December 30, 2008

UTILITY ALLOWANCES – TENANT PAID UTILITIES				
	PROJECT-BASED SECTION 8 MARKET-BASED RENTS	**PROJECT-BASED SECTION 8 BUDGET-BASED RENTS**	**HOUSING CHOICE VOUCHERS**	**TAX CREDIT FINANCING WITHOUT PROJECT-BASED SECTION 8**
Consequence of Increased Utilities-Owner	Lower tenant portion for rent and higher UA for unit.	Lower tenant portion for rent and higher UA for unit. Owners should include UA with their proposal for budget-based rent increases.	Depends on the situation. *See HCV Note 1.*	UA must be readjusted. If UA increases, then maximum chargeable rent decreases if gross rent was the max allowable rent before UA adjustment.
Consequence of Utility Allowance Increases to Renter	UA increases and the tenant rent portion of the TTP decreases. *See Sec. 8 Note 1.*		Depends on the situation. *See HCV Note 1.*	If UA increases and gross rent is at max. allowable rent (e.g. 30% of 50% of AMGI) then rent decreases by the same amount. If gross rent is not at max allowable rent, the tenant pays additional utilities.

UTILITY ALLOWANCES – TENANT PAID UTILITIES				
	PROJECT-BASED SECTION 8 MARKET-BASED RENTS	**PROJECT-BASED SECTION 8 BUDGET-BASED RENTS**	**HOUSING CHOICE VOUCHERS**	**TAX CREDIT FINANCING WITHOUT PROJECT-BASED SECTION 8**
Role of Utility Allowance	UA is provided to assist families in paying utility costs. *See Sec. 8 Note 1.*	UA is provided to assist families in paying utility costs.	UA provides reasonable allowances for tenant-paid utilities to help cover tenant-paid utility costs. *See HCV Note 2.*	UA is subtracted from gross rent, the difference = maximum chargeable rent (amt. that tenant pays).
Calculation of Utility Allowance	Where Owner submits utility allowance analysis, allowance is normally based on 12 consecutive months of actual usage data from project. *See Sec 8. Note 2.*	Whenever an owner seeks a budget-based rent increase, the owner must include UA analysis in application. UA analysis based on 12 consecutive months of actual usage data from building. *See Sec. 8 Note 2.*	**Multiply** - estimated monthly consumption times local utility rate. **Then apply** the adjustment factor for specific unit size. *See HCV Note 3.*	1) Local PHA UA. 2) Local UC UA. 3) HFA agrees to provide UA. 4) HUD Utility Schedule Model. 5) Energy consumption model by qualified professional. *See TCF Note 1.*

UTILITY ALLOWANCES – TENANT PAID UTILITIES				
	PROJECT-BASED SECTION 8 MARKET-BASED RENTS	**PROJECT-BASED SECTION 8 BUDGET-BASED RENTS**	**HOUSING CHOICE VOUCHERS**	**TAX CREDIT FINANCING WITHOUT PROJECT-BASED SECTION 8**
Role of HUD/IRS	UA estimates always need HUD or Contract Admin/PBCA approval. *See Sec. 8 Note 2 & Note 3.*	UA estimates always need HUD or Contract Admin/PBCA approval. *See Sec. 8 Note 2 & Note 3.*	HUD publishes regulations and guidelines for PHAs' administration of HCV program.	Properties are subject to IRS regulations. § 1.42-10. There is a submetering issue under current regulation. *See TCF Note 2 & Note 3.*
Role of HFA's	Some HFAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.*	Some HFAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.*	None.	HFA determines acceptability of UA model submitted by building owner. *See TCF Note 3.*
Role of Public Housing Authorities *See "green" utility allowance note below.*	Some PHAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.* PHA does UA for mod-rehab programs. *See Note 2 applicable regulations.*	Some PHAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.* PHA does UA for mod-rehab programs. *See Note 2 applicable regulations.*	PHA establishes UA schedule, calculates UA, and reviews its UA schedule every year. Local PHA responsible for administration of HCV program. *See HCV Note 2.*	Local PHA may provide UA and PHAs may use HUD utility schedule model to calculate UA.

UTILITY ALLOWANCES – TENANT PAID UTILITIES				
	PROJECT-BASED SECTION 8 MARKET-BASED RENTS	**PROJECT-BASED SECTION 8 BUDGET-BASED RENTS**	**HOUSING CHOICE VOUCHERS**	**TAX CREDIT FINANCING WITHOUT PROJECT-BASED SECTION 8**
Role of State Law/PUCs	May prohibit submetering.	May prohibit submetering.	May prohibit submetering. Utility rate sched. & info re: typical utility usage and costs provided by PUCs/other utility suppliers make up PHA UA estimate.	May prohibit submetering. UA schedule may be based on estimate by local utility company.

UTILITY COSTS – <u>OWNER PAID</u> UTILITIES				
	PROJECT-BASED SECTION 8 MARKET-BASED RENTS	**PROJECT-BASED SECTION 8 BUDGET-BASED RENTS**	**HOUSING CHOICE VOUCHERS**	**TAX CREDIT FINANCING WITHOUT PROJECT-BASED SECTION 8**
Consequence of Increased Utilities-Owner	Increased operating expense/Reduced Cash Flow. Lower tenant portion for rent and higher UA for unit.	Increased operating expense/reduced Cash Flow. Lower tenant portion for rent and higher UA for unit.	Depends on the situation. *See HCV Note 1.* However, where there is an increase in cost of a utility and owner pays for that utility, then there is increased operating expense and reduced cash flow.	Where there is an increase in cost of a utility and owner pays for that utility, then there is increased operating expense and reduced cash flow. UA must be readjusted. If UA increases and gross rent is the max. allowable rent, then maximum chargeable rent (rent paid by tenant) decreases.
Consequence of Utility Allowance Increases to Renter	None.	None.	None	None.
Role of Utility Allowance	No UA is established for owner-paid utilities.	No UA is established for owner-paid utilities.	No UA is established for owner-paid utilities.	No UA is established for owner-paid utilities.
Calculation of Utility Allowance	None.	None.	None.	None.

UTILITY COSTS – <u>OWNER PAID</u> UTILITIES				
	PROJECT-BASED SECTION 8 MARKET-BASED RENTS	**PROJECT-BASED SECTION 8 BUDGET-BASED RENTS**	**HOUSING CHOICE VOUCHERS**	**TAX CREDIT FINANCING WITHOUT PROJECT-BASED SECTION 8**
Role of HUD/IRS	No UA is established for owner-paid utilities.	No UA is established for owner-paid utilities.	No UA is established for owner-paid utilities.	No UA is established for owner-paid utilities.
Role of HFA's	Some HFAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.*	Some HFAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.*	None.	HFA determines acceptability of UA model submitted by building owner. *See TCF Note 3.*
Role of Public Housing Authorities *See "green" utility allowance note below.*	Some PHAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.*	Some PHAs serve as contract administrators and PBCAs. *See Sec. 8 Note 3.*	Administers vouchers.	None.
Role of State Law/PUCs	May prohibit submetering.	May prohibit submetering.	May prohibit submetering.	May prohibit submetering.

APPENDIX TO UTILITY ALLOWANCE TABLE: PROJECT-BASED SECTION 8 (Sec. 8) NOTES

NOTE 1

Total Tenant Payment (TTP)

- The Total Tenant Payment (TTP) is the amount a tenant is expected to contribute for rent and utilities. TTP for Section 8, PAC, PRAC, RAP, and Rent Supplement properties is based on the family's income.
- The tenant rent is the portion of the TTP that the tenant pays to the owner every month. The tenant portion is calculated by subtracting the utility allowance from the TTP.
- 24 C.F.R. § 5.628 Total Tenant Payment
  - (a) *Determining total tenant payment (TTP).* Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:
    - (1) 30 percent of the family's monthly adjusted income;
    - (2) 10 percent of the family's monthly income;
    - (3) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or
    - (4) The minimum rent, as determined in accordance with §5.630.
  - (b) *Determining TTP if family's welfare assistance is ratably reduced.* If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (a)(3) of this section is the amount resulting from one application of the percentage.

Utility Reimbursement

When the TTP is less than the utility allowance, the tenant receives a utility reimbursement to assist in meeting utility costs. The tenant will pay no tenant rent. The utility reimbursement is calculated by subtracting the TTP from the utility allowance. Funds covering the utility reimbursement are paid to the owner in trust, solely for the purpose of making utility reimbursements. With the consent of the household and the utility the owner can make the utility reimbursement payable jointly to the household and the utility company or pay the reimbursement directly to the utility company.

NOTE 2

Calculation of Utility Allowances and HUD Approval of Allowances

Introduction and overview of Industry Practices

Note 3 below explains the concept of Contract Administrators and Performance-Based Contract Administrators (PBCAs). In this discussion, whenever HUD is referred to in terms of approving utility allowance estimates or conducting occupancy management reviews, we could insert the word Contract Administrator or PBCA in the place of HUD. One industry insider notes that for pre-1986 HAP contracts an owner deals almost exclusively with Contract Administrators and for post-1986 Project Rental Assistance Contracts (PRAC) an owner deals only with HUD local offices. In localities where HUD has contracted out the responsibilities of subsidy contract administration, the Contract Administrator or PBCA has the authority to approve utility allowance estimates among many other responsibilities. Whether a project-based Section 8 project has market-based rent or budget-based rent, a utility allowance must be provided for tenant-paid utilities aside from non-essential utilities such as cable or satellite television and personal expenses such as telephone service.

When an owner applies for a budget-based rent increase under Section 8, the owner must include a utility allowance analysis in their application for the rent increase.

Under the market-based rents, an owner is supposed to review a project's utility allowances annually or whenever a change in utility rates or consumption would cause a 10% increase or more in the most recently approved utility allowance. In practice, many project-based Section 8 owners maintain the same utility allowance schedule for a few years before reviewing the allowances. One important note is that where Section 8 projects are almost up for contract renewal, the utility allowance reviews are performed annually. Every 3 or 4 years, HUD or the Contract Administrator/PBCA performs an occupancy management review of the project and performs its own utility allowance estimate as part of the review. The owner's utility allowance numbers should be within a reasonable range of HUD's utility allowance numbers.

There seems to be a standard industry practice for calculating utility allowances among project-based Section 8 owners when an owner is required to submit a utility allowance analysis. However, there is no uniform set of guidelines or requirements among the local HUD offices or Contract Administrators/PBCAs as to how utility allowances should be calculated for project-based Section 8 properties. Industry insiders working on the owner's side and HUD personnel state that each local office or Contract Administrator/PBCA is "slightly different" in what they are looking for in the utility allowance estimates.

The regulations governing project-based Section 8 utility allowances contain similar language and requirements except for the moderate rehabilitation program. The following sections under note 1 will lay out the standard practice for owner submitted utility allowance analyses, reproduce the regulations related to utility allowances for several project-based Section 8 programs, and discuss the role of the PHA utility allowance schedule.

Standard Industry Practice

For New Construction HAP, Substantial Rehabilitation HAP, Supportive Housing Projects for the Elderly and Disabled, and Section 8 HAP for New Construction Set-Aside for Rural Projects, where an owner must submit a utility allowance for HUD (or Secretary under 515 program) approval, owners normally satisfy the requirement through the following procedures.

- The owner secures tenant signatures on release forms. The releases allow the owner legal access to the tenants' utility bills.
- The owner collects backup copies of the tenants' utility bills (for all tenant-paid utilities) from the local utility company (or companies) responsible for supplying utilities to the tenants. The utility bills should cover 12 consecutive months of service for a representative sample (size, exposure, floor) of each unit size in the development. The same tenant should have occupied a sample unit for the entire 12-month period. One PBCA recommends the sample should consist of a minimum of 8 units or 10% of each unit size, whichever is greater.

- Using actual costs and consumption data the owner analyzes the costs and consumption levels to prepare a recommended utility allowance amount for each housing service category and type of utility (applicable to the building). The owner can take the average monthly consumption rate of the representative sample and multiply that number by the utility rate. The owner could also take the average cost of a particular utility, based on the representative sample, and obtain a utility allowance figure based on the average cost.
- The owner then recommends at least one utility allowance for each unit size and additional utility allowances if the project's design is such that utility costs will vary significantly for units of the same size (e.g., end units vs. interior units) or units of differing sizes but the same bedroom count. The owner should include a summary of how the owner arrived at that recommended figure.

Applicable Regulations

24 C.F.R. § 880.610, Section 8 HAP: New Construction Adjustment of Utility Allowances

- "In connection with annual and special adjustments of contract rents, **the owner must submit an analysis of the project's Utility Allowances**. Such data as changes in the utility rates and other facts affecting utility consumption should be provided as part of this analysis to permit appropriate adjustments in the Utility Allowances. In addition, when approval of a utility rate change would result in a cumulative increase of 10 percent or more in the most recently approved Utility Allowances, the project owner must advise the contract administrator and request approval of new Utility Allowances. Whenever a Utility Allowance for a unit is adjusted, the owner will promptly notify affected families and make a corresponding adjustment of the tenant rent and the amount of the housing assistance payment for the unit."
    - 24 C.F.R. § 880.610 applies to Section 8 HAP Substantial Rehabilitation (24 C.F.R. § 881, and state agency Section 8 contract administration (24 C.F.R. § 883) via incorporation of language. *See* 24 C.F.R. §§ 881.601, 883.701.
    - Section 8 HAP New Construction Set-Aside for Section 515 Rural Rental Housing Projects, 24 C.F.R. § 884.220 uses identical language except that instead of advising the "contract administrator" the owner must advise the Secretary under the Section 515 program of any utility rate change that would result in a cumulative increase of 10 percent or more in the most recently approved Utility Allowances.

24 C.F.R. § 891.440, Section 8 Supportive Housing for the Elderly and Persons with Disabilities

Under § 891.440, owners must submit utility allowance analyses for Section 202 projects and independent living complexes funded under Section 811. A borrower under Subpart E of § 891 must also submit a utility allowance analysis for projects financed with loans under Subpart E. Subpart E refers to loans for housing for the elderly and the disabled. The requirements for utility allowance analysis set forth under § 880.610 are identical to the requirements set forth under § 891.440.

24 C.F.R. § 882.510, Section 8 Moderate Rehabilitation Adjustment of Utility Allowances

- "The PHA must determine, at least annually, whether an adjustment is required in the Utility Allowance applicable to the dwelling units in the Program, on grounds of changes in utility rates or other change of general applicability to all units in the Program. **The**

PHA may also establish a separate schedule of allowances for each building of 20 or more assisted units, based upon at least one year's actual utility consumption data following rehabilitation under the Program. If the PHA determines that an adjustment should be made in its Schedule of Allowances or if it establishes a separate schedule for a building which will change the allowance, the PHA must then determine the amounts of adjustments to be made in the amount of rent to be paid by affected Families and the amount of the housing assistance payments and must notify the Owners and Families accordingly. Any adjustment to the Allowance must be implemented no later than at the Family's next reexamination or at lease renewal, whichever is earlier.

Role of PHA Utility Allowance Schedule

For Section 8 projects where an owner is required to perform utility allowance analyses, the local PHA schedule may be used in calculating initial utility allowances for the project. This situation would apply to projects where actual usage data is not yet available. *See HCV note 3* for information on how the local PHA utility allowance schedule is calculated. Although the local PHA schedule is used under the HCV program, it may be used by an owner seeking to do an **initial utility allowance** analysis under the project-based Section 8 programs that require the owner to submit a utility allowance analysis.

Under the mod-rehab programs the PHA and the PHA utility allowance schedules play essential roles in the calculation of utility allowances.

NOTE 3
Contract Administrators

Subsidy contract administration involves a broad range of responsibilities, including program compliance functions to ensure that HUD-subsidized properties are serving eligible families at the correct level of assistance, and asset management functions ensure the physical and financial health of HUD properties.

HUD has primary responsibility for contract administration but has assigned portions of these responsibilities to other organizations that act as Contract Administrators for HUD. These Contract Administrators are generally housing agencies, such as **State Housing Finance Agencies** or **local housing authorities**. There are **two types of Contract Administrators** that assist HUD in performing contract administration functions.

Traditional Contract Administrators

These Contract Administrators have been used for over 20 years and have Annual Contributions Contracts (ACCs) with HUD. Under "their" ACCs, "Traditional" Contract Administrators are responsible for asset management functions and HAP contract compliance and monitoring functions. They are paid a fee by HUD for their services.

Performance-Based Contract Administrators (PBCAs)

The use of PBCAs began as an initiative in 2000. Under a performance-based ACC, the scope of responsibilities of a Contract Administrator is more limited than that of a "Traditional" Contract Administrator. A PBCA's responsibilities focus on the day-to-day monitoring and servicing of

Section 8 HAP contracts. PBCAs are generally required to administer contracts on a statewide basis and have strict performance and reporting requirements as outlined in their ACC.

Contract Administrators play a crucial role to administration, compliance tracking, and asset management among other functions, under the project-based Section 8 program. Therefore, even when there are no utility allowances and all utilities are included in the unit rent, the Contract Administrators are important to private owners of Section 8 units.

<u>Why are Contract Administrators important to Utility Allowances?</u>

According to the glossary in HUD handbook 4350.3, a utility allowance is "HUD's or the **Contract Administrator's** estimate of the average monthly utility bills (except telephone) for an energy conscious household." This language indicates that Contract Administrators are sometimes responsible for approving a utility allowance analysis performed by the owner. Therefore, where State Housing Finance Agencies (HFAs) and PHAs serve as Contract Administrators or PBCAs, they step into the role of HUD as the organization that ultimately approves the owner's utility analysis.

HOUSING CHOICE VOUCHER (HCV) NOTES

NOTE 1

Consequences of increased utilities to owner & tenant

Under the Housing Choice Voucher (HCV) program, also known as the tenant-based voucher program, there is always a mix of tenant and owner paid utilities. This mix may differ from building to building. Therefore, two buildings located on the same street could have different owner paid utilities and tenant paid utilities. The utility allowances (UA) are calculated based on **tenant-paid** utilities so UAs under the HCV program can differ from building to building. As to the consequences of increased cost of utilities to the owner and to the tenant, this entirely depends upon the situation. The type of utility (or fuel) and the housing service category (or categories) for which the utility (or fuel) is being used also have a substantial impact on the consequences of increased utilities to the owner versus the tenant.

A PHA must review its UA schedule annually and it must review the UA schedule whenever there has been a change of 10 percent or more in the utility rates since its last revision of the schedule. (*See* HUD's HCV Guidebook 7420.10g,18-9) Therefore, a tenant might not be heavily impacted by an increase in utility costs if a PHA strictly adheres to the policies and procedures set forth in the HCV Guidebook. There may be a situation where there has been a sharp increase in tenant-paid utility costs and for whatever reason, the PHA's UA schedule has not been revised to reflect the increased utility costs. In that particular situation, a tenant might be adversely affected because their present utility allowance is not sufficient to cover the increased utility costs. Regarding owners, an increased cost in any owner-paid utilities translates to increased operating costs for the owner and a lower cash flow for the project.

NOTE 2

Roles of Utility Allowances & PHAs under the HCV Program & Calculation of HAP

The UA is supposed to enable participating families to pay the normal costs of utilities and services paid by energy-conserving households occupying units of similar size and type in the same locality. Where the tenant pays for any utilities or services that are necessary for compliance with the housing quality standards (HQS), the PHA is responsible for notifying the tenant of termination of assistance if the tenant fails to pay for necessary utilities or services.

The PHA is responsible for classifying utilities and other housing services according to the following categories:

- Space heating
- Air conditioning
- Cooking
- Water heating

- Water
- Sewer
- Trash collection
- Other electric
- (Tenant-provided) refrigerator
- (Tenant-provided) range
- Other specified housing services

The UA must take into account the type of unit, the unit size, and the type of utility. The unit size refers to the number of bedrooms and the type of utility refers to the type of fuel used. Regarding the type of utility, SAHF members are mostly concerned with electric and gas. Oil and/or propane are infrequently used at member sites.

A PHA is responsible for the following:

- 1) administering the HCV program in its particular locality
- 2) Notifying program participants of the policies, procedures, and rules of the HCV program
- 3) Establishing the UA schedule
- 4) Reviewing its UA schedule annually
- 5) Reviewing the UA schedule whenever there has been a change of 10 percent or more in the utility or fuel costs since the last revision of the schedule.

Payments to Families and Owners: Calculating Rent and HAP Payments

There is a minimum amount that a family is expected to pay and a maximum subsidy that the PHA can pay.

<u>Total Tenant Payment (TTP)</u>

The minimum amount a family must contribute is called the total tenant payment (TTP). TTP is calculated by first converting the annual adjusted income and the annual gross income into **monthly adjusted income** and **monthly gross income** by dividing the annual figures by 12 to produce the monthly figures. The TTP is the greater of:

- a) 30 percent of monthly adjusted income;
- b) 10 percent of monthly gross income;
- c) The welfare rent (in as-paid states only); *or*
- d) The PHA minimum rent (as determined by PHA)

In most cases, the TTP is going to be 30 percent of the monthly adjusted income.

CALCULATING TOTAL TENANT PAYMENT	
30% of Monthly Adjusted Income:	$700 x .30 = $210
10% of Monthly Gross Income:	$740 x .10 = $74
Welfare Rent:	N/A
PHA Minimum Rent:	$25
Total Tenant Payment :	$210
The participant will never pay less than the TTP ($210) regardless of the unit selected.	

Maximum Initial Rent Burden

PHAs establish payment standards according to the sizes of the units. If a family selects a unit that exceeds the payment standard then the PHA must determine whether the family's share for that unit would exceed the maximum initial rent burden. The rule for the maximum initial rent burden is "**the family share may not exceed 40 percent of the family's monthly adjusted income when the family initially moves into the unit or signs the first assisted lease for a unit.**" (7420.10g 6-2) Suppose the monthly adjusted income is $700. $700 x .40 = $280. The maximum amount that the family can pay is $280.

Important note for **owners**: "**A subsequent rent increase during the family's occupancy of the unit that causes the family share to exceed 40 percent of monthly adjusted income is permissible so long as the new rent to owner is determined to be reasonable. The maximum initial rent burden applies only at the commencement of an assisted occupancy in a particular unit.**" (7420.10g 6-6)

Maximum Subsidy

The maximum subsidy that a PHA can pay in the HCV program is the payment standard minus the TTP. Suppose the payment standard is $450 and the TTP is $210. $450 - $210 = $240. $240 would be the maximum subsidy that the PHA can pay.

Maximum Gross Rent

The maximum gross rent that can be approved is the sum of the maximum subsidy and the maximum initial burden. If the maximum subsidy amount is $240 and the maximum initial burden is $280, then the family may rent a unit with a maximum gross rent of $520. $240 + $280 = $520. If a family rents a unit that is below the payment standard then the family would pay an amount equal to the TTP which in this example is $210 per month.

Utility Allowance

The PHA utility allowance schedule is based on average utility consumption by unit size for each of the **family-paid utilities**. *If all the utilities are included in the unit rent, there is no utility allowance*. For the utilities that a family must pay under the lease, the PHA uses the utility schedule for the appropriate unit size and then adds the amounts on the utility schedule for the cost of the family-paid utilities. The sum of these amounts is the total utility allowance. (The amounts on the utility schedule correspond to the specific utilities for the specific housing service categories that the family must pay under the lease).

<u>Rent to owner and Gross Rent</u>

The *rent to the owner* is the full rent the owner is charging for the unit including any utilities the owner provides under the lease. The *gross rent* represents the entire housing cost. It is calculated by adding the rent to the owner and the utility allowance for the unit.

Rent to Owner = $300.
Utility Allowance = $125
Gross rent = $425 ($300 + $125 = $425)

HAP Subsidy

The HAP subsidy cannot exceed the maximum subsidy amount. The HAP is the lower of

- 1) The payment standard for the family minus the TTP; *or*
- 2) The gross rent minus the TTP

Continuing with the prior example of the family with the TTP of $210; Let us assume that the gross rent for their unit is less than the payment standard of $450. If the gross rent is $410, then the actual HAP subsidy is $200 because $410 - $210 = $200.

Family Share

The family share is the portion of the gross rent that the family pays. If the gross rent is equal to or less than the payment standard then the family share is the TTP. If the gross rent exceeds the payment standard then the family share is the TTP plus the amount by which the gross rent exceeds the payment standard.

For example, the payment standard is $450. TTP is $210. Maximum initial rent burden is $280 (remember that this is the maximum that the family is permitted to pay). The gross rent is $500.

Gross rent - payment standard, $500 - $450 = $50. $50 + $210 = $260. The **family share** for the unit is $260.

If the gross rent were $550 then the family would not be able rent the apartment because the family share for that unit would exceed $280. Therefore, $550 - $450 = $100, and $100 + $210 = $310. $310 exceeds the maximum initial burden of $280.

Impact of unit selection on Subsidy

If the family selects a smaller unit than the unit size listed on the HCV, then the PHA recalculates the maximum subsidy based on the payment standard of the smaller unit. The payment standard is always attached to the size of the unit. A 1 bedroom unit will have a lower payment standard than a 2 bedroom unit.

Family rent to owner
Family rent to owner is the portion of the family share that is paid to the owner for rent. If the family is not responsible for paying any utilities under the lease, the family rent to owner will equal the family share. Where families are responsible for directly paying some or all of the utilities, family rent to owner is calculated as the rent to owner minus the HAP.

The rent to owner is the full rent and any utilities the owner provides under the lease. If the owner only provides some utilities and the tenant must pay for the rest of the utilities, then the PHA provides a utility allowance for the cost of the tenant-paid utilities.

Utility Reimbursement
The utility reimbursement is the amount by which the HAP exceeds the rent to owner. When there is a utility reimbursement, the PHA pays the full amount of the rent to the owner and sends the utility reimbursement to the family or the utility company.

Example
Assume family has monthly adjusted income of $300, payment standard is $450.

- *Total tenant payment: $300 x .30 =* $90
- *Gross rent = payment standard =* $450
- *Rent to owner =* $350
- *Utility allowance =* $450 - $350 = $100
- *HAP =* $450 - $90 = $360
- *Utility Reimbursement* = $360 - $350 = $10

In the above example the utility reimbursement is $10 because the HAP subsidy exceeds the rent to the owner by $10. A check for $10 is sent to either the tenant or the utility company.

NOTE 3
Calculating HCV Program Utility Allowances

<u>Introduction</u>
A PHA must maintain a utility allowance schedule for *tenant-paid* utilities. As demonstrated from the examples above, the utility allowances are established to help tenants cover the cost of utilities that the tenants pay for directly. However, the actual *utility reimbursement*, (*see* above) the amount that the tenant (or utility company) receives from the government is always *less than* the actual utility allowance. Think of the UA as the amount that the PHA covers for tenant-paid utilities in a particular unit, and the utility reimbursement as the amount that a tenant receives if and when the HAP subsidy is more than the rent paid to the owner.

The UA schedule must include tenant-paid air conditioning costs but the schedule does not include personal expenses such as telephone, and non-essential utility costs such as the cost of cable or satellite TV.

The PHA is responsible for classifying utilities and other housing services.

Establishing a UA schedule

The UA schedule is a table containing amounts that correspond to, 1) a particular housing service category, 2) type of fuel (if applicable), and 3) unit size. If the PHA uses national average consumption data to develop the UA schedule, then the amounts will be based on a 2.5 bedrooms standard unit size. To determine the applicable UA amounts for a specific unit, an adjustment factor is applied to the amount determined for the standard size. For example, let us assume the UA amount for electric space heating is $100 (this is for 2.5 bedrooms unit size). The size of the unit being rented is 1 bedroom. The adjustment factor for 1 bedroom is 0.7. The UA for electric space heating in 1 bedroom is $70 under this example. Why? Because $100 x .0.7 = $70.

Adjustment Factors by Unit Size

Unit Size	Adjustment factor (Times 2.5 BR unit size Monthly Consumption Figure)
0-BR	0.5
1-BR	0.7
2-BR	0.9
3-BR	1.1
4-BR	1.4
5-BR	1.6

The PHA is strongly encouraged to base allowances on actual local utility rates and average consumption estimates for the locality involved. If the PHA cannot find adequate sources for local information then it may use national average consumption data and apply the adjustment factors for the standard unit sizes as outlined above.

Calculating a Utility Allowance

In the absence of reliable third-party average utility expense data, monthly utility allowances can be calculated by multiplying estimated monthly consumption times the local utility rate.

The following is extracted from Guidebook 7420.10g 18-6, and provides an idea of how utility allowance numbers are calculated using average consumption data.

ESTIMATING UTILITY EXPENSE FROM AVERAGE CONSUMPTION DATA

The average consumption of electricity used for domestic hot water is 340 KWH (kilowatt hours).

At a scheduled rate of $.0552362 per KWH, the *average* monthly allowance for domestic hot water for a 2.5 bedroom unit would be:

340 KWH x $.0552362 (rate per KWH)
= $19

- The allowance for a 0-bedroom unit will be:
  $19 (average 2.5 BR cost) x 0.5 (0-bedroom adjustment factor)
  = $10

- The allowance for a 5-bedroom unit will be:

  $19 (average 2.5 BR cost) x 1.6
  (5-bedroom adjustment factor)
  = $30 (rounded to nearest dollar)

TAX CREDIT FINANCING (TCF) NOTES

NOTE 1

IRS Regulation § 1.42-10: Options for calculating utility allowance (UA)

Under § 1.42-10, telephone, cable television, and Internet fees are not included in UAs. If any of the units in a property are subsidized by RHS then all rent-restricted units in the building are subject to the applicable RHS utility allowance even if there are also HUD subsidized units in the building. If any units are subsidized by HUD but not RHS then all rent-restricted units are subject to the HUD utility allowance. The HUD and RHS UAs take precedence over the options listed under § 1.42-10(b)(4)(ii). *See below.*

Utility Allowances for Tax-credit Projects

1. Local PHA Utility Allowance § 1.42-10(b)(4)(ii)(A)

- For non RHS and non HUD subsidized units the applicable UA is the PHA UA. However, if a local utility company estimate is obtained for any unit in the building in accordance with paragraph (b)(4)(ii)(B) of this section, that estimate becomes the appropriate UA for all rent-restricted units of similar size and construction in the building. (*Between the local PHA UA and the local utility company UA, the local utility company's UA supersedes the PHA UA*). Furthermore, if a State or local housing credit agency (Agency) provides a building owner with an estimate for any unit in a building under paragraph (b)(4)(ii)(C) of this section, a cost estimate is calculated using the HUD Utility Schedule Model under paragraph (b)(4)(ii)(D), or a cost estimate is calculated by an energy consumption model under paragraph (b)(4)(ii)(E) of this section, then the estimate under paragraph (b)(4)(ii)(B), (C), (D), or (E) becomes the applicable utility allowance for all rent-restricted units of similar size and construction in the building.

2. Utility Company Estimate § 1.42-10(b)(4)(ii)(B)

- Any interested party (including a low-income tenant, a building owner, or an Agency) may obtain a local utility company estimate for a unit. In the case of deregulated utility services, the interested party is required to obtain an estimate only from one utility company even if multiple companies can provide the same utility service to a unit. However, the utility company must offer utility services to the building in order for that utility company's rates to be used in calculating utility allowances. Costs incurred in obtaining the estimate are borne by the initiating party unless otherwise agreed. The building owner must make available copies of the utility company estimate to the tenants in the building.

3. Agency Estimate § 1.42-10(b)(4)(ii)(C)

- A building owner may obtain a utility estimate for each unit in the building from the Agency that has jurisdiction over the building provided the Agency agrees to provide the estimate. The estimate is obtained when the building owner receives, in writing, information from the Agency providing the estimated per-unit cost of the utilities for units of similar size and construction for the geographic area in which the building containing the units is located. The Agency estimate may be obtained by a building owner at any time during the building's extended use period (see section 42(h)(6)(D)). Costs incurred in obtaining the estimate are borne by the building owner. In establishing an accurate utility allowance estimate for a particular building, an Agency (or an agent within the meaning of paragraph (b)(4)(ii)(E) of this section) must take into account, among other things, local utility rates, property type, climate and degree-day variables by the region in the State, taxes and fees on utility charges, building materials, and mechanical systems. If the Agency uses an agent or other private contractor to calculate the utility estimates, the agent or contractor and the owner must not be related within the meaning of section 267(b) or 707(b). An agency may also use actual utility company usage data and rates for the building. However, use of the Agency estimate is limited to the building's consumption data for the twelve month period ending no earlier than 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section and utility rates for the Agency estimate must be no older than the rates in place 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section. In the case of newly constructed or renovated buildings with less than 12 months of consumption data, the Agency (or an agent or other private contractor of the Agency that is a qualified professional within the meaning of paragraph (b)(4)(ii)(E) of this section) 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.

Key points about the Agency estimate.

- 1. The Agency can decide whether or not to provide an estimate.
- 2. The owner bears the cost of the Agency estimate
- 3. Agency decides how much consumption data is adequate for the estimate.
- 4. If Agency uses a contractor or agent to do the UA, that person cannot be related to the owner.
- 5. The data used for the Agency UA is limited to a 1 year period.
- 6. For newly constructed or renovated buildings, the Agency may use consumption data of units of similar size and construction in the same geographic area as the newly constructed or renovated building.

4. HUD Utility Schedule Model § 1.42-10(b)(4)(ii)(D)

- A building owner may calculate a utility estimate using the "HUD Utility Schedule Model" that can be found on the Low-Income Housing Tax Credits page at http://www.huduser.org/datasets/lihtc.html (or successor URL). Utility rates used for the HUD Utility Schedule Model must be no older than the rates in place 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section.

- *The local PHAs are free to use the HUD Utility Schedule Model and building owners should make the PHAs aware of the HUD Utility Schedule Model as an option for calculating UAs.*
- *The HUD Utility Schedule Model requires the input of billing rate data. Billing rate data can be obtained from the local utility company. Therefore it is important to* ***develop a good working relationship with the local utility company****.*

5. Energy consumption model § 1.42-10(a)(4)(ii)(E)

- A building owner may calculate utility estimates using an energy and water and sewage consumption and analysis model (energy consumption model). 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. The utility consumption estimates must be calculated by either a properly licensed engineer or qualified professional approved by the Agency that has jurisdiction over the building, and the qualified professional and the building owner must not be related within the meaning of section 267(b) or 707(b). Use of the energy consumption model is limited to the building's consumption data for the 12-month period ending no earlier than 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section, and utility rates used for the energy consumption model must be no older than the rates in place 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section. In the case of newly constructed or renovated buildings with less than 12 months of consumption data, the qualified professional 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.

Key points about the energy consumption model

- 1. Model must be approved by the HFA
- 2. Licensed engineer must be licensed to practice by the State.
- 3. Qualified professional must be approved by the HFA. Qualifications likely to be approved include a) HERS Rater certified by RESNET, b) certified energy manager by AEE, c) LEED Accredited Professional. Other certifications or experience may also be acceptable.
- 4. Qualified professional cannot be related to building owner.
- 5. Consumption data used for the energy consumption model is limited to a 1 year period.

Changes in applicable utility allowance § 1.42-10(c)

- (1) If the UA in a building changes during the building's extended use period then the new UA must be used to compute gross rents, 90 days after the change. For owners using a local utility company estimate, the HUD Utility Schedule Model, or an energy consumption model, a copy of the estimates must be submitted to the Agency that has jurisdiction over the building and the estimates must be made available to all tenants in the building, at the beginning of the 90 day period. If an owner uses an Agency estimate then the owner must make the estimate available to all tenants in the building at the beginning of the 90 day period. A building owner is not required to review utility allowances, 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.

- (2) **Annual review**. A building owner must review at least once during each calendar year the basis on which utility allowances have been established and must update the applicable utility allowance in accordance with paragraph (c)(1) of this section. The review must take into account any changes to the building such as any energy conservation measures that affect energy consumption and changes in utility rates.

Housing Choice Vouchers and LIHTC financed projects under § 1.42-10
If a building owner has a mixture of housing choice voucher tenants and other tenants in a tax credit financed project, then the PHA UA schedule must be used for the HCV tenants' units. One of the other models under § 1.42-10 may be used for the other tenants in the building. A potential issue in this scenario is that some tenants may end up with a lower UA than other tenants in the same building.

NOTE 2

Submetering Issue

There has been significant discussion concerning a provision of the updated treasury regulation § 1.42-10 which disallows submetered or Ratio Utility Billing System (RUBS) payments in UAs.

§ 1.42-10(a) The inclusion of utility allowances in gross rent. If the cost of any utility (other than telephone, cable television, or Internet) for a residential rental unit is paid directly by the tenant(s), and not by or through the owner of the building, the gross rent for that unit includes the applicable utility allowance determined under this section.

NOTE 3

Role of HFAs and IRS

State Housing Finance Agencies (HFAs) also known as Tax Credit Agencies are responsible for administering the low income housing tax credit (LIHTC) program within the states. The HFAs have a vested interest in having as accurate utility allowance estimates as possible on the projects to which the HFAs have awarded tax credits. The IRS regulation makes the HFAs responsible for monitoring compliance with the tax credit program. The IRS has the authority to revise the rules and regulations governing the LIHTC program. Therefore both the HFAs and IRS have very important roles with regards to utility allowances under LIHTC financed projects. There may be some states where the HFA has established a UA model to be used under the new regulation.

GREEN UTILITY ALLOWANCES

California Initiative: Energy Efficiency-Based Utility Allowances (EEBUA)

Within the past 3 years, several PHAs in California have adopted "green" utility allowance schedules, otherwise known as Energy Efficiency-Based Utility Allowance (EEBUA) schedules. The purpose behind the EEBUAs is to correct a split-incentive problem. The split-incentive problem occurs where affordable multifamily and supportive housing owners and developers invest in energy efficient measures but are not allowed to reap the economic benefits of their investment. When there is only one utility allowance schedule applied to all properties, efficient or not, owners and developers have no incentive to invest in improvements. The EEBUA provides lower utility allowances for energy efficient new construction projects and substantial rehabilitation projects. Where the lower utility allowance schedule is used for a project, the owner ends up receiving more rent per unit than when a standard utility allowance schedule is used. For new construction, the projects must be 15% more efficient than California's energy code. For rehabilitation, the projects must achieve at least a 20% improvement over existing conditions before the EEBUA is used, instead of the standard utility allowance.

<u>Designed for Comfort Initiative</u>

Designed for Comfort (DfC) is an affordable multifamily and supportive housing incentives program created by the California Public Utilities Commission. The DfC program is responsible for developing the EEBUA schedule and persuading several CA PHAs to adopt the EEBUA as a means of incentivizing green development and energy efficiency retrofit projects.

<u>EEBUA for Retrofit Projects</u>

A 20% energy efficient improvement results in at least a 20% reduction in energy costs. The Standard Utility Allowance schedule would be reduced by 15%. The 15% reduction in the utility allowance ensures that the tenant benefits from the utility allowance adjustment. The Standard Utility Allowance schedule is proportionately reduced to create the EEBUA for retrofitted buildings.

<u>HUD Involvement</u>

HUD has not explicitly endorsed PHAs' use of EEBUAs. However, HUD has repeatedly indicated that they are committed to changing the Utility Allowance Guidelines to include an energy efficiency category. Many PHAs want to ensure that HUD endorses any policies that the PHAs adopt. Therefore, a HUD endorsement of EEBUAs for new construction and substantial rehabilitation projects would certainly help establish the widespread use of EEBUAs across many PHAs in many different states and localities.