



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

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Special Attention of:	Notice:	H-2015-04
Multifamily Regional Center/Hub Directors	Issued:	June 22, 2015
Multifamily Satellite/Program Center Directors	Revised:	September 9, 2015
Rural Services (RHS) Directors	Expires:	This notice remains in effect until amended, revoked, or superseded
Supervisory Housing Project Managers		
Housing Project Managers		
Contract Administrators		
Multifamily Owners and Management Agents		

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Subject: Methodology for Completing a Multifamily Housing Utility Analysis

I. PURPOSE

This notice provides instruction to owners and management agents (O/As) for completing the utility analysis required at the time of the annual or special adjustment of contract rents and when a utility rate change results in a cumulative increase of 10 percent or more from the most recently approved utility allowance. As discussed below in Part III, the notice builds upon the June 2011 memorandum titled *Clarification Utility Allowance Regulations* issued by former Deputy Assistant Secretary for Multifamily Housing Programs, Carol J. Galante. Sections IV. A. 1. b) and IX. C. have been revised for clarity.

II. APPLICABILITY

This notice is applicable for the following programs:

- A. Project-based Section 8
  1. New Construction
  2. State Agency Financed
  3. Substantial Rehabilitation
  4. Section 202/8
  5. Rural Housing Services (RHS) Section 515/8
  6. Loan Management Set-Aside (LMSA)
  7. Property Disposition Set-Aside (PDSA)
- B. Section 101 Rent Supplement
- C. Section 202/162 Project Assistance Contract (PAC)
- D. Section 202 Project Rental Assistance Contract (PRAC)
- E. Section 202 Senior Preservation Rental Assistance Contracts (SPRAC)

- F. Section 811 PRAC; Project Rental Assistance (PRA)<sup>1</sup>
- G. Section 236
- H. Section 236 Rental Assistance Payments (RAP)
- I. Section 221(d)(3) Below Market Interest Rate (BMIR)

### III. BACKGROUND

The Department of Housing and Urban Development's (HUD) Office of Multifamily Housing has been working towards streamlining the methodology for utility analyses as part of a larger effort to make energy and water conservation a priority at all HUD Multifamily properties. Currently, HUD's annual outlay for utilities is more than six billion dollars a year. HUD is exploring how to make the Multifamily portfolio more energy and water efficient, to reduce O/As' operating costs and reduce HUD outlays for utilities.

The Department is a partner in the President's Better Buildings Challenge (BBC), a voluntary leadership initiative that asks building owners, developers, and managers to make a public commitment to energy efficiency. Many BBC Multifamily partners own HUD-affiliated properties and Multifamily Housing is providing incentives to help O/As meet the BBC goal to reduce energy consumption by 20 percent over ten years across their entire portfolio. Accurate utility data collection and analysis are integral to success in the reduction of energy and water consumption. This notice is a key step in streamlining the methodology for determining utility allowances. Additionally, it is expected that the data-centered approach will offer an opportunity for O/As to reevaluate property energy usage and make efforts to conserve where feasible.

In June 2011, then Deputy Assistant Secretary for Multifamily Housing Programs, Carol J. Galante issued a memorandum to Multifamily Hub and Program Center Directors and Contract Administrators providing clarifications to existing statutes, regulations, and policies regarding utility allowances in Multifamily Housing properties, but did not identify a methodology to be used to complete a utility analysis and determine utility allowances. The memorandum clarified the following:

- Owners of multifamily housing properties that receive subsidy assistance, and for which HUD provides a utility allowance, are required to adjust their properties' utility allowances every year at the time of the annual and special adjustments of contract rents.
- Utility adjustments must be supported by a utility analysis.

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<sup>1</sup> A Project Rental Assistance (PRA) property with a Rental Assistance Contract (RAC) that specifies use of the HUD Multifamily Housing policy for developing utility allowances will use the methodology outlined in this notice to develop utility allowances for that property.

- Adjustments to the utility allowance must be made regardless of whether the utility analysis shows an increase or a decrease.
- Rent adjustments must be held until the owner submits the utility analysis and all other required submissions. Once submitted, the rent adjustment will be retroactively implemented.
- Owner certifications in lieu of a utility analysis are not permitted.
- As required by 24 CFR 245.405(a) and 245.410, a minimum of 30-days notice must be provided to tenants for any utility allowance decrease.
- Tenants have the right to participate in and comment on a proposed decrease in the utility allowance.
- A decrease in a tenant's utility allowance does not constitute a change in total tenant payment.
- Multiple utility allowance adjustments are permitted throughout the contract year.
- A utility allowance must be increased mid-year when changes in utility rates result in an increase of 10 percent or more to the utility allowance from the most recently approved utility allowance.

Since the June 2011 memorandum was issued, industry partners have requested that Multifamily Housing leadership provide a national standard for an acceptable analysis, which will also provide an appropriate utility allowance to their tenants. To accomplish these goals, industry leaders asked Multifamily Housing to provide helpful tools to assist them in conducting a reliable analysis. These tools, which have been included in this notice or as an attachment to this notice, include a sample tenant consent form, a directive requiring tenants to provide utility data upon request, and an Excel spreadsheet to aid in the allowance calculation.

The regulation at 24 CFR Part 5.603 defines Utility Allowance as the estimate of the “monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances.” The utility analysis methodology described below is premised on calculating average utility consumption based on actual tenant consumption by unit size, which Multifamily Housing in consultation with HUD’s Office of Policy Development and Research proposes as an estimate of reasonable consumption by an energy-conservative household of modest circumstances. This has been and continues to be the basis for utility analyses in the programs covered by this notice.

#### IV. UTILITY ANALYSIS METHODOLOGY

Multifamily property owners must establish baseline utility allowances for each of their bedroom sizes once every third year, which are determined by using the baseline utility analysis outlined in Section A below. For the two years after the baseline is established, O/As have the option to perform a factor-based utility analysis, as described in Section B below.

## A. Baseline Utility Analysis

A baseline utility analysis makes use of the sample size methodology detailed in Part VI below. To perform a baseline analysis, the O/A must perform the following steps:

1. Request utility data from either the utility company or the tenant household for at least the number of units determined by the sample size methodology detailed below. This must be done for each bedroom size at the property. If the property consists of multiple identical buildings (or buildings that are substantially similar), then the sampling may be performed at the property level (encompassing all buildings on a site) for each bedroom size. If the buildings are not identical, the sampling must be done for each bedroom size for each building.

A unit should be excluded from the sample if it:

- a) Is receiving an increased utility allowance as a reasonable accommodation;
- b) Has been vacant for more than 2 months. Units included in the sample should have at least 10 months of occupancy; or
- c) Is receiving a flat utility rate as part of a low-income rate assistance utility program.

Note: A baseline utility analysis can use a sampling greater than the HUD approved sample size.

2. Determine the average utility cost for each bedroom size without removing any units from the analysis beyond those excluded from the sample size as indicated in (1) above.

Do not remove the highest or lowest utility cost household when determining the average.

3. Recommend this amount to the contract administrator (CA) for approval.

A sample format for utility allowance submissions, which includes built-in formulas to average utility costs for each unit size, can be found as Attachment A to this notice.

Multifamily Housing recognizes the difficulties associated with obtaining utility data from utility companies and tenant households. To assist in obtaining the

required sample size, a sample tenant release form is attached to the notice (Attachment B). Designating a workstation in the management office for tenants to access their utility accounts and print utility information has proven to be an effective way to obtain data.

1. Implementation - Properties with Contract Anniversary Dates Within 180 Days of Publication of this Notice

Properties that fall into this category can choose to perform their upcoming annual utility analysis using either the existing methodology or the methodology outlined in this notice. If the existing methodology is used, a baseline analysis as described above must be used at the next contract anniversary date to establish baseline utility allowances.

2. Properties with Contract Anniversary Dates 180 Days after Publication of this Notice

Properties that fall into this category must perform their upcoming utility analysis using the methodology outlined in this notice.

B. Factor-Based Utility Analysis

For the two years after a baseline utility analysis is completed, the utility allowance amounts for each bedroom size and each utility at the property can be adjusted by a state-specific increase factor, the Utility Allowance Factor (UAF), provided by HUD, in lieu of a baseline utility analysis. The UAF, which can be found on the HUDUser website, is determined by considering the state-specific average retail price of electricity, natural gas, water, and oil/propane for residential customers that is published by the U.S. Energy Information Administration.

After completing the property's utility analysis under the factor-based utility analysis method, O/As should compare the adjusted utility analysis to their paid utilities over the previous twelve months. If, in the O/A's determination, the results indicate a significant disparity between the two, the O/A should complete a baseline analysis to help ensure the allowance(s) provided are accurate.

C. Utility Allowance Changes Outside of the Contract Rent Adjustment Schedule

Owners are required to submit documentation and a request for an increase in utility allowances when changes in utility rates result in a cumulative increase in utility allowances of 10 percent or more from the most recently approved utility allowance. When the owner requests an increase in utility allowances, the owner must submit either of the following as evidence of the rate change:

1. Utility bills from the month prior to the utility rate change and the first month after the utility rate change; or
2. Verification of the increase from the utility provider.

Note that a 10 percent or greater increase in any one utility component may not necessarily result in a corresponding 10 percent or greater increase in the utility allowance. Only when a utility rate change results in a cumulative utility allowance increase of 10 percent or more must the owner request the increase.

If required under the triennial cycle, the owner must still complete a baseline utility analysis at the next contract rent adjustment. If the owner performed a baseline utility analysis in the previous year and can use a factor-based utility analysis at the time of contract rent adjustment, the utility for which the rate was raised will not be adjusted by the UAF for that utility; however, all other utilities will be adjusted by the UAF.

## V. UTILITY ALLOWANCE DECREASES

### A. Notice to tenants

Whenever an adjustment to the utility allowance results in a decrease, an owner must follow the requirements of 24 CFR Part 245.405(a) and 245.410 regarding notice to tenants.

### B. Phase-in of certain decreases

If the utility allowance decrease that results from the initial application of this methodology would exceed 15 percent of the most recent utility allowance and that decrease is equal to or greater than \$10, the decrease must be phased-in. This means the O/A will implement a 15 percent decrease from the most recent utility allowance for that year, and then implement the remainder of the calculated decrease the following year, so that no decrease in any one year is greater than 15 percent.

For example, if a tenant's previous utility allowance was \$120 and the analysis indicates a total adjustment that decreases it to \$96 (a 20 percent decrease), the utility allowance has exceeded the 15 percent decrease (and the decrease is at least \$10); the O/A will submit an adjustment to \$102 (a 15 percent decrease from \$120) in the first year and then a further adjustment the following year to \$96 (multiplied by the applicable UAF), such that the full adjustment is phased-in over two years. The UAF will be applied in the second and third years of the triennial cycle after subtracting out any phased reduction. To continue with the example above, \$96 would be multiplied by the UAF to establish the second-year utility allowance. (If the decrease is less than \$10, the owner will implement the full decrease without any phase-in.)

## VI. UTILITY ANALYSIS SAMPLE SIZE

The O/A must use an appropriate sample size to perform a statistically accurate utility analysis. Multifamily Housing requested assistance from HUD's Office of Policy Development and Research (PD&R) to determine the appropriate sample size. To support this study, utility analyses were obtained from properties in California, Florida, Indiana, Massachusetts, New York, North Carolina, Ohio, and Washington, DC. PD&R's research, which used a 12 percent margin of error and a 95 percent confidence interval, resulted in the sample size rule and formula below.

This formula has been built into the utility allowance submission template mentioned earlier and Figure 1 below shows how it translates based on the number of units per bedroom size.

<b>Figure 1</b>	
<b>Number of Units *</b>	<b>Minimum Sample</b>
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 property 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.

Figure 2 below illustrates how many units would be sampled using a random representation of contract units of multiple bedroom sizes within a property.

<b>Figure 2</b>		
<b>Bedroom Size</b>	<b>Number of Contract Units</b>	<b>Sampling for Utility analysis</b>
0 Bedroom	15	15
1 Bedroom	113	24
2 Bedroom	74	22
3 Bedroom	50	20
4 Bedroom	7	7
Total Units	259	88

Rule:

- If  $N < 20$ , sample all units
- If  $21 \leq N \leq 61$ , sample 20 units
- If  $N > 61$ , sample  $n_0$  using the formula below.

Formula:

$$n_0 = (z^2) * (CV^2) / (e^2 + (z^2) * (CV^2)/N)$$

- N is the number of Section 8 units of a particular bedroom size
- z is the value corresponding to a 95% confidence interval = 1.96
- CV is the coefficient of variation of utilities, which is set at 0.34
- e is the acceptable percent margin of error, which is set at 0.1

## VII. ALLOWANCES FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

Properties undergoing new construction or substantial rehabilitation may establish initial utility allowances for new or rehabilitated units based on analysis completed at underwriting through an energy consumption model, including an HFA-approved utility allowance calculator. This option is based on guidance established by the Internal Revenue Service under Section 42 Utility Allowance Regulations Update. The energy consumption model 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. Second, the utility estimates must be calculated by either (1) a properly licensed engineer or (2) a qualified professional approved by HUD. Third, the owner must furnish a copy of the estimates derived from the energy consumption model to HUD or the CA and make copies of the estimates available to all tenants in the building. Finally, the building owner must pay for all costs incurred in obtaining the utility estimates from the qualified professional and providing



the estimates to HUD and tenants. The O/A may use the utility allowance model instead of the methodology outlined in this notice to establish utility allowances only in the first year of occupancy post-construction.

For example, a property newly constructed or rehabilitated under the Rental Assistance Demonstration (RAD) program and converting to project-based rental assistance may establish initial utility allowances using such a calculator. However, when the property is occupied and the owner can obtain 12 months of consumption data, the owner must then follow the methodology in this notice and establish a baseline analysis. A newly constructed or rehabilitated property with a Section 8 HAP contract added to it through an 8 (bb) transfer of budget authority, or an existing Section 8 property undergoing rehabilitation in conjunction with a contract renewal under Chapter 15 of the Section 8 Renewal Guide would also be examples of properties that may *initially* utilize an energy consumption model calculator to estimate utility allowances, but thereafter follow the methodology in this notice.

## VIII. ADMINISTRATIVE PROCEDURES

Upon completion of the utility analysis, the O/A must submit the analysis to the CA for review and approval. Calculations may be made using a software tool of the owner's choice (e.g. they may use the Excel spreadsheet offered by HUD or other tabulation software) as long as the inputs reflect the methodology detailed in this Notice. HUD will serve as a resource to O/As by providing training and technical assistance where possible.

## IX. REQUIREMENTS FOR TENANT HOUSEHOLDS

### A. Tenant Utility Release Form

An Owner may require a tenant to sign a release for utility data in certain circumstances. For example, a utility company may require a tenant release as a condition of providing utility data. If a tenant release is necessary, the O/A will request and the tenant household is required to sign a release under 24 CFR 5.659 and the *HUD Model Lease for Subsidized Projects*. For HUD programs, the release remains applicable for the household's term of tenancy; however, there may be utility providers that require a tenant's signed release form more frequently. A sample tenant utility release form is included here as Attachment B.

### B. Households are required to provide utility data and documentation if requested.

In accordance with the regulation at 24 CFR 5.659 and the *HUD Model Lease for Subsidized Projects*, households must provide utility documentation as requested by the O/A and the request does not have to correspond with a household's recertification. Tenants must also disclose if they are paying a flat rate as part of a

low-income rate assistance program.

### C. Disclosure of Utility Assistance

Households are required to disclose whether they are receiving utility assistance from sources other than HUD. O/As must ask this question at a tenant's annual recertification of income and family composition, because these assistance payments are a source of income and are included in the determination of annual income and the calculation of total tenant payment. See 24 CFR 5.609(a) and HUD Handbook 4350.3 paragraph 5-6.G.1. Households receiving utility assistance from sources other than HUD continue to receive the baseline HUD utility allowance as determined by the most recent utility analysis. Assistance that must be reported includes cash or other assistance from utility providers or other entities, **except when specifically excluded from income by other federal guidance**<sup>2</sup> Failure to disclose this income will be considered a lease violation in accordance with annual recertification requirements.

### X. PENALTIES FOR TENANT NONCOMPLIANCE WITH PART IX

Failure to comply with the requirements in Part IX above is a lease violation and may result in termination of tenancy. If an owner pursues termination of tenancy, the termination must be carried out in accordance with Chapter 8 of HUD Handbook 4350.3, REV-1.

### XI. VOLUNTARY USE OF EPA'S ENERGY STAR PORTFOLIO MANAGER

O/As of Multifamily Housing properties that both receive project-based rental assistance, and for which HUD provides a utility allowance, are encouraged to use ENERGY STAR Portfolio Manager, or an equivalent online tool, to track whole-building utility data (cost and consumption). If O/As cannot achieve whole-building data, they can utilize Portfolio Manager and follow the sampling protocol identified in this notice. ENERGY STAR Portfolio Manager is a no-cost, secure online resource that enables O/As to benchmark, track, and manage energy and water consumption at the property and portfolio level. O/As can use EPA's ENERGY STAR Portfolio Manager to identify under-performing buildings, set investment priorities, monitor and verify efficiency improvements, receive EPA recognition for superior energy performance, and report out on building and portfolio performance.

For more information on the use of the EPA Portfolio Manager, please contact Michael Zatz at [zatz.michael@epa.gov](mailto:zatz.michael@epa.gov) or go to <http://www.energystar.gov/buildings/facility->

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<sup>2</sup> Assistance under the Department of Health and Human Services Low-Income Home Energy Assistance Program (LIHEAP) should not be reported as income. Please see the May 20, 2014 Federal Register for the current list of federally mandated exclusions from income, here: <http://www.gpo.gov/fdsys/pkg/FR-2014-05-20/pdf/2014-11688.pdf>.

[owners-and-managers/existing-buildings/use-portfolio-manager.](#)

## XII. INFORMATION COLLECTION

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2502-0352. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

## XIII. CONTACT

For more information on the utility analysis methodology outlined in this notice, please contact Kate Brennan in the Office of Asset Management and Portfolio Oversight at [Catherine.M.Brennan@hud.gov](mailto:Catherine.M.Brennan@hud.gov).

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