

## Instructions for Maintaining Compliance with the IRS Utility Allowance Regulations Effective July 29, 2008

The following policy was put in place in 2008 as a result of the IRS update.

All properties must update their utility allowance at least once annually. In many cases, this now includes a review by NCHFA and our approval of the allowance prior to implementation – it is no longer acceptable to collect the documentation, calculate and implement the allowance, then wait to submit the documentation to the Agency when the property is monitored. Failure to maintain an acceptable up to date utility allowance is considered noncompliance reportable to the IRS.

There are now 7 options for calculating a utility allowance. However, there are specific steps that must be followed depending on the option chosen in order to have a compliant utility allowance.

### Summary of Options

#### Option 1 – RD/RHS

**Summary:** This option is limited to properties regulated by RHS. The utility allowance approved by the Rural Housing Service (RHS) **must** be used for all projects in which the buildings or tenants receive assistance from RHS. This includes RHS financed projects with tenants receiving HUD Section-8 assistance. No other utility allowance option may be used for RHS regulated properties.

<b>When must the allowance be updated each year?</b>	Any time during the calendar year in accordance with RHS regulations.
<b>What are the documentation requirements of this method?</b>	Maintain a copy of the RHS approval letters for each year.
<b>Does NCHFA need to approve this allowance?</b>	No
<b>Is there a fee payable to NCHFA when using this method?</b>	No
<b>Are there any other compliance issues if using this method?</b>	RHS approval letters must be available during compliance monitoring.
<b>How should the Agency be notified of a change in the allowance?</b>	Update the utility allowances in RCRS.

#### Option 2 – HUD regulated buildings

**Summary:** This option is limited to properties regulated by HUD. The utility allowance approved by HUD **must** be used for all projects in which the rents and utility allowances are reviewed and approved annually by HUD. No other utility allowance option may be used for HUD regulated properties.

<b>When must the allowance be updated each year?</b>	Any time during the calendar year in accordance with HUD regulations.
<b>What are the documentation requirements of this method?</b>	Maintain a copy of the HUD approval letters for each year.
<b>Does NCHFA need to approve this allowance?</b>	No
<b>Is there a fee payable to NCHFA when using this method?</b>	No
<b>Are there any other compliance issues if using this method?</b>	HUD approval letters must be available during compliance monitoring.
<b>How should the Agency be notified of a change in the allowance?</b>	Update the utility allowances in RCRS.

### Option 3 – PHA methodology

**Summary:** The utility allowance calculated by the local PHA **may** be used for all buildings not regulated by RHS or HUD. The PHA allowance **must** be used for any units occupied by a voucher holder.

<b>When must the allowance be updated each year?</b>	At least once during the calendar year; however, must be implemented within 90 days of update/effective date by the PHA.
<b>What are the documentation requirements of this method?</b>	Maintain a copy of the PHA Utility Schedule for each year, including the effective date of the allowance and the date it was obtained.
<b>Does NCHFA need to approve this allowance?</b>	No
<b>Is there a fee payable to NCHFA when using this method?</b>	No
<b>Are there any other compliance issues if using this method?</b>	Owner/agent responsible to monitor during the calendar year for PHA changes to the utility allowance schedule – they must be implemented within 90 days of the PHA effective date. Also, the owner/agent is responsible to obtain the correct schedule – attached vs. detached housing, etc.
<b>How should the Agency be notified of a change in the allowance?</b>	Update the utility allowances in RCRS.

### Option 4 - Utility Company Estimate

**Summary:** The estimate is obtained in writing from the local utility provider. The estimate is for units of similar size and construction in the geographic area in which the subject building is located. The estimate must take into account, among other things: local utility rates, property type, climate and degree-day variables by region in the state, taxes and fees on utility charges, building materials, and mechanical systems. (See option 5 to use unit consumption averages)

<b>When must the allowance be updated each year?</b>	It is the owner’s responsibility to start early enough to allow enough time to meet all notification and review requirements and also implement the new allowance within the IRS mandated timeframe during the correct calendar year.
<b>What are the documentation requirements of this method?</b>	Maintain a copy of the letter from the utility company for each year.
<b>Does NCHFA need to approve this allowance?</b>	Yes, submit the documentation to the Agency for approval prior to implementing the utility allowance.
<b>Is there a fee payable to NCHFA when using this method?</b>	Yes, \$150 review and processing fee must be submitted with the allowance documentation.
<b>Are there any other compliance issues if using this method?</b>	Yes, there are timing issues and tenant notification periods that must be complied with.
<b>How should the Agency be notified of a change in the allowance?</b>	Once approved by NCHFA and implemented, update the utility allowances in RCRS.

### Option 5 – Agency Estimate (consumption average)

**Summary:** State housing agencies may establish a utility allowance by using a software model or actual utility company consumption data. NCHFA has elected to provide this option based on actual consumption data. The method to determine the sample size and the units to include as well as additional guidance on use of this method including consumption averages calculated and provided by utility companies is detailed on page 5.

<b>When must the allowance be updated each year?</b>	It is the owner’s responsibility to start early enough to allow enough time to meet all notification and review requirements and also implement the new allowance within the IRS mandated timeframe during the correct calendar year.
<b>What are the documentation requirements of this method?</b>	Obtain and keep the billing data/history from the utility company or the tenants for the sample units. Enter the data into the NCHFA allowance calculation spreadsheet. Keep a copy of the spreadsheet/certification.
<b>Does NCHFA need to approve this allowance?</b>	Yes, submit the supporting documentation and spreadsheet/certification to the Agency for approval prior to implementing the utility allowance.
<b>Is there a fee payable to NCHFA when using this method?</b>	Yes, \$150 review and processing fee must be submitted with the allowance documentation.
<b>Are there any other compliance issues if using this method?</b>	Yes, the sample size and selection of units is an area that can cause compliance issues as well as there are timing issues and tenant notification periods that must be complied with.
<b>How should the Agency be notified of a change in the allowance?</b>	Once approved by NCHFA and implemented, update the utility allowances in RCRS.

### Option 6 – HUD Utility Schedule Model

**Summary:** An owner may calculate a utility allowance using the HUD Utility Schedule Model which is found on the HUD web site at [www.huduser.org/datasets/lihtc.html](http://www.huduser.org/datasets/lihtc.html). This model is currently available for use to calculate utility estimates. However, it is necessary to identify a weather station in close proximity of the property to successfully calculate a utility estimate. Also, the use of this model requires the owner collect local utility rate data.

<b>When must the allowance be updated each year?</b>	It is the owner’s responsibility to start early enough to allow enough time to meet all notification and review requirements and also implement the new allowance within the IRS mandated timeframe during the correct calendar year.
<b>What are the documentation requirements of this method?</b>	Maintain a copy of the printout detailing the arrived at utility allowance including screenshots of the utility rates and weather station entered to calculate the allowance. Additionally, maintain documentation from the utility companies of the rate schedule used in the computation.
<b>Does NCHFA need to approve this allowance?</b>	Yes, provide a copy of all the documentation detailed above.
<b>Is there a fee payable to NCHFA when using this method?</b>	Yes, \$150 review and processing fee must be submitted with the allowance documentation.
<b>Are there any other compliance issues if using this method?</b>	Yes, timing issues and tenant notification periods that must be complied with.
<b>How should the Agency be notified of a change in the allowance?</b>	Once approved by NCHFA and implemented, update the utility allowances in RCRS.

## Option 7 – Energy Consumption Model

**Summary:** Owners may base their utility allowances on estimates obtained from using a consumption model by either a properly licensed engineer or a qualified professional. In either case, they must be unrelated to the owner and they and their methodology must be approved by the Agency prior to the owner engaging them for service. For additional guidance on this option, see page 5.

<b>When must the allowance be updated each year?</b>	It is the owner’s responsibility to start early enough to allow enough time to meet all notification and review requirements and also implement the new allowance within the IRS mandated timeframe during the correct calendar year.
<b>What are the documentation requirements of this method?</b>	Maintain a copy of the allowance letter from the licensed engineer or qualified professional. If not prepared by a licensed engineer, then backup documentation must be retained by the property owner as well.
<b>Does NCHFA need to approve this allowance?</b>	Yes, if prepared by a licensed engineer then a copy of the allowance should be submitted. If the qualified professional is not a licensed engineer, then in addition to the allowance, a copy of the supporting documentation should be submitted.
<b>Is there a fee payable to NCHFA when using this method?</b>	Yes, \$150 review and processing fee must be submitted with the allowance documentation
<b>Are there any other compliance issues if using this method?</b>	If not prepared by a licensed engineer, the methodology must be approved by the Agency prior to retaining the firm. There are also timing issues and tenant notification periods that must be complied with.
<b>How should the Agency be notified of a change in the allowance?</b>	Once approved by NCHFA and implemented, update the utility allowances in RCRS.

## Additional Utility Allowance Guidance

### Annual Review

The IRS now requires that utility allowances on tax credit properties be updated annually. Owners are required to select an option and collect the documentation required for that option, calculate an updated allowance and obtain Agency approval, if applicable, and implement at least once during each calendar year.

### Choosing an Allowance Method

Owners of properties that are not regulated by RHS or HUD have the flexibility each year to select any of the five remaining options for each utility type paid directly by residents. (Example: use option 3 (PHA) for water and sewer, but use option 5 (consumption average) for electricity).

### Notification Requirements

**Residents:** Updated utility allowances must be implemented either in accordance with RHS or HUD regulations for properties regulated by those programs, or within 90 days of the effective date if using the PHA allowance. Regardless of which other utility allowance option is selected, the owner must notify the residents in writing 90 days prior to implementing a change in the utility allowance. The owner shall maintain and make available for inspection by residents the data used to calculate the utility allowance.

**Agency:** When Agency approval is required, the owner must submit the proposed utility allowance to the Agency for review within 60 days of receipt of the documentation necessary to compute an updated allowance. Submittal to the Agency and notification of the residents should take place on the same date. The Agency will review and respond back to the owner within 45 days, which, assuming approval, will provide the owner 45 days to implement the new allowance within the IRS mandated 90 day timeframe.

## **Fees**

All requests for approval of utility allowance under option 4 – Utility Company Estimate, option 5 – Agency Estimate, option 6 – HUD Utility Model Schedule, or option 7 – Energy Consumption Model require a \$150.00 processing fee that must be submitted to the Agency at the time of the request.

### **Additional Detail on Option 5 – Agency Estimate (consumption average)**

- The owner must complete and submit the data input spreadsheet available on the NCHFA website.
- A utility allowance must be calculated for each materially unique unit type at the property such as for each bedroom size (1BR, 2BR, 3BR) or for units with the same number of bedrooms but significant differences in square footages or styles (3 bedroom flat vs. 3 bedroom/2 story townhome)
- For each unique unit type identified, the sample size must at a minimum include 25% of the units of that type or a minimum of 5 units of each type, whichever is greater. When there are less than 5 units of a type, then all the continuously occupied units must be included.
- Twelve months of billing data must be obtained for each unit in the sample for each utility type using this method. The last month's data can be no older than 60 days when submitted to the Agency for approval.
- Selected sample units must be continuously occupied for the 12 month sample period.
- The sample units should be geographically dispersed across the property.
- The utility consumption data may be obtained directly from the utility provider or from the tenant. In either case the documentation must clearly indicate the name of the source (utility company) and the unit to which it applies. If requesting directly from the utility company, it may be necessary to provide a release to the utility company signed by the tenant.
- The utility provider may provide the raw 12 month data for the units in the sample or provide a calculated average for each unit type. If the utility provider provides an average, they must use the required sample size. (An average provided by Duke Power will not be accepted unless it specifies that it used an adequate sample size)
- The spreadsheet will average the data and compute the utility allowance for each unique unit type.
- The owner must notify the residents that in 90 days the utility allowances will change, and submit to the Agency the data input spreadsheet and the supporting documentation for the data entered into the spreadsheet within 60 days of the end of the last month included in the sample.

### **Additional Detail on Option 7 – Energy Consumption Model**

- This method may be completed by a licensed engineer or qualified professional not related to the property owner within the meaning of IRC 267(b) or 707(b).
- The company selected by the owner must be approved by the Agency prior to being engaged by the owner. In order to be approved, the company should contact us, provide a listing of the qualifications of the staff that will prepare and approve the utility allowance calculations as well as provide a detailed description of their model and calculation methodology.
- The model at a minimum must 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.
- If the company hired by the owner and approved by the Agency, employs a licensed engineer, then when submitting the allowances, no backup documentation will be required beyond a letter from the company stating the utility allowances and the date of the determination.
- If there is no licensed engineer on staff, then backup documentation must be submitted including a detailed narrative describing the factors considered to support the calculations of the allowance.