

## SECTION 42 UTILITY ALLOWANCE GUIDELINES

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

### UTILITY ALLOWANCES 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 on the Low-Income Housing Tax Credits page at <http://www.huduser.org/datasets/lihtc.html> (or successor URL).

#### 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.

**SUBMISSION REQUIREMENT FOR WHEDA:**

Project buildings utilizing PHA utility allowances:

- AHTC Form 205 Part A.

Project buildings utilizing:

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

- Supporting documentation for option 1, 2 or 3:
  - 1) Documents provided by local utility company supporting calculations.
  - 2) Documents generated from the HUD Utility Schedule Model.
  - 3) Documents provided by engineer to support calculations AND a photocopy of the engineer's current license.
- AHTC Form 205 Parts A & B.
- Copy of 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 an explanation must be provided on Form 205 with your submission.

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

**FREQUENCY OF UTILITY ALLOWANCE REVIEW:**

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.

- 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.
- 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.
- 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.*

**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, 2009

- March 4, 2009 - May 2, 2009 (60 calendar days). Obtain utility data for the previous 12 months and calculate the utility allowance.
- No later than May 3, 2009 (90 calendar days). Owner notifies WHEDA and all building residents of utility allowance.
- May 3 – July 31, 2009 – 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 OF OBTAINING 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.