Utility Allowance Procedures for LIHTC Properties

Background

Low-Income Housing Tax Credit (LIHTC) property owners must include the cost of all Resident-paid utilities in the gross rent charged to Residents. To do this, Owners must obtain a utility cost allowance for all buildings in their LIHTC property. The applicable utility allowance must then be deducted from the applicable Maximum Tax Credit Rent Limit to determine the maximum rent that can be paid by a Resident.

FOR NEW PROJECT APPLICANTS

Beginning in 2016, the WSHFC policies for new 9% LIHTC projects allow applicants to seek points for using an Energy Consumption Model for calculating the project utility allowance. (Section 6.22, available at http://www.wshfc.org/mhcf/9percent/2016application/c.policies.pdf).

To receive points, applicants commit to using Method 8 – Energy Consumption Model, described below, and must submit documentation of the selected qualified third party engineer and the plan for using the energy consumption model. The third party engineer must be approved by the WSHFC prior to submitting the application, as described below. The plan must identify the utilities to be modeled (electricity, natural gas, water, wastewater), the platform of the model, and the methodology to be used in the energy consumption model. However, the total utility allowance for the project must include all utility costs by the tenant. At a minimum, the model must address electricity. Applicants are encouraged to use the energy consumption model for natural gas (if applicable), water and wastewater, though this is not required to receive points.

The utility allowances resulting from the energy consumption model may be used in the development of the application, but are not required. If a project is selected to receive a 9% LIHTC allocation, the applicant will then be expected to use the results of the energy consumption model for project underwriting. **Note: Actual model and resulting utility allowance calculations submitted as part of a 9% LIHTC application will not be formally reviewed or approved by WSHFC staff.** The applicant must submit proposed utility allowances resulting from the energy consumption model for review and approval by WSHFC staff, in accordance with this Appendix, no later than 90 days before the expected initial resident occupancy for new construction or the start of the initial credit period for acquisition and rehabilitation projects.

Projects Excluded from Submitting Owner Utility Allowance Requests

Properties meeting any of the following conditions are not eligible to submit Owner-produced utility allowances (Methods 6-8, as explained below):

1. Properties with uncorrected noncompliance issues as determined by the Commission.
2. HUD and RD regulated properties. These properties are required to use estimates provided or approved by HUD or RD.

Benefits of Using More Accurate Utility Allowances

Utility allowances published by a Public Housing Authority (PHA) might not reflect actual usage at individual LIHTC properties. PHA allowances base costs on a portfolio average of utility usage at typically older, energy-inefficient properties. As a result, Owners may need to reduce rents due to inflated utility allowances. Washington Average Median Gross Income (AMGI) and rent limits have increased slowly, if at all, while utility costs may increase quickly. In some cases, this has resulted in Owners needing to lower rents to remain under the gross rent limit, resulting in potential negative cash flow issues that affect the long-term viability of their LIHTC property.
Federal legislative changes made in 2008 define the methods by which Owners can obtain utility allowances. WSHFC accepts these methods as described below. **Any change of utility allowance method used at a property must be approved by WSHFC staff prior to implementation.**

AVAILABLE UTILITY ALLOWANCE METHODS

For the following four methods, WSHFC does not require a separate utility allowance review or review fee prior to implementation. Utility allowance schedules/documentation for these methods should be included in the annual report package submitted yearly for each covered property.

1. **Rural Housing Service Properties**. Buildings receiving assistance from RHS must use the allowances provided by RHS for all rent restricted units in the building.

2. **HUD Regulated Properties**. Buildings that receive HUD rental assistance or are required to have rents and utility allowances reviewed regularly by HUD must use the HUD provided utility allowance for all rent restricted units. If buildings are restricted by both HUD and RHS, the RHS numbers are used for those buildings.

3. **Local Utility Company Estimate.** An Owner may obtain an estimate in writing from the local utility company that offers services to that building. The estimate must be provided on the utility company's letterhead, be dated and signed by a representative of the utility company, reference the property, include each size unit at the property, and document that the estimate is based on 12 months of usage at the current utility rates, including any applicable taxes and fees. *If the utility company does not have data on unit sizes,* the Owner may provide the bedroom size for each unit to the utility company for use in developing the estimates.

4. **Public Housing Authority Estimates.** This is the most common utility allowance Method used by LIHTC properties. Most PHAs in Washington publish estimates that are readily available. Links to PHA utility allowance schedules are available on the WSHFC website at http://www.wshfc.org/managers/utility.htm.

> *Note:* If a property is not HUD or RD regulated, the PHA allowance must be used for any unit that is receiving assistance from HUD through a Section 8 voucher, even if another method has been approved for use at the property by WSHFC.

For the following methods, WSHFC requires a review fee to be paid *prior* to review and approval of the proposed method. **Once the initial utility usage estimate has been reviewed by WSHFC, there is no fee associated with subsequent yearly adjustments based on utility rate changes.** If a third party is used to produce the estimates, the party must be approved by WSHFC prior to engagement.

5. **Owner Estimate, Similar Buildings.** This is no longer a separate method and is included within the Actual Usage Estimate and Energy Consumption Model methods.

6. **Actual Usage Estimate**. An Owner may propose utility allowances for each building in a property based on average actual usage data and local utility company rates for the building(s). Using average usage data (kilowatts, therms, or gallons) provided by the local utility company for each unit, the Owner may calculate an average utility estimate for each unit size. The Owner must use data from units of each bedroom size to develop the utility allowance for that unit size. If the project includes multiple buildings, the Owner must use consumption data from units in each building. Owners with less than 12 months of consumption data may use data from a similar building until 12 months of consumption data is available. At that point, the Owner must submit a request to WSHFC to change the utility allowance estimate based on actual usage at that building or to use another method.

   Owners intending to use this method are expected to carefully review ***Attachment C - Actual Usage Estimate Guidance*** at the end of this Appendix and utilize ***Attachment D – Utility Allowance Spreadsheet***.

7. **HUD Utility Schedule Model.** An Owner may calculate a utility allowance using the HUD Utility Schedule Model, found at http://www.huduser.gov/portal/resources/utilallowance.html. Owners who use this model will need to document the source and content of all factors entered into the model. This estimate may be produced by the Owner or a licensed, professional third party.

8. **Energy Consumption Model.** An Owner may provide a utility estimate using an energy and water sewage consumption analysis model. The model must take into account factors including unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The utility estimate should also take into account property type, climate and degree-day variables by region in the State and local utility rates. This estimate **must be calculated by an independent licensed engineer or other qualified third party approved by WSHFC**.

   Alternately, the third party may base the model on the characteristics of a property with existing buildings of similar size and construction in the geographic area of the building(s). To use a similar building model, the Owner or third party must document that the two buildings have substantively similar characteristics.

Submitting Owner Estimate Requests on Newly Placed-In-Service (PIS) Properties

Owners must use Methods 1, 2, or 4 (as applicable) until the WSHFC has approved the use of an alternate method.

HOW TO CHANGE OR UPDATE A UTILITY ALLOWANCE

- All utility allowances must be updated within 12 months of the previous utility allowance effective date, to account for current utility rates. If there has been no change in rates, the Owner must provide documentation of no change.

- A request to switch to Methods 1, 2, 3 or 4 should be submitted via email to the Portfolio Analyst assigned to monitor the property. This request can come from the property Owner or property Manager.

- A request to use **Methods 6, 7, or 8 must be submitted in writing (via email or postal mail) to the Division Manager**. This request must come from the property Owner. The initial request submission must include the following:

    1. *Owner Utility Estimate Checklist* (see Attachment A to this Appendix).
    2. *Owner Certification of Utility Estimate* (see Attachment B to this Appendix).
    3. Check for the review fee (see fee section below).
    4. All supporting documentation.
    5. *All final estimate amounts must be rounded UP to the next whole dollar.*

- If the Owner is using a third party to calculate the estimate (Actual Usage, HUD Utility Schedule Model, Energy Consumption methods), **WSHFC must approve the third party in advance of the Owner submitting the estimate request**. To obtain approval, the third party must:

    1. Submit a response to the WSHFC's Request for Qualifications – Energy Modeling Consultants (RFQ), available on the WSHFC website at: http://www.wshfc.org/energy/rfqEnergyConsultingModeling.pdf; or
    2. Have already submitted a response to the RFQ and be included on the WSHFC's Approved Roster of Energy Modeling Consultants.

- In all situations, the Owner must provide sufficient documentation to WSHFC staff, in the manner required by staff, to support calculations.

- **All utility usage data and utility rates used to calculate the estimate must be no more than 60 days old when submitted to WSHFC for review.**

- When changing or updating utility allowances, the Owner must make the proposed amounts available to Residents for comment **90 days before implementation** (i.e., the effective date of the proposed rates and any resulting change in rents). Information must also be submitted to WSHFC 90 days prior to the implementation date.

Example Timeline:
Better Housing Group recently implemented major energy efficiencies at Happy Valley Apartments. Now BHG wants to change their utility allowance estimate for the property from the local PHA estimate to an energy consumption model estimate. They want to make the new utility

allowance effective as of January 1, 2016. In August 2015, BHG contacts WSHFC staff requesting approval of their proposed third party vendor, Energy Savers Inc. BHG submits the required documentation and WSHFC approves ESI to complete the energy consumption estimate for BHG.

ESI completes their analysis in September 2015, applying the most current utility company rates to their usage estimates. BHG issues a written notice to all Happy Valley residents on October 1, 2015, notifying them of the revised utility allowance amounts with the effective date of January 1, 2016. BHG also issues written notice on October 1, 2015, to any residents whose rents will be increased as a result of the changed utility allowances (effective no earlier than January 1, 2016).

On October 1, 2015, BHG submits all required documents and a check for required fees to WSHFC's Asset Management & Compliance Division Manager. WSHFC reviews the utility estimate change proposal and returns approval to BHG in writing prior to November 2, 2015. BHG's new utility allowance estimate will be in place from January 1, 2016 through December 31, 2016.

During September 2016 (and every year thereafter), BHG reviews the estimate – if local utility company rates have changed, BHG must apply the new rates to the usage estimate and reissue a 90 day notice to their residents as of 10/1/2016. The adjusted utility allowance then becomes effective January 1, 2017. At the time BHG issues the 90 day notice to their residents, they must also send a copy of the notice with the revised utility allowance amounts to WSHFC for review and approval. However, once the initial usage estimate has been reviewed by WSHFC, there is no fee associated with subsequent yearly adjustments based on utility company rate changes.

Review Fees

For initial review and approval of Methods 6, 7 and 8, WSHFC requires Owners to pay a non-refundable fee of $3 per low-income unit in the project, or $100, whichever is greater, to be submitted with the initial request paperwork. **WSHFC will not begin the review process until payment from the Owner is received.** As previously noted, no fees will be required in subsequent years. ***Fees are subject to change without prior notice.***

Approvals, Denials and Denial Review

Owners who submit complete and accurate information will receive a notice from the Division Manager approving the Owner's utility allowance within 30 days of receipt. Questions or requests for additional information will be emailed by WSHFC to the Owner and Property Manager within 30 days of request submission. Owners who do not receive an approval letter or email request within 30 days should contact the Division Manager. Non-receipt of an approval letter or email request is not considered evidence of WSHFC approval.

Residents have the right to question approved utility estimates. Residents who do not believe the estimate represents appropriate utility usage must submit copies of their bills to their Resident Manager for review.

If WSHFC denies the Owner's request, the Owner will receive an email from the Division Manager describing reason for denial. The Owner must then submit the most current local Public Housing Authority estimates for the project within 30 days of denial and implement any changes based on those allowances within 90 days.

Commission staff may deny a request to use a specific utility allowance for the following reasons:

1. The project is excluded from applying for any conditions described in ***Projects Excluded*** paragraph at beginning of this Appendix.
2. The Division Manager determines that information submitted is incomplete or insufficient to accurately determine allowances.

The Owner may request a review of any denial by the Division Director. The decision of the Division Director will be final and not subject to further appeal.

Failure to use the WSHFC approved or mandated utility estimate at a property may result in material noncompliance reportable to the IRS. In the case of either Federal or State noncompliance, WSHFC may impose additional requirements or restrictions on the Owner prior to approving any new LIHTC allocations or bond issuances.

Changes to these Procedures

These procedures are subject to change at any time by the Commission based on staff experience and/or Commissioner guidance. These procedures may also be suspended or amended based on additional IRS clarification, guidance or changes to regulations.

This Appendix includes the following Attachments:

A. WSHFC Owner Utility Estimate Checklist (Methods 6-8)

B. WSHFC Owner Certification of Utility Estimate (Methods 6-8)

C. Actual Usage Estimate Guidance (Method 6)

D. Utility Allowance Spreadsheet (Method 6), available at:

http://www.wshfc.org/managers/ManualTaxCreditIndex.htm#O

Attachment A

WSHFC Owner Utility Estimate Checklist – Methods 6-8

(To be completed and included with submission)

☐ Cover letter from authorized signator requesting for approval of proposed rates and outlining Method used to calculate proposed averages.

☐ *WSHFC Owner Certification of Utility Estimate* including the proposed utility averages, by bedroom size and building. The averages must include a breakdown of numbers by utility type and a comparison of proposed numbers to current PHA numbers, as well as previous year utility allowances for the property.

☐ Copy of current utility company rate schedule.

☐ Copy of current utility bill for a vacant unit at the property or at another property within the same city to determine any applicable local taxes or fees assessed in addition to the utility company rates. If this is not available, then provide alternate documentation of the same.

☐ For Method #6, Actual Usage Estimate, Excel spreadsheet (see attachment) including all units in the project, with actual monthly usage and billing data for all continuously occupied units.

☐ For Method #6, copies of actual usage data from the utility company, with jurisdiction for the property, for each continuously occupied unit in the project, covering the most recent twelve-month period. If utility company data is not available, indicate so in the Owner cover letter and explain how information was collected and summarized.

☐ For Method #8, a certification from the previously approved Qualified Professional explaining their analysis and findings. The analysis must explain how they addressed each required component as outlined in this appendix and in Section 1.42-10 of the Code.

☐ For Method #7, include the source and copies of back-up documentation for all factors entered into the HUD Utility Schedule Model.

☐ Processing Fee of $3 per low-income unit in the project, with a minimum fee of $100 per project.

☐ Copy of the notice to residents showing the date notice of proposed utility allowance change was posted for viewing/comment.

Attachment B

WSHFC Owner Certification of Utility Estimate

(To be completed and included with submission)

Property Name: ____ **OID #:** _____________

I, ___________________________ , certify that the documentation provided in this submission is complete and accurate regarding actual utility costs associated with the above named project. I understand that WSHFC may require additional information to substantiate the estimates provided herein. I also certify to the following:

1. I am the authorized signator for the above named project.
2. I have personally reviewed the documentation provided for this estimate and believe it to be accurate.
3. I acknowledge that if methodology is not approved, I must implement appropriate PHA numbers for the property.
4. Estimates are based only on utilities that are sub-metered to residents where residents receive a monthly bill specific to usage in their unit.
5. *(For Method 6 only)* The estimate includes only continuously occupied units (50 or more weeks) in the most recent twelve-month period (data is current within two months of submission).
6. *(For Method 6 only)* All units in the project are listed on the enclosed spreadsheet. Any units not included in the estimate have the reason listed on spreadsheet.

Based on submitted documentation, I certify that the correct monthly average utility estimates for the above named project are as follows:

Utility Type	Unit Type	PHA Allowance	Current Allowance	Proposed Allowance

_______________________________ Printed Name

_______________________________ Signature

_______________________________ Title

_______________________________ Date

Attachment C
Actual Usage Estimate Guidance

1. **Consumption Data**

When requesting to use Method 6 – Owner Estimate, Actual Usage Data, Owners must provide **actual utility company usage data** to support the proposed annual utility estimate for a particular project. The Owner must obtain copies of actual usage data/summaries from the utility company, for units that were continuously occupied for the most recent full 12-month period. "Continuously occupied," for purposes of this estimate, includes all units that were occupied during the 12-month period for at least 50 of the 52 weeks.

If the Owner can document that the utility company will not provide copies of actual usage, copies of utility bills received directly from Residents are acceptable. The Owner must obtain written authorization from Residents prior to collecting consumption data from utility companies or from Residents.

2. **Average Consumption by Unit Size**

The Owner must itemize monthly utility consumption and bills by unit in a spreadsheet (Attachment D) and calculate monthly averages by unit size. The Owner then develops the annual utility allowance for each unit size by taking an average of the monthly utility consumption (kilowatts, therms or gallons) and applying <u>current</u> utility rates to the consumption estimates for each unit size. In subsequent years, the Owner continues to use the approved consumption estimates and applies current rates to those estimates.

All units with the same number of bedrooms should be included in one average, regardless of the square footage (i.e., all one-bedroom units in one average). If a project has significant variances in square footage among a single bedroom size, e.g., 5 one-bedroom units at 500 square feet, and 5 one-bedroom units at 800 square feet, the Owner should contact the Division Manager to discuss the calculation methodology.

3. **Similar or Multiple Buildings**

Properties with similar type buildings may calculate one average for each bedroom type encompassing all buildings. Properties with different building types (townhouses vs. multi-story buildings for instance), with different heat sources, or built to significantly different building codes must calculate separate averages for each building type and each utility source.

4. **Accuracy**

For any units not included in the average, the Owner must submit the reason for exclusion – e.g., the units were not continuously occupied for the previous 12-month period.

The Owner must certify that all data and calculated estimates are complete and accurate. The Owner must also certify that all units included in the average are separately metered and billed to the Resident for that utility source. For example, water usage may not be billed to the Resident unless the unit is separately metered and billed directly to the Resident for their specific unit.