

# UTILITY ALLOWANCE DETERMINATION

## PennHOMES Properties

This memorandum sets forth acceptable methodologies for determining utility allowances in PHFA-financed properties participating in the Low Income Housing Tax Credit (Tax Credit) and PennHOMES programs. All owners (and management agents, as applicable) are advised to review the information provided below and all relevant sections of the applicable federal regulations to ensure they are correctly applying the utility allowance. Any questions should be directed to PHFA Technical Services or the Housing Management Representative.

### Background

The Tax Credit Program mandates inclusion of the cost of tenant-paid utilities in “gross rent” for the purpose of meeting rental restrictions set forth in Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”). The acceptable methods for determining the applicable tenant-paid utility allowance are set forth in Treasury Regulations governing Tax Credits (the “Regulations”) (specifically, see Treasury Regulation 1.42-10).

All owners (and, if applicable, their designated management agents) should be familiar with the allowable methodologies set forth in the Regulations. Failure to follow the Regulations may result in an event of noncompliance. In the past, for developments funded by the Agency’s PennHOMES Program and Tax Credits, the Agency had followed certain processes in collecting utility information from local utility companies.

**By this Notice, effective immediately**, the Agency will no longer authorize the use of local utility company estimates except in accordance with the procedure outlined herein and all PennHOMES and Tax Credit properties are reminded that they must fully comply with the Regulations.

### Which developments must follow the new procedure?

*ALL* PHFA-financed developments with tenant-paid utilities financed with Tax Credits. In addition developments with tenant-paid utilities and PennHOMES financing will follow this new procedure. If you have any questions about applicability, please contact the Agency for clarification.

### When will the Tenant-paid utility allowance be submitted to PHFA?

The required submittals shall be sent to PHFA on a yearly basis, prior to the annual Physical Condition Critique.

### General Guidance On Determining Utility Allowance

For most developments, the owner/management agent may use one of two methods to determine utility expense. These methods, the local Public Housing Authority (PHA) tenant-paid utility allowance or a local utility company estimate, are described below.

Numerous exceptions apply. If your development is a HUD-regulated building, you must use the applicable HUD utility allowance. If your development has units occupied by tenants receiving HUD rental assistance payments, the PHA utility allowance established for the Section 8 Existing Housing Program must be used for those units. The Regulations (at Treasury Regulation 1.42-10) further dictate specific utility allowance for properties receiving Rural Housing Services assistance.

It is important to utilize the correct utility allowance to ensure compliance with Tax Credit Program.

The following instructions describe each of the two general procedures for obtaining tenant-paid utility allowances. Only one method of obtaining tenant-paid utility allowances may be used by the property. Also, in many instances, because of federal funding, the property must follow the HUD protocol or use the PHA allowance rather than the local utility company estimate.

## Public Housing Authority Tenant-Paid Utility Allowance

Each local Public Housing Authority (PHA) is responsible for setting tenant-paid utility allowance figures. These figures are generally established on an annual basis. It is the owner's responsibility to contact the local PHA and secure current allowances annually. It should be noted that new utility allowances issued by the PHA must be applied within 90 days of issue.

The PHA tenant-paid utility allowances will typically be on a Form HUD-52667. The HUD-52667 will have an array of allowances based on building type, unit size, fuel type, and service type (i.e., space heating, water heating, electric lighting, etc.). The appropriate allowances should be marked and summed to determine the total tenant-paid utility allowance applicable to the development.

Owner must use the current PHA tenant-paid utility allowances. Documentation regarding the PHA tenant-paid utility allowance must be kept on file. New tenant-paid utility allowances must be confirmed with the local PHA for the development annually. New utility allowances issued by the PHA must be applied within 90 days of issue. The current HUD-52667 should be obtained from the local PHA, sent to the Agency (Energy Coordinator, PHFA Technical Services, 211 North Front Street, Harrisburg, PA 17101) for review and kept on file at the property site.

## Local Utility Company Estimate

If PHA allowances are not mandated, the owner/management agent may use an estimate from a local utility company. The local utility company must provide a written estimated cost for that utility for a unit of similar size and construction for the geographic area in which the unit is located. The estimate must be for each type of unit, 1BR, 2BR, 3BR, etc. Utility estimates should also be obtained for units with the same number of bedrooms but consisting of significantly different floor areas. More than one written estimate may be necessary if the property uses multiple utility suppliers. The estimate must identify the utility provider and be signed by a responsible agent of the utility company. It should be noted that significant variations from the utility company estimate are to be expected based upon family size, lifestyle, and weather conditions.

The estimate(s) must be kept on file as required by Regulations. The estimate must be updated annually. The owner/management representative, after receiving the local utility company estimate, must fill out Table 1 in Exhibit 8 of the *PHFA Property Operations Manual*. The completed form with a copy of the written estimate provided by the local utility should be forwarded to the Agency (Energy Coordinator, PHFA Technical Services, 211 North Front Street, Harrisburg, PA 17101) for review.

## Conclusion

The owner is responsible for obtaining and using the appropriate tenant-paid utility allowance figures. The maximum allowable gross rent or total housing expense consists of the sum of tenant rent plus the applicable utility allowance. If the tenant rent and the applicable utility allowance exceed the maximum allowable gross rent, the tenant is being overcharged rent. Overcharging rent is an event of noncompliance in the Tax Credit program. Since using the incorrect tenant-paid utility allowance may result in overcharging rents, care should be taken in obtaining correct and current utility allowances.

## Summary of Procedure

At a minimum, on a yearly basis, submit to the Energy Coordinator, PHFA Technical Services, 211 North Front Street, Harrisburg, PA 17101, an updated utility allowance. If using a Public Housing Authority tenant-paid utility allowance, follow **Procedure A**. If using a local utility company estimate, follow **Procedure B**.

### Procedure A

1. Owner will obtain PHA tenant-paid utility allowances on HUD-52667 (or similar form).
2. Owner will mark PHA tenant-paid utility allowances for specific development.
3. Owner will send marked PHA tenant-paid utility allowances with cover letter to the PHFA Energy Coordinator.
4. The PHFA Technical Services Energy Coordinator will review and notify owner of findings.

### Procedure B

1. Owner will complete and send local utility company request letter to local utility company. A sample of the local utility company request letter can be found at the rear of this exhibit.
2. Upon receiving estimate from utility company, owner will complete Table 1 in Exhibit 8 of the *PHFA Property Operations Manual*.
3. Owner will send Table 1 and local utility company tenant-paid utility estimates to the PHFA Energy Coordinator.
4. The PHFA Technical Services Energy Coordinator will review and notify owner of findings.

**RE: Tenant-Paid Utility Allowance Estimate**

**Date**

Dear Utility Provider;

We are requesting an estimate of average monthly energy consumption for the following multifamily housing complex:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

The property has the following utility mix:

Space Heating \_\_\_\_\_ Natural Gas \_\_\_\_\_ Electric \_\_\_\_\_

Water Heating \_\_\_\_\_ Natural Gas \_\_\_\_\_ Electric \_\_\_\_\_

Cooking \_\_\_\_\_ Natural Gas \_\_\_\_\_ Electric \_\_\_\_\_

Electric will cover lights, air conditioning, and appliances not covered above.

The property includes the following unit types:

1 BR \_\_\_\_\_ 2 BR \_\_\_\_\_ 3 BR \_\_\_\_\_ 4BR \_\_\_\_\_ Other \_\_\_\_\_

Average floor areas are:

1 BR \_\_\_\_\_ 2 BR \_\_\_\_\_ 3 BR \_\_\_\_\_ 4BR \_\_\_\_\_ Other \_\_\_\_\_

The building configuration:

Townhouse \_\_\_\_\_ Walk-up Apartments \_\_\_\_\_ Low Rise \_\_\_\_\_ Mid Rise \_\_\_\_\_ High Rise \_\_\_\_\_ Duplex \_\_\_\_\_

The building(s) was (were) constructed: \_\_\_\_\_

The purpose of the local utility company estimate is to give a reasonable estimate of the average monthly utility usage/cost that an energy-conscious resident will incur for the year. The utility company estimate is not a guarantee of energy cost. In addition, the utility company estimate is not to be used as a marketing tool for the development. It should be noted that significant variations from the utility company estimate are to be expected based upon family size, lifestyle, and weather conditions.

The estimate must be for each size of unit: 1BR, 2BR, 3BR, etc. The estimate must identify the utility provider and be signed by a responsible agent of the utility provider.

Please send the utility estimate to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Table 1**  
**Local Utility Company Tenant-Paid Utility Estimate**  
 Developments Financed by PHFA

Owner of Property must complete the following information.

PHFA #: \_\_\_\_\_

Development Name: \_\_\_\_\_

Number of units: 1 BR \_\_\_\_\_ 2 BR \_\_\_\_\_ 3 BR \_\_\_\_\_ 4 BR \_\_\_\_\_ Other \_\_\_\_\_  
 Average areas: 1 BR \_\_\_\_\_ 2 BR \_\_\_\_\_ 3 BR \_\_\_\_\_ 4 BR \_\_\_\_\_ Other \_\_\_\_\_  
 Building Type(s): Low Rise \_\_\_\_\_ Mid-rise \_\_\_\_\_ High-rise \_\_\_\_\_  
 Townhouse \_\_\_\_\_ Walk-up Apartment \_\_\_\_\_ Duplex \_\_\_\_\_

Information should include consumption estimate in appropriate units (i.e., MCF, kwh, etc.) and estimated cost in \$.

Column 1	Efficiency	1 BR	2 BR	3 BR	4 BR	5 BR
Space Heating						
	Natural Gas					
	Electric					
	Other					
Water Heating						
	Natural Gas					
	Electric					
	Other					
Cooking						
	Natural Gas					
	Electric					
	Other					
Other Electric						
Total Utility Cost						

**Attach utility company estimate letter to this form.**