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 source (§1.42-10T).

SECTION 1

Utility Allowances

Utility Allowances are calculated on a building-by-building basis. 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 electricity.

Utilities Included in Allowance:

- Electric
- Gas
- Water/sewer
- Trash
- Or any item tenant must pay in addition to rent including a range, refrigerator, and/or air conditioner not supplied by the building.

Utilities Excluded in 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.

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 residents: 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 residents.
    b. HUD regulated buildings layered with any program: If neither the building or any resident 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.

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.

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.

Effective January 1, 2017, owners of these projects are required to submit an individual utility allowance by using either the HUD Utility Schedule Model, utility company estimate or engineer's energy consumption model.

Projects that have a utility allowance mandated by another Federal Program (e.g. HUD Section 8, Rural Development) may use the utility allowance as determined by the housing contract. Due to the HOME program not allowing the PHA utility allowance to be utilized, a household with a Housing Choice Voucher would not be able to meet the HOME UA criteria. If selecting such a unit is the only option at the property, the owner must contact OHFA for further guidance.

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 method described in this policy, including PHA estimates.

Changes to Utility Allowance

1. Implementation
    a. PHA - Anytime 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.
    b. For RHS buildings or buildings with RHS assisted residents and HUD regulated buildings changes to utility allowances are expected to comply with the associated program rules.
    c. Alternative Methods - The approved allowance cannot be implemented prior to the end of the 90-day review period (discussed in Section 2), even if the owner receives an approval letter from OHFA before that time.
2. DevCo - the following information must be recorded in DevCo for each change
    a. The updated allowances.
    b. Proof of verification or approval.
    c. The updated rents, if applicable.

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 before the expiration of the current utility allowance in effect.

Requests and Renewals

Owners are required to submit the following for all requests (per project):

1. The completed Utility Allowance Request Form (PC-E30) must be submitted to: uarequest@ohiohome.org.
2. 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).
3. If a utility allowance approval requires additional documentation or corrections, a request for the additional documentation or correction will be made via email and management will have 10 business days to respond.

Approvals

Once the utility allowance is approved, it is the responsibility of the Owner and Management Company to follow procedures discussed in Section 1(D). OHFA requires that the owner maintain OHFA's approval letter and the utility allowance request in hardcopy and/or in electronic format.

Non-renewals

If the owner chooses not to renew the current utility allowance, The Utility Allowance Statement of Non-Renewal Form (PC-E31) must be submitted prior to its expiration date.

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 Form (PC-E31).

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 SUPPORT DOCUMENTATION

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 that the tenant pays.

HUD Utility Schedule Model

The HUD Utility Schedule Model (HUSM) submitted must be completed in either the Excel-based version or web version available here. All supporting documentation showing how rates, blocks, and charges were selected for each utility entered into the HUSM.

Engineer's Energy Consumption Model

The Engineer's Energy Consumption Model submitted 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 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).

SECTION 4: SUBMISSION OF ALTERNATIVE METHOD REQUESTS

OHFA will accept submissions by:

- Email the UA Request and all required documentation to: uarequest@ohiohome.org. OR
- Mail to the attention of the Compliance Operations Manager, Office of Multifamily Housing, Ohio Housing Finance Agency, 57 East Main St., Columbus, Ohio 43215

Properties 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. The following additional requirement must be followed:

- A utility allowance request must be submitted to the Office of Multifamily Housing by the date on which the final Housing Tax Credit or Housing Development Gap-Financing (HDGF) applications are due. This will allow OHFA to timely complete the final underwrite should the owner be awarded a tax credit allocation(s).

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;
- Outstanding non-compliance issues, e.g. Uncorrected 8823s; until such time the non-compliance is cured and approved by the Compliance Operations Manager;
- 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 owner agent;
3. Must specifically describe why the appeal should be granted.

SECTION 6: PROJECTS IN EXTENDED USE

During the Extended Use period, the owner is not required to submit to OHFA 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 allowances 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.

SECTION 7: 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
Dayton Power & Light (937) 331-3900 (800) 433-8500 http://www.waytogo.com/	**First Energy** (800) 589-3101 (CEI Division) (800) 633-4766 (OE Division) (800) 447-3333 (TE Division) http://www.firstenergycorp.com/

Natural Gas

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

Water

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