

INTRODUCTION

While intended primarily for projects financed with Housing Tax Credits, 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.

SECTION 1

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 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.

Utilities Included in Allowance:

- Electric
- Gas
- Air Conditioning
- Water/sewer
- Trash
- Or any item tenant must pay in addition to rent including a range or refrigerator not supplied by the project.

Utilities Excluded from Allowance:

- Telephone
- Cable
- Internet service
- Items not included in the eligible basis
- Or any item that is a property expense paid with operating funds.

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 those utilities that are sub-metered, the tenant may be charged a fee for the administration of actual-consumption sub-metering, where that fee is not considered in gross rent. The fee must be computed in the same manner for every unit receiving the same sub-metered utility service. Such 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 (RUBS)

A ratio utility billing system (RUBS) is a type of system that uses a formula to allocate a project's utility costs based on certain factors such as the number of occupants and the size of the unit. Because RUBS is formula-based and not based on actual consumption, this type of system clearly does not meet the definition of "Actual Consumption Sub-metering Arrangements" under Treas. Reg. 1.42-10(e). However, 1.42-10(e) does not preclude a building owner from using RUBS at a LIHTC project. An owner can still use RUBS, but no utility allowance would be included when determining the gross rent. Instead, the amount charged to the tenant for utilities would be treated as a non-optional fee when determining gross rent. An owner would have to cap the RUBS billings so that rents and RUBS charges never exceed the LIHTC max rent in any specific month.

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 {e.g. Ratio Utility Billing Systems (RUBS)}

Applications for Funding

1. New Construction - all requests must be submitted to the Office of Development in Multifamily Housing 10 business days before submission of the final application for 9% competitive, 4% bond, or HDGF programs.
2. Acquisition/Rehab - all requests must be submitted to the Office of Development in 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.

In addition, in order to get approval for a utility allowance request, the documentation must be submitted to uarequest@ohiohome.org.

Utility Allowance Methods

Of the available methods to calculate a utility allowance, OHFA will accept the following utility methods as defined in IRS Regulation §1.42-10.

The following do not require OHFA approval:

1. Public Housing Authority (PHA) Allowance;
2. Utility allowances as required by other federal programs:
 - a. Rural Housing Services (RHS) buildings or buildings with RHS assisted tenants: The applicable Utility Allowance for the project will be determined under the method prescribed by the RHS (or successor agency), whether or not the building or its tenants also receive other state or federal assistance, including any units occupied by tenants receiving rental assistance payments from the Department of Housing and Urban Development (HUD). No other utility method can be used by RHS buildings or buildings with RHS assisted tenants.
 - b. HUD regulated buildings layered with any program: If neither the building nor any tenant in the building receives RHS rental assistance payments, and the rents and the Utility Allowances of the building are regulated by HUD (HUD regulated building), the applicable Utility Allowance for all rent restricted units in the building is the applicable HUD Utility Allowance. No other utility method described in this section can be used by HUD regulated buildings.
 - c. Units occupied by tenants who receive a Housing Choice Voucher (HCV): The utility allowance for that unit is the utility allowance published by the Housing Authority that issues the HCV.

The following alternative methods must be reviewed and approved by OHFA:

1. Utility Company Estimate
2. HUD Utility Schedule Model
3. Engineer's Energy Consumption Model
4. Renewable Energy Source

2013 Final HOME Rule

The 2013 Final HOME Rule requires Participating Jurisdictions (PJs) to determine an individual utility allowance for each HOME rental project either (1) by using the HUD Utility Schedule Model or (2) by otherwise determining the allowance based upon the specific utilities used at the project.

After receiving guidance from our local HUD office, OHFA will require owners of projects that received HOME funds on or after August 23, 2013 to request a utility allowance from OHFA. Owners of these projects will no longer be able to use the Public Housing Authority (PHA) allowance for any HOME units in the project. Owners of these projects are required to submit an individual utility allowance by using either the HUD Utility Schedule Model, utility company estimate, engineer's energy consumption model or renewable energy source. These are not to include any PHA amount.

LIHTC/HOME Units with HCV Assistance Established after 8/23/13

The HOME program does not allow the PHA utility allowance to be utilized when determining gross rent. When the household has a housing choice voucher (HCV), the owner must use an OHFA approved UA for HOME. In addition management may use the PHA or OHFA-approved utility allowance for LIHTC-only tenants. This means gross rent for a HCV unit that is also a LIHTC unit layered with HOME funds established after August 23, 2013, needs to be calculated two different ways. For LIHTC rent compliance, owners will use the PHA UA (the owner may choose to use the OHFA approved UA for LIHTC units as well), tenant paid rent, and any non-optional charges to determine the gross rent. For the HOME program, owners will use the OHFA approved UA, tenant paid rent, any non-optional charges, AND the Housing Choice Voucher Assistance Amount to determine Gross Rent. Owners must be in compliance with **both** programs' max rent if they decide to make a HCV holder a HOME unit. See example below.

Owners must demonstrate the unit is in compliance with the LIHTC and HOME rent requirements. The OHFA TIC will reflect the LIHTC rent compliance. Owners are required to add the specific [HOME with HCV unit Clarification Record](#) to the file that will illustrate HOME rent compliance. This clarification record should be filed behind page 2 of the TIC.

LIHTC/HOME unit with HCV **IN COMPLIANCE**

Max Rent Info		LIHTC Rent Compliance		HOME Rent Compliance	
LIHTC Max Rent	\$1,000	TPR amount	\$300	TPR Amount	\$300
HOME Max Rent	\$900	HCV Excluded		HCV amount	\$450
		Non-Optional Charges		Non-Optional Charges	
Utility Allowance Info		PHA or OHFA-Approved UA	\$120	OHFA-Approved UA	\$100
PHA UA	\$120	LIHTC Gross Rent Total	\$420	HOME Gross Rent Total	\$850
OHFA Approved UA	\$100	LIHTC Max Rent Total	\$1,000	HOME Max Rent Total	\$900
		In Compliance		In Compliance	
Tenant Paid Rent (TPR) Amount	\$300				
Housing Choice Voucher (HCV) Amount	\$450				

LIHTC/HOME unit with HCV **OUT OF COMPLIANCE**

Max Rent Info		LIHTC Rent Compliance		HOME Rent Compliance	
LIHTC Max Rent	\$700	TPR amount	\$300	TPR Amount	\$300
HOME Max Rent	\$650	HCV Excluded		HCV amount	\$350
		Non-Optional Charges		Non-Optional Charges	
Utility Allowance Info		PHA or OHFA-Approved UA	\$120	OHFA-Approved UA	\$100
PHA UA	\$120	LIHTC Gross Rent Total	\$420	HOME Gross Rent Total	\$750
OHFA Approved UA	\$100	LIHTC Max Rent Total	\$700	HOME Max Rent Total	\$650
		In Compliance		OUT OF Compliance!!	
Tenant Paid Rent (TPR) Amount	\$300				
Housing Choice Voucher (HCV) Amount	\$350				

Owners of projects that received **OHFA HOME funds prior to August 23, 2013** are not impacted by the utility allowance requirement in the 2013 Final HOME Rule and may continue to use any utility allowance method described in this policy, including PHA estimates.

Changes to Utility Allowance

1. 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.
 - Alternative Methods - The approved allowance cannot be implemented prior to the end of the 90-day review period/ notification of tenants (discussed in Section 2), even if the owner receives an approval letter from OHFA before that time.
2. DevCo: It is mandatory for the following to be reported in DevCo:
 - Newly implemented and/or updated utility allowances.
 - Updating rent in DevCo is required any time the utility allowance amount changes the rent amount.

For more information regarding adding Utility Allowances to a project, click [here](#).

SECTION 2: ALTERNATIVE METHODS

Dates

1. Alternative methods should be made effective on the 91st day to be sure to allow for the 90 day waiting period.
 - a. Day one of the 90 day period begins on the date that OHFA receives the UA request.
2. Alternative methods expire one year from their effective date.
3. Renewal requests must be submitted 90 days prior to the expiration of the current utility allowance in effect.

Requests and Renewals

Owners are required to submit the following for all requests to uarequest@ohiohome.org. Only requests submitted in pdf format will be accepted.

1. A signed and dated cover letter to OHFA showing UA amounts being requested.
2. All documentation, including the completed [Utility Allowance Request \(PC-E30\)](#), must be submitted to: uarequest@ohiohome.org.
3. A copy of the 90-day notice to tenants showing UA amounts being requested for each bedroom size and unit type.
4. All documents supporting request. (*See Section 3 for more information*). All data must be no older than 60 days prior to the start of the 90-day period (Section 1.42-10).
5. Tariffs for all utilities requested - only pages that refer to Residential Services are required.
6. If a utility allowance request/renewal requires additional documentation or corrections, a request for the additional documentation or correction will be made via email. Management will be required to respond by the deadline provided on the corrections letter.

Approvals

Once the utility allowance is approved, the owner 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 throughout the lifetime of the project.

Non-renewals

If the owner chooses not to renew the utility allowance, [The Utility Allowance Statement of Non-Renewal \(PC-E31\)](#) must be submitted 90 days prior to the expiration date of the existing utility allowance.

Noncompliance

If the owner fails to conduct an annual review of an alternative method, the noncompliance is corrected by:

1. Reverting to the current PHA utility allowance; AND,

2. Conducting and submitting a new review using current information; OR,
3. Submitting [The Utility Allowance Statement of Non-Renewal \(PC-E31\)](#).
4. Per the 2013 final HOME rule, HOME units will remain out of compliance until a new utility allowance has been submitted and approved.

Applications for funding

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

SECTION 3: ALTERNATIVE METHOD SUPPORTING DOCUMENTATION

In addition to the Utility Allowance Request, a letter to OHFA outlining the requested utility allowance amounts and a notification to tenants (90-day notice) regarding the utility allowance amounts must be submitted in PDF format. Tariffs for all utilities requested must be submitted - only pages referring to Residential Service.

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. If the project is new construction 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 that the tenant pays. The estimate must utilize a minimum sample size per the below table. Units included in the sample size must have at least 10 months of occupancy.

Number of Units*	Minimum Sample
1-20	All
21-61	20
62-71	21
72-83	22
84-99	23
100-120	24
121-149	25
150-191	26
192-259	27
260-388	28
389 and above	29

*Per bedroom size. If the project consists of multiple non-identical buildings (the buildings are not substantially similar), then the sampling must be performed for each bedroom size for each building on the site.

The owner/management agent shall submit backup information that demonstrates how s/he calculated the new utility allowance(s). OHFA has discretion to determine the documentation needed to support the utility allowances. Some examples of backup information include:

- a. Copies of the tenant data received from utility providers, typically in summary format; or
- b. 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
- c. 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. Actual monthly bills may be requested at the discretion of OHFA. These bills, regardless of whether they are provided to OHFA, must be retained by the owner for three (3) years.

HUD Utility Schedule Model

The HUD Utility Schedule Model (HUSM) submitted must be completed in either the Excel-based version (converted to a PDF format) or web version. For more information regarding the HUSM, including submission versions and unit type definitions, please refer to current HUSM guidance [here](#). Please make sure to use the correct HUSM unit type on form PC-E30. All supporting documentation showing rates, blocks, and charges should be highlighted. Residential Rate Schedules need to be submitted. The entire tariff does not need to be submitted; however, all applicable residential riders must be included.

The utility allowance chart the HUSM generates should be submitted separately for each bedroom size including page "Allowances Model for Tenant-Furnished Utilities and Other Services (Based on Form 52667)" in addition to documentation showing the amounts input into the HUSM resulting in submitted outcome.

Engineer's Energy Consumption Model

The Engineer's Energy Consumption Model submitted must, at 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 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 indicating that 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, and the rate charged to low-income 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).

Please 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 low-income 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 should collect and submit the rates published by local utility companies to demonstrate that the rate requirement is met.

Example: 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 4: SUBMISSION OF ALTERNATIVE METHOD REQUESTS

OHFA will accept submissions via email with all required documentation to uarequest@ohiohome.org.

OHFA will only accept requests in PDF format.

Projects Initially Placing in Service - The owner 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.

By the end of the 90-day period discussed in Section 2, OHFA will send a letter of approval or denial to the owner after the review has been completed.

SECTION 5: ALTERNATIVE METHOD 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, e.g. Uncorrected 8823s; until such time the non-compliance is cured and approved;
- Calculation errors.

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 in writing 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 denial letter.

All appeals should be submitted to UArequest@ohiohome.org.

SECTION 6: PROJECTS IN EXTENDED USE

During the Extended Use period, the owner is not required to submit requests for approval of any utility allowance; however, the utility allowance must be updated on an annual basis and consistent with the current utility allowance policy. Any change in utility allowance must also be completed in DevCo on an annual basis. Documentation for the utility methodology selected must be updated annually. OHFA reserves the right to request documentation demonstrating the utility allowance meets OHFA's policy. Utility allowances, as well as backup documentation, are to be kept in hardcopy and/or electronic format throughout the lifetime of the project.

SECTION 7: UTILITY RESOURCES

This list is NOT all inclusive.

Electric

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

Natural Gas

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

Water

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