APPENDIX I

Section 42 Utility Allowance Guidelines
Updated June 2020

Utility allowance (UA) calculation requirements have been revised for Section 42 projects by IRS Treasury Regulation § 1.42-10. This change took effect for taxable years beginning on and after July 29, 2008.

The above provisions are not applicable to properties operating under the Rural Housing Service or HUD Section 8 (in combination with Section 42) or any building in which any resident receives Rural Housing Service rental assistance.

Following is a LINK to the IRS Treasury Regulation § 1.42-10. Please review the regulation prior to determining your utility calculations.

1.42-10 Utility Allowances

UTILITY ALLOWANCE CALCULATIONS REQUIRED PER PROPERTY TYPE:

Section 42 operating in combination with Rural Housing Service **OR** any building in which any resident receives Rural Housing Service rental assistance:

- Use the applicable RHS utility allowances.

Section 42 operating in combination with HUD Section 8:

- Use the applicable HUD utility allowances.

Section 42 operating in combination with HUD Section 8 tenant-based vouchers:

- Use the applicable local PHA utility allowances.

Section 42:

- Applicable utility allowances for rent-restricted units in the building are determined using the:
    1. Local Utility Company Estimate
    2. HUD Utility Schedule Model,
    3. Energy Consumption Model, or
    4. Applicable Local PHA Utility Allowances

    NOTE: Agency Estimates permitted per IRS Treasury Regulation § 1.42-10 are not applicable in Wisconsin.

    1) Utility Company Estimate Model
        - Calculate utility allowances using estimates obtained from the local utility company. Any utility company furnishing an estimate must offer utility services to the building.

    2) HUD Utility Schedule Model
        - Calculate utility estimates using the "HUD Utility Schedule Model" found at http://www.huduser.org/portal/resources/utilallowance.html

3) Energy Consumption Model

- Utility consumption estimates must be calculated by a properly licensed engineer using an energy consumption model which must, at a minimum, take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location.
- The engineer and building owner must not be related [within the meaning of Section 267(b) or 707(b)].
- For newly-constructed or renovated buildings with less than 12 months of consumption data, the engineer may use consumption data for the 12-month period of units of similar size and construction within the geographic area in which the building containing the units is located.

4) Local PHA Utility Allowances

- Obtain utility allowances from the applicable local PHA.

WHEDA's REQUIREMENTS FOR SUBMITTING UTILITY INFORMATION:

A. Project buildings utilizing PHA utility allowances:

- LIHTC form 205 Part A.

B. Project buildings utilizing:

1) Local Utility Company Estimates, 2) the HUD Utility Schedule Model, or 3) the Energy Consumption Model:

- Supporting documentation for options 1,2, or 3 above:
  1) Documents provided by local utility company supporting calculations
  2) Documents generated from the HUD Utility Schedule Model
  3) Documents provided by the engineer to support calculations *AND* a photocopy of the engineer's current license
  4) LIHTC Form 205 Parts A & B
  5) Copy of the 90-day notice to residents

In the event the new utility allowance is a $5.00 or more change from the previous year's calculation as explanation must be provided on Form 205 with your submission.

Submit to: LIHTC Monitoring
WHEDA
P.O. Box 1728
Madison, WI 53701-1728

FREQUENCY OF UTILITY ALLOWANCE REVIEWS

At least once during each calendar year, the basis on which utility allowances have been established must be reviewed and updated regardless of any percentage change in utility rates.

1. Reviews must take into account any changes to the building such as any energy conservation measures that affect energy consumption and changes in utility rates.

2. Building owners may choose to calculate new utility allowances more frequently than once per calendar year, provided the owner complies with the requirements for implementing utility allowances.

3. Building owners are not required to review or implement new utility allowances until the building has achieved 90 percent occupancy for a period of 90 consecutive days, OR the end of the first year of the credit period, *whichever is earlier.*

EXCLUDED COSTS:

Cable television, telephone and internet costs are specifically excluded from utility allowance calculations.

Reminder: Only utility costs paid directly by the resident(s) and not by or through the owner are included in the utility allowance calculation. Unit gross rents include the applicable utility allowance. The maximum rent that may be paid by the tenant is to be reduced by a utility allowance as determined by one of the methods described above.

NOTIFICATION REQUIREMENTS AND DATA COLLECTION:

Utility rates used to calculate analysis must be no older than the rates in place 60 days prior to the beginning of the 90-day period. WHEDA and all building residents must be notified of utility allowances 90 calendar days prior to the UA effective date.

SAMPLE TIMELINE FOR A UTILITY ALLOWANCE CHANGE:

Utility allowance effective date = August 1, 2020

- March 4, 2020 – May 2, 2020 (60 calendar days). Obtain utility data for the previous 12 months and calculate the utility allowance.
- No later than May 3, 2020 (90 calendar days). Owner notifies WHEDA and all building residents of utility allowance.
- May 3 – July 31, 2020 – WHEDA reviews and approves utility allowance.
- WHEDA sends notification in writing approving/concurring with utility allowance.

NOTE: WHEDA may require additional information from the owner during the 90-day period.

EXPENSES INVOLVED IN OBTAINING UTILITY COSTS:

Owner must pay for all costs incurred in obtaining utility allowance estimates and providing them to both WHEDA and building residents.

RECORD RETENTION:

The building owner must retain any utility consumption estimates and supporting data as part of the taxpayer's records.