

Frequently Asked Questions (Revised July 2016)
Methodology for Completing a Multifamily Housing Utility Analysis
Notice H 2015-04

Implementation Period

1. **Question:** What is the effective date of this notice?

Answer: The implementation schedule is based on the contract anniversary date. If that date falls within the first 180 days after the publication of the notice (6/22/15), then the owner has a choice—s/he can choose to follow the new methodology, or follow the existing methodology. If the contract anniversary date is more than 180 days after the publication of the notice, s/he must follow the methodology in the notice.

Baseline Analysis

2. **Question:** What documentation will an O/A be required to submit with a utility analysis and request for approval of a U/A?

NEW!

Answer: The O/A shall submit backup information that demonstrates how s/he calculated the new utility allowance(s). HUD/CA has discretion to determine the documentation needed to support the utility allowances.

Some examples of backup information include:

1. Copies of the tenant data received from utility providers, this is typically in summary format; or
2. Copies of the printouts indicating a summary of monthly data if the tenant was able to obtain data online from their utility provider for the previous 12 months, or 10 months if the case may be; or
3. If the O/A obtained actual monthly utility bills from a tenant, the O/A may submit a spreadsheet summarizing the average of the monthly bills. Actual utility bills may be requested at the discretion of HUD/CA. These bills, regardless of whether they are provided to HUD/CA, must be retained by the owner for three years;
4. At the discretion of HUD/CA, there may be cases where a combination of the above will need to be performed.

3. **Question:** When completing a baseline analysis, is there a limit to the age of data used to make the analysis?

NEW!

Answer: A utility analysis should be prepared four to six months prior to the anniversary date of the contracts, with submitted data covering the prior 12-month period. Thus, at the time of contract renewal, the data used in the utility analysis to support the utility allowance would generally be no more than 18 months old.

4. **Question:** We have some residents whose utility accounts are in a relative's name and the utility company will not provide the information based on the resident's signature. What do we do then?

Answer: Have the relative obtain the info, or if possible, use other units for your sample.

5. **Question:** If an apartment is only occupied by a resident for 10 months, how do we handle the other 2 months and any partial months?

Answer: Get an average for the unit for the 10 months; do not use the partial months.

6. **Question:** When a resident vacates an apartment and another resident moves in, the utility company will only release the information for the current resident. Even if the apartment was vacant for only a few days, we may not have 10 months of usage for the new resident. How do we handle that?

Answer: In years when UA baseline calculations are anticipated, make every effort to collect information for the vacating resident prior to their departure. While you need 10 months of utility data for the same unit, the resident can change. In other words, you could have 5 months for one resident and 5 months for another resident. If you cannot obtain the information for at least 10 months, you should not use the unit in the sample.

7. **Question:** Can an O/A combine methods of data collection (some bills from residents, some information from the utility provider)?

Answer: You can use either method, or both. There may be cases in which the O/A has no choice but to combine methods

8. **Question:** Some CAs/HUD offices require that estimated amounts for certain appliance usage be removed from the total utility bill. For example, owner/agents may be required to remove costs to run AC or to use washer/dryers installed in the units. Is this a HUD requirement or are individual agencies allowed to implement such requirements?

Answer: This is not a HUD requirement nor should any agency or HUD office impose such a requirement.

9. **Question:** Please clarify the rounding to the nearest whole dollar – in some cases there have been differences due to rounding.

Answer: Collect the data and calculate the average in dollars and cents, and then round the resulting U/A to the nearest dollar ($\geq .50$ round up, $\leq .49$ round down)

Sample Size

10. Question: If the owner is unable to obtain the minimal sample size despite best efforts, will the analysis be accepted based on available data?

Answer: The owner must demonstrate that every effort has been made to obtain the required sample and to otherwise meet the requirements of the analysis. It is an owner's responsibility to provide an analysis that follows the protocol outlined in the notice as closely as possible, recognizing that the "perfect" sample may not always be available. It will be HUD's or the CA's responsibility, as appropriate, to make sure that the analysis justifies the resulting U/As, with whatever compromises in the sampling were necessary to achieve that analysis. The CA, in consultation with HUD, may require the owner to complete another baseline the following year.

11. Question: For smaller properties, especially senior properties, that may have to use 100% sampling, certain circumstances will skew the resulting U/A up or down, e.g. residents spending weeks or months in a hospital, residents spending (colder) months with relatives, residents with medical conditions who need their apartments to be exceptionally warm, cold, or where they use medical equipment that uses a lot of energy. In most cases, the resident has not requested a reasonable accommodation to increase the U/A.

Answer: Smaller properties will necessarily require a proportionately larger sample size (including 100% sampling) in order to ensure statistically valid results. Management should encourage residents with medical equipment who have extraordinary utility bills to seek a reasonable accommodation for a higher utility allowance.

12. Question: If the property has 20 or fewer apartments and information is not available for at least 10 months in any number of units, does the sample size get reduced? For example: Property has 15 units so all the units must be included in the sample. However, 2 units are vacant and 2 units have only been occupied by the current resident for 5 or 6 months.

Answer: Even if 100% sampling is required, owners must exclude units that have not been occupied for at least 10 months. (see also question 9).

13. Question: Can you clarify the instruction on excluding units with less than 12 months of occupancy? The instructions indicate that a unit must be excluded if it has been vacant for 2 or more months, but then indicate that a unit with only 10 months of occupancy may be included.

Answer: The notice should have said to exclude units that have been vacant more than 2 months; units with only 10 months of occupancy may be included.

14. Question: Can you elaborate on sample sizes when the property has multiple floor plans for same bedroom size?

Answer: You would treat them as two different unit sizes if they appear on your rent

schedule that way and sample for both sizes. For example, your rent schedule may indicate both a One Bedroom Unit and then a One Bedroom Unit (Large). This indicates that the unit size is different but the number of bedrooms is the same. It is likely that the U/A is different as well. If this is the case, these unit types should be considered individually. (If you are using the HUD worksheet attachment to the notice, you would amend it to include this additional unit type.)

15. Question: Can you use the usage amount for residents paying a flat rate, especially if most residents are paying a flat rate?

Answer: Generally, you would exclude the units of residents paying a flat rate, but this rule assumes that those units are the minority of units. If most residents pay a flat rate, including them in the sampling will give you a sample more representative of the whole. If you do so, document your reasons for doing so to help the CA/HUD determine if your approach was reasonable. And if you include these units, calculate the average based on the flat rate, not on the usage.

16. Question: Is the UA Analysis for all units at the property or just Section 8 units?

Answer: The U/A analysis covers only those units that receive a U/A; only HUD-assisted units will be included in the analysis.

17. Question: Is the flat utility rate exclusion meant apply to any unit receiving any kind of subsidy or just units that receive a flat utility rate? We have a variety of low income assistance programs that are not rate-based but result in lower utility bill amounts and would skew the average.

Answer: For now, the exclusion applies only to units with flat utility rates. We will review this policy and determine the best treatment of units receiving varying forms of subsidies. We welcome your feedback on this issue.

HUD's Utility Analysis Excel Worksheet

18. Question: Must an owner use the HUD-provided worksheet that was attached to the notice?

Answer: No, owners may develop their own worksheets to suit their needs, as long as they provide HUD/CA with adequate documentation.

19. Question: With the worksheet protected - how can we change to accommodate the same unit type i.e. 3 BR & 3 BR TH?

Answer: An unprotected version has been posted to HUDCLIPS. (Password is Sharkey)

20. Question: The HUD worksheet calculates averages based on the values entered. If you only have 10 months of data and enter 0 in the other two months, the average will calculate on all months that have data. Is this correct?

Answer: No, you should not enter any value for the months that are vacant (do not enter \$0). Or, using the unprotected version of the worksheet that is now available, change the formula so that the average is calculated on only non-zero months. If you have only 10 months of data, the average must be calculated on only those 10 months.

Release Forms

21. Question: The utility company requests we use their form for the release of information; is this okay?

Answer: The release form included with the notice is a sample. Owner/agents may use their own release form or a release form provided by the utility provider.

22. Question: Can refusal to sign a tenant release form be considered a lease violation?

NEW! **Answer:** Yes. Tenants refusing to sign a release form constitutes material noncompliance with the lease agreement, as defined in the lease agreement, and repeated violations can result in termination of tenancy. Further, for properties other than 236 and 221(d)(3), not signing the release form is a violation of the regulatory obligations of the family found at 24 CFR 5.659(b)(1).

To add clarity to the requirement, owners are encouraged to include language in their House Rules advising tenants of their obligation to sign release forms and to provide any information deemed necessary in administration of the program, or face possible termination. Any changes to a property's House Rules must be done according to the procedures outlined in HUD Handbook 4350.3, REV-1 paragraph 6-9.

Mid-year U/A adjustments

23. Question: When a change in utility rates results in a 10% or more increase in the U/A, how do you compute the new allowance? Do you simply apply the % increase to the existing U/A?

Answer: Yes, you would apply the utility rate increase to that component of the U/A allowance, e.g. electric rates go up 15% so if the U/A for the property comprises both electricity costs and gas costs, you would apply the 15% to the electricity component of the U/A.

24. Question: What would be the historical time period to use for the new analysis?

Answer: The notice indicates that when rate increases cause U/As to increase 10% or more, an owner can submit the following evidence of the change: (1) utility bills from the month prior to the rate change and the first month after, or (2) other verification of the increase from the utility provider. So in that case, the owner isn't looking at historical data, but actually justifying the rate increase with the most current data.

Utility Assistance As Income

25. Question: Some tenants receive assistance under the Department of Health and Human Services Low-Income Home Energy Assistance Program (LIHEAP). According to Handbook 4350.3 Exhibit 5-1 Income Inclusions and Exclusions, this form of assistance is listed under Income Exclusions (e). The notice states that tenants must report this type of assistance as income and that it must be counted as income. Is it included or excluded?

Answer: Although the notice indicates that this type of assistance must be reported as income, assistance under this specific program is excluded from income. Please see the May 20, 2014 Federal Register for the current list of federally mandated exclusions from income, here: <http://www.gpo.gov/fdsys/pkg/FR-2014-05-20/pdf/2014-11688.pdf>

26. Question: For properties in California, should the Climate Credit shown on some utility bills be included in the Utility Allowance calculation?

NEW!

Answer: No. The California Climate Credit should not be used by owners in calculating utility allowances and should be removed from the cost totals. This is because, while the California climate credit is delivered to California residents through their utility bills, the California Public Utilities Commission (CPUC) has held that the climate credits “should not be considered a reduction in the individual customer’s electricity bill.” Instead of being used to offset utility allowances, California climate credits should be considered “income” for the purposes of recertification. This guidance applies only to the California Climate Credit. Questions about other similar benefits should be submitted to HUD for individual review.

The Factor-Based Utility Allowance Analysis

27. Question: Can you provide the link to the website referenced in the Notice regarding the factor-based increases and the UAF?

Answer: <http://www.huduser.org/portal/datasets/muaf.html>

28. Question: What is the timing of the issuance of the Utility Allowance Factor (UAF)?

Answer: The UAF is a component of the OCAF and so will typically be published yearly when the OCAF is published.

29. Question: When will the UAF be effective?

NEW!

Answer: Going forward, Utility Allowance Factors will be effective on the same date as the OCAF, which is typically February 11 of each year. Factors for 2017 will be released at the same time as the FY 2017 OCAF.

30. Question: In the years in which you perform a factor-based analysis, do you take the previous utility allowance before rounding or after rounding and then apply the factor.

Answer: You apply the factor to the previous approved utility allowance, which was the utility allowance after rounding. For example, if the previous year’s baseline analysis yielded an average 2-bedroom utility allowance of \$38.49 and the approved utility allowance was thus \$38 (after rounding), then in second year, the factor would be applied to \$38.

- 31. Question:** For the two years after a baseline utility analysis is completed, the Utility Allowance Factor (UAF) can be used. According to the Notice, the O/A “should compare the adjusted utility analysis to their paid utilities over the previous twelve months. If the results indicate a “significant disparity” between the two, the OA should complete a baseline analysis.” Please clarify what constitutes a “significant disparity,” and whether the paid utilities analysis documentation needs to be provided to the CA/HUD in order to use the UAF. Please also clarify the “paid utilities” – does this represent the common area utilities paid by the property?

Answer: A new baseline analysis is not mandated. We do want owners to look closely at the results of a factor-based analysis, and expect that they will make an appropriate decision about further analysis if those results appear very different from what their own paid utilities suggest (i.e., their common area utilities). This analysis does not need to be provided to the CA/HUD. The comparison is intended to have owners take a “second look” at the factor-based results. If it is suspected that special circumstances cause year-to-year fluctuations that materially differ than the utility adjustment factor, owners and CAs may consider completion of a new baseline.

- 32. Question:** Does the U/A have to be changed for all baseline transactions, even one dollar?

Answer: Yes, factor-based as well, whether it is an increase or a decrease.

- 33. Question:** Will the UAF be applied automatically to the previous year’s utility allowance?

NEW!

Answer: No, HUD systems will not automatically apply the UAF to the previous year’s utility allowance, nor is it the PBCA’s responsibility. Utility allowance regulations require an owner to “submit an analysis of the project’s utility allowances” for review and approval each year. This requirement extends to the factor-based years in which an owner will show how the factor was applied and identify the resulting utility allowance recommendation.

Utility Allowance Decreases – Phase In

- 34. Question:** Are O/As required to phase-in a UA decrease?

NEW!

Answer: Yes, but only in the *initial* implementation of the new methodology, and only if the decrease exceeds 15% AND is equal to or greater than \$10.

35. Question: When is eligibility for a utility allowance phase-in determined?

NEW!

Answer: Utility allowance phase-in eligibility is determined at the time of the first baseline analysis after implementation of Housing Notice 2015-04 only. At this time, the total decrease should be examined to determine if the decrease is more than 15% or \$10 from the last utility allowance provided.

36. Question: Please provide an example of how phase-in of a very large utility allowance decrease would be implemented over three years.

NEW!

Answer: Here is an example of this type of phase-in.

Year One

| | |
|----------------------------------|-------|
| Current Utility Allowance | \$90 |
| Decrease in First Year | 40% |
| New Calculated Utility Allowance | \$54 |
| Year 1 Utility Allowance* | \$77* |

* With a phase-in cap of 15% each year, the new capped utility allowance is \$77 (\$90 - 15%). This is the utility allowance that gets implemented in Year 1

Year Two

| | |
|--|--------------------|
| Second Year UAF (applied to calculated, uncapped new utility allowance) | + 2% |
| New Actual Utility Allowance | \$55 (\$54 + 2%) |
| Tenant's Second Year Capped Utility Allowance* | \$65* (\$77 - 15%) |

* The utility allowance that gets implemented in Year 2 is \$65 even though the calculated utility allowance is \$55

Year Three

| | |
|---|------------------|
| Third Year UAF (applied to uncapped second year utility allowance) | + 2% |
| New Actual Utility Allowance | \$56 (\$55 + 2%) |
| Tenant's Third Year Utility Allowance* | \$56* |

* Implement the actual calculated utility allowance as it is less than 15% lower than the previous year's utility allowance.

In this example, the phase-in occurs over two years of the cycle (baseline year, plus first factor-adjusted year). In each of the factor adjusted years, the factor is applied to the previous year's calculated utility allowance, i.e. what the utility allowance would have

been if there were not a cap put on it because of the requirement to phase it in. After that, there is a new baseline and phase-in requirements no longer apply.

Any year there is a decrease in the utility allowance, tenant notification must be provided.

Miscellaneous

37. Question: Does the data used in the analysis for each unit have to be from the same time period for each unit?

Answer: Yes, to the greatest extent possible.

38. Question: I have 3 contracts on one property - is analysis by contract or property?

Answer: By property (keeping in mind that if the property consists of multiple buildings, the buildings must be substantially similar in order for you to sample by unit size property wide).

39. Question: I completed a utility analysis for a 2015 contract renewal that was due prior to June 22, 2015. If this baseline analysis complied with the requirements described in the Notice, do I have to complete a new baseline for 2016?

Answer: Yes, your next utility analysis must be a baseline in accordance with the requirements of the notice.

40. Question: May an owner offer residents monthly incentives to provide copies of their utility bills every month? For example, \$1.00 or \$2.00 per month per resident as “Additional Costs to Rent” in the budget.

Answer: Owners may offer incentives but they may not pay for them out of project funds nor include them as an expense in the budget.

41. Question: Which utility allowance calculators are HFA approved?

Answer: The notice intentionally does not identify pre-approved tools as the field is changing regularly. This is the pertinent language in the notice:

“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. Second, the utility estimates must be calculated by either (1) a properly licensed engineer or (2) a qualified professional approved by HUD. “

One example, however, is the CUAC tool, which is available for use in California, from the website of the Tax Credit Allocation committee. For the specific question re: HFAs, owners would need to talk with an HFA directly.

NEW!

42. Question: A Section 811 PRA property with a RAC that specifies use of the HUD Multifamily Housing policy for developing utility allowances will use the methodology outlined in the Notice. Do Section 811 PRA owners have to separate the PRA units from the project-based units or can all units be included in one analysis?

Answer: Section 811 PRA properties must complete an analysis which separates the PRA units from the project-based units.