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Q. When does the utility allowance (UA) requirement established in the 2013 HOME Final Rule (HOME Rule) become effective, and what methods may a participating jurisdiction (PJ) use to establish the UA for HOME-assisted rental units?

A. PJs are required to determine UAs for HOME-assisted rental units by using either the HUD Utility Schedule Model (HUSM) or a project-specific methodology. This HOMEfires reviews the HUSM and identifies several other methodologies that meet the HOME regulatory requirements including the HUD Multifamily Housing Utility Analysis, a Utility Company Estimate, a Low Income Housing Tax Credit (LIHTC) Agency Estimate, or an Energy Consumption Model.

Background

The HOME statute and the regulations at 24 CFR Part 92 establish rent limits for HOME-assisted rental units. These are gross limits that include contract rent plus utilities or a UA for tenant-paid utilities. PJs are required to establish maximum monthly allowances for utilities and services (excluding telephone) and to update the allowances annually. The HOME Rule requires PJs to use the HUD Utility Schedule Model (HUSM) or otherwise determine the utility allowance for the project based on the type of utilities used at the project.

The utility allowance requirement at §92.252(d) in the HOME Rule is applicable to all rental projects to which HOME funds were committed on or after August 23, 2013. Unfortunately, when the HOME Rule was published in 2013, the HUSM contained errors that caused anomalous results. Therefore, it was not possible for PJs to comply with the regulatory UA requirement while the model was producing inaccurate utility allowances. In November 2015, HUD released an updated version of the HUSM, which corrected the errors and helped to ensure proper sequencing of consumption estimates across bedroom sizes and/or structure types. This updated HUSM now is available for PJ use. Consequently, beginning immediately PJs must take steps to implement the UA requirements at 24 CFR 92.252(d) for projects to which HOME funds were committed on or after August 23, 2013 and which are completed and occupied. PJs must instruct owners of these projects to comply with the UA requirements at lease renewal, or as soon as is practicable.

Under the HOME Rule, PJs are no longer permitted to use the utility allowance established by the local Public Housing Authority (PHA) for HOME-assisted rental projects for which HOME funds were committed on or after August 23, 2013. Projects to which HOME funds were committed before the effective date of the 2013 HOME Rule may continue to use the PHA utility schedule. The methods used by PHAs to establish these utility schedules vary across the country and, therefore, may generate inconsistent or inaccurate allowances. In addition, PHA utility schedules are based on average consumption rates across a PHA's portfolio. Application of these standardized utility allowances may result in undercharging or overcharging of rent, particularly in projects where tenants pay utilities directly. As more projects are constructed or rehabilitated to higher energy-efficiency standards, thus enhancing affordability of units, the use of a standard utility allowance may not represent actual utility costs.

The option established in the HOME regulations to "otherwise determine the utility allowance for the project based on the type of utilities used at the project" means that, if PJs choose not to use the HUSM, the UA must be established using a project-specific methodology. A project-specific methodology is based on actual utility usage at the property or estimates an allowance based on project-specific factors such as size, orientation, building materials, mechanical systems and construction quality, as well as local climate conditions.

Responsibility for UA Determination

The HOME Rule requires the PJ to establish a UA for a HOME-assisted unit. However, a PJ may require property owners to complete initial UA calculations and submit their calculations for review and approval of the PJ prior to implementation. The staff cost of determining UAs can be charged as an administrative cost under 24 CFR 92.207(a). In addition, the staff cost of determining the initial UA, prior to project completion, can be charged as a project-related soft cost for projects to which HOME funds were committed on or after August 23, 2013 under 24 CFR 92.206(d).

PJs may establish local policies and procedures for determining and annually updating UAs for each HOME-assisted rental project. Specifically, PJs may:

- Directly calculate the UA for each project based on any of the acceptable methods outlined below using its own qualified staff or by contracting with qualified professionals;

- Require property owners to use a specific method or choose from any of the acceptable methods outlined below to prepare (or employ a qualified third-party professional to prepare) and submit a UA determination for the PJ's review and approval; or

- Accept a UA approved by another funder (state tax credit allocator, federal agency, etc.) provided the UA is calculated using a method acceptable under the HOME Program. In such cases, the PJ is ultimately responsible for ensuring that the UA meets HOME requirements.

Acceptable Methods for Calculating UAs

The following five methodologies used in other Federal housing programs will meet the HOME regulatory requirement that the utility allowance for a specific project be based upon the utilities used at the project. A PJ may adopt one or more of these options across its HOME rental program or may limit their use to a single method. However, a PJ must use the same UA methodology for all HOME units within a single project. HUD encourages PJs to align with other funders, to the extent feasible, when determining the UA for a project with multiple funding sources. The acceptable methods include, but are not limited to:

1. **HUD Utility Schedule Model**: The HUSM enables users to calculate utility schedules by housing type after entering utility rate information (tariffs). This model is based on climate and survey

information from the U. S. Energy Information Administration of the Department of Energy and it incorporates energy efficiency and Energy Star data. This model is allowed for LIHTC projects per IRS regulations at 26 CFR 1.42-10(b)(4)(D).

The HUSM and use instructions can be accessed on HUD User at https://www.huduser.gov/portal/resources/utilallowance.html. The HUSM is available as either a spreadsheet model in MS EXCEL or a web-based model on HUD User at https://www.huduser.gov/portal/datasets/husm/uam.html. During {2016?}, HUD will deliver a web-based training on the use of the HUSM and post the recording on the HUD Resource Exchange as an additional resource for PJs.

2. **Multifamily Housing Utility Analysis**: In 2015, HUD published Multifamily Notice H-2015-4 to provide instructions to owners and management agents for completing the required utility analysis. This analysis is also used for the USDA Rural Housing Service program and allowed for LIHTC projects per IRS regulations at 26 CFR 1.42-10(b)(3). HOME PJs may use the methodology from the notice, including the required baseline utility analysis; the optional factor-based utility analysis; and, the utility analysis sample size which are described in Attachment 1 to this HOMEfires.

3. **Utility Company Estimate** (26 CFR 1.42-10(b)(4)(B)) – A PJ may establish or approve a UA based on estimates obtained from a local utility company for each of the utilities used in the project. IRS regulations state that the estimate must be obtained in writing and must be based on the estimated cost of that utility for a unit of similar size and construction for the geographic area in which the building containing the unit is located.

4. **LIHTC Agency Estimate** (26 CFR 1.42-10(b)(4)(C)) – Under IRS regulations, the tax credit allocating agency estimate entails two options: 1) an agency estimate that is a prospective projection of utility costs based on site and building characteristics, and 2) an actual usage methodology. If a project is receiving both HOME and LIHTC funding, a PJ may coordinate with the LIHTC agency to obtain a project-specific agency estimate or may accept a UA approved by the LIHTC agency based on its actual usage methodology.

5. **Energy Consumption Model (Engineer Model)** (26 CFR 1.42-10(b)(4)(E)) – A PJ may establish or approve a UA based on an energy and water and sewage consumption and analysis model (energy consumption model) prepared by a properly licensed engineer or a qualified professional. IRS regulations require that such professionals be independent from the property owner and they specify the building factors that must be included in the model.

Conflicting Utility Allowance Requirements

HUD recognizes that the Housing Choice Voucher (HCV) program requires use of the utility allowance calculated by the local PHA. In the future, HUD will consider proposing a regulatory change for the HOME program. However, at this time, a PJ must request a waiver if the UA requirement of another funding source conflicts with the HOME UA requirements and the PJ wishes to use a UA not permitted under the HOME regulation for those units. A PJ may submit a request for a waiver of 24 CFR 92.252(d) for HOME units occupied by HCV tenants, and upon making a determination of good cause, HUD may approve a waiver to make quality affordable housing available to HCV Program participants.

Attachment 1: Multifamily Housing Utility Analysis Methodology

Baseline Utility Analysis – If a PJ uses the Multifamily Housing analysis, a baseline utility allowance must be established every three years using the required sample size. For the two years after the baseline is established, PJs have the option to perform the factor-based utility analysis described below. A baseline utility analysis consists of the following steps:

- Request utility data from either the utility company of the tenant household for at least the number of units determined by the sample size methodology. 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. If the buildings are not identical, the sampling must be done for each bedroom size for each building.

- 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 the sampling instructions below. Do not remove the highest or lowest utility cost household when determining the average.

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 Notice H-2015-4. In addition, HUD 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 included as Attachment B to Notice H-2015-4.

Factor-Based Utility Analysis – If a PJ has calculated a baseline utility allowance, then the PJ may use a factor-based utility analysis for the following two years. The baseline utility allowance must be recalculated every three years. To conduct a factor-based utility allowance, the PJ will adjust the baseline utility allowance amounts for each bedroom size and each utility at the property by a state-specific increase factor, the Utility Allowance Factor (UAF) provided by HUD. The UAF, which can be found on the HUD User website, is determined by considering the state-specific average retail price of electricity, natural gas, water, and oil/propane for residential consumers that is published by the U. S. Energy Information Administration.

After completing the property's utility analysis under the factor-based utility analysis method, the adjusted utility allowances should be compared to the paid utilities over the previous twelve months. If a PJ determines that the results indicate a significant disparity between the two, a baseline analysis should be completed to ensure that the allowances provided are accurate.

Utility Analysis Sample Size – An appropriate sample size must be used to perform a statistically accurate utility analysis. HUD's Office of Policy Development and Research (PD&R) created a sample size rule and formula for this purpose. This formula has been built into the utility allowance submission template, Attachment A, and Figure 1 below shows how it translates based on the number of units per bedroom size.

Figure 1	
Number of Units*	**Minimum Sample**
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 illustrates how many units would be sampled using a random representation of units of multiple bedroom sizes within a property.

Figure 2		
Bedroom Size	**Number of Units**	**Sampling for Utility Analysis**
0 Bedroom	15	15
1 Bedroom	113	24
2 Bedroom	74	22
3 Bedroom	50	20
4 Bedroom	7	7
Total Units	259	88

A unit should be excluded from the sample only if it:

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

Multifamily Notice H-2015-4 and its two attachments can be accessed at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/hsg/2015

The UAF is available on HUD User at: https://www.huduser.gov/portal/datasets/muaf.html