
    a. Day one of the 90-day period begins on the date OHFA receives the utility allowance request.
2. Alternative methods expire one year from their effective date. Once expired, owners/management agents must revert back to using the PHA utility allowance. Consequences of not doing so, may put the tenant's gross rent over the applicable LIHTC, HOME, or NHTF limits resulting in noncompliance.
3. Renewal requests must be submitted 90 days prior to the expiration of the current utility allowance in effect.
4. Consumption data must be no older than the rates in place 60 days prior to the beginning of the 90-day tenant notice period.

Utility Company Estimate

The estimate must be from a local utility company that provides residential service to the buildings of the project and must be on the utility company's letterhead. The estimate must be for units of similar size and construction in the same geographic area of the subject building and must take into account taxes and fees on the utilities the tenant pays.

The owner/management agent must submit the following backup information to demonstrate how the new utility allowance was calculated. OHFA has discretion to determine the documentation needed to support the utility allowances. These include:

1. Copies of the tenant data received from utility provider, typically in summary format; or
2. Copies of the printouts indicating a summary of monthly data if the tenant was able to obtain data online from their utility provider for the previous 12 months, or 10 months if the case may be; or
3. If the owner/management agent obtained actual monthly utility bills from a tenant, they may submit a spreadsheet summarizing the average of the monthly bills. Copies of the monthly bills may be requested at the discretion of OHFA. The monthly bills, regardless of whether they are provided to OHFA, must be retained by the owner in accordance with 26 CFR § 1.42-5.
4. Sample size: Owners/management agents must have at a minimum half of the different bedroom amounts to gather an accurate average. For example, if the project has 100 two bedroom units, a minimum of 50 two bedroom unit amounts are required.

HUD Utility Schedule Model

The HUD Utility Schedule Model (HUSM) must be completed as a PDF. For information regarding the HUSM, including submission versions and unit type definitions, please refer to **current HUSM guidance**. Owners/management agents must use the correct HUSM unit type on **OHFA's Utility Allowance Request form**. All supporting documentation showing rates, and charges should be highlighted. Residential Rate Schedules must be submitted. The entire tariff does not need to be submitted. However, all applicable residential riders must be included. All riders selected must be reflected to show which riders are being used by circling/highlighting the chosen rider. The HUSM chart from the HUD website will be the only HUSM form OHFA will accept. Other methods to calculate the HUSM will not be accepted.

The utility allowance chart generated by the HUSM must be submitted separately for each bedroom size including the page titled, "Allowances Model for Tenant-Furnished Utilities and Other Services (Based on Form 52667)".

Note: *There are only four types of HUSM units that can be used. These types are Single Family, Single Family attached, Low-Rise (2-4 bedrooms) and Larger Building (5+ bedrooms).*

Engineer's Energy Consumption Model

The Engineer's Energy Consumption Model must, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation (e.g. townhouse versus garden unit), design and materials, mechanical systems, appliances, characteristics of building location and available historical data. The Model must incorporate the utility allowance rider amounts. The energy professional or firm conducting the allowance calculations must submit an energy consumption model projection and meet all of the following conditions:

1. A complete copy of the energy consumption model projection. The projection should show the steps of the process, the projected consumptions and dollar amounts including taxes and fee.
2. Documentation demonstrating that staff supervising the calculation of utility allowances maintains certifications and licenses relevant to the development and implementation of an energy consumption model (e.g. Professional Engineer license, Professional Architect license, Certified Energy Manager or similar designation).
3. Verification of a minimum of one year's experience implementing energy consumption models.
4. Description of the firm or energy professional's experience implementing energy consumption models.
5. Submission of resumes for those completing/overseeing the utility allowance calculations.
6. Submission of a letter from an engineer or architect demonstrating the firm or professional conducting the energy audit is not related to the owner. The firm or professional conducting the energy audit must not be related to the owner within the meanings of Internal Revenue Code Section 267(b) or 707(b).

Renewable Energy Source

Renewable energy is created by a source that does not deplete when used such as wind and solar power. The most common renewable energy source used for multi-family housing is solar power.

The energy source does not need to be purchased from or through a local utility company to meet the submetering requirements outlined in Treas. Reg. 1-42-10. However, the energy source must meet the IRS definition of a renewable energy source. The rate charged to tenants must meet the treasury regulation's rate requirement.

The IRS defines renewable energy as an energy source produced from an energy property (described in IRC 48), and the energy is produced from a facility described in IRC 45(d)(1), (2).

Note: *Treas. Reg. 1.42-10 only applies the definition of renewable energy and facilities found in IRC 45 and IRC 48, and only relates to how the energy is produced. The other requirements contained within IRC 45 and IRC 48 do not apply to the utility allowance regulation.*

A maximum utility rate limit applies when submetering a renewable energy source. The utility rate charged to tenants must not exceed the highest rate that the tenants would have paid if they had obtained the utility from a local utility company. Projects utilizing a renewable energy submetering arrangement must collect and submit the rates published by local utility companies to demonstrate that the rate requirement is met.

<u>Example</u>: Sun Dale Apartments has a submetering arrangement with a solar company that charges $0.12 per kWh. Two local utility providers could provide electricity service to the apartment building: ABC Electric and XYZ Power. ABC Electric charges $0.14 per kWh, and XYZ Power charges $0.16 per kWh. The amount billed to low-income tenants at Sun Dale Apartments cannot exceed $0.16 per kWh, as this is the highest rate.

Section 7: Utility Allowance Approvals

Once the utility allowance is approved, the owner/management is required to maintain OHFA's approval letter and the utility allowance request (as well as back-up documentation) in hardcopy and/or electronic format in accordance with 26 CFR § 1.42-5.

Implementation

- PHA - Any time the PHA makes a new utility allowance schedule available, the updated allowance can be implemented immediately but must be implemented for rent due at least 90 days after the change is made available.
- For RHS buildings or buildings with RHS assisted tenants and HUD regulated buildings, changes to utility allowances are expected to comply with the associated program rules.
- The OHFA approved allowance for an alternative utility allowance source cannot be implemented prior to the end of the 90-day review period/ notification of tenants even if the owner/management agent receives an approval letter from OHFA before that time.

Section 8: DevCo

Owners/management agents are required to update DevCo when:

- Utility allowances changes including when OHFA approves a new utility allowance
- Any time the utility allowance amount changes the rent amount.

For more information regarding adding utility allowances to a project, **click here**.

Section 9: Utility Allowance Alternative Sources Denials and Appeals

Denials

OHFA reserves the right to deny a request for the following reasons, but not limited to,:

- Insufficient or incomplete submission
- Documentation that is more than 60 days old at the time of submission
- Outstanding non-compliance issues (i.e., Uncorrected 8823) until such time the non-compliance is cured and approved by OHFA
- Calculation errors
- Failure to respond to OHFA during the 90 day review period after a utility allowance request is submitted

Appeals

If the utility allowance request is denied, an appeal may be submitted to OHFA with the following requirements:

1. Must be within 10 business days from the date of denial
2. Must be written on company letterhead and signed by the owner or management agent
3. Must specifically describe why the appeal should be granted
4. Must include a copy of the OHFA denial letter

All appeals must be submitted to the OHFA auditor who denied the utility allowance request.

Section 10: Projects in Extended Use

During the Extended Use period, the owner/management agent is not required to submit requests for approval of any utility allowance. However, the utility allowance must be reviewed at least once during a calendar year and compliant with OHFA's utility allowance policy. Any change in utility allowance must also be updated in DevCo. OHFA reserves the right to request documentation demonstrating the utility allowance meets OHFA's utility allowance policy.

Utility allowances, as well as backup documentation, must be kept in hardcopy and/or electronic format throughout the lifetime of the project.

Note: *If a project is sold during the extended use period, the new owner must comply with OHFA's Utility Allowance policy and assumes all responsibility to ensure on a monthly basis the utility allowance does not put the tenant's gross rent over the applicable LIHTC, HOME or NHTF limits.*

Section 11: Noncompliance With Utility Allowances

LIHTC units are considered out of compliance when the gross rent exceeds the applicable rent limit. In the IRS LIHTC Newsletter Issues #44 (issued May 2011) and #45 (issued July 2011), the IRS clarified that utility allowance issues that do not cause rent limits to be exceeded should not be reported via Form 8823. However, if the use of an incorrect or outdated utility allowance causes rent limits to be exceeded, an 8823 will be issued and both line items 11G (violation of gross rent limit) and 11M (utility allowance noncompliance) will be checked as out of compliance on the form. For additional information on utility allowance compliance and noncompliance issues, reference the **IRS Guide for Completing Form 8823, Section XVI**.

Potential utility allowance noncompliance may occur when:

- Rents are not updated within the 90-day time after a new utility allowance is effective
- The owner/management agent did not update the utility allowance annually
- The wrong utility allowance type was used (for example the HUD allowance was not used for a HUD-regulated building or the RD allowance was not used for an RD regulated building)
- The utility allowance was incorrectly calculated
- Utilities are tenant-paid but a utility allowance was not used
- The owner/management agent did not maintain proper documentation to show how the utility allowance was computed.

Section 12: Utility Resources

This list is NOT all inclusive.

Electric

American Electric Power Columbus Southern Power: (800) 277-2177 Ohio Power: (800) 672-2231 **http://www.aepohio.com**	**Duke Energy Ohio** (513) 421-9500 (800) 544-6900 **http://www.duke-energy.com**
AES Ohio **(formerly Dayton Power & Light)** (937) 331-3900 (800) 433-8500 **http://www.waytogo.com**	**FirstEnergy Corp.** (800) 589-3101 (CEI Division) (800) 633-4766 (OE Division) (800) 447-3333 (TE Division) **http://www.firstenergycorp.com**

Natural Gas

Columbia Gas of Ohio (800) 344-4077 **http://www.columbiagasohio.com**	**Duke Energy Ohio** (800) 544-6900 **http://www.duke-energy.com/ohres**
Dominion East Ohio Gas (800) 362-7557 **http://www.dom.com**	**CenterPoint Energy (formerly Vectren)** (800) 227-1376 **http://www.centerpointenergy.com**

Water

Aqua America (877) 987-2782 **http://www.aquaamerica.com**	**Ohio American Water** (800) 673-5999 **http://www.amwater.com**