

Compliance FAQs: Utility Allowance (UA)

Q. What utility allowance (UA) training is available?

A. The Department offers a detailed UA Training (found here: <https://youtu.be/Uj1atLo10Yc>) which provides guidance for calculating the UA in accordance with the requirements of the Texas Administrative Code §10.614, [Treasury Regulation 1.42-10](#) and Chapter 18 of the [Guide for Completing Form 8823 and the Multifamily Notice 2015-04](#). Additionally, you may view the Utility Allowance Round Table (found here: <https://youtu.be/HRnHJD61VUg>) hosted by the TDHCA Compliance Division staff who discuss various options for calculating a utility allowance for Department administered rental developments.

Q. If I have Housing Tax Credits (HTC), can I use any method to calculate my UA?

A. Yes, as long as you do not have Rural Housing Services ("RHS") assisted and/or HUD-Regulated building(s):

1. If the Development has RHS building(s) or building(s) with RHS assisted tenants, the UA is determined under the method prescribed by the RHS. No other utility method can be used by RHS buildings or buildings with RHS assisted tenants.
2. If neither the building nor any tenant in the building receives RHS rental assistance payments, but the rents and the UA of the building are reviewed by HUD ("HUD-regulated building"), the UA for all rent restricted units in the building is the applicable HUD utility allowance. No other utility method can be used by HUD-regulated buildings.

Q. What UA do I use if I have both RHS assisted tenants and HUD-regulated buildings?

A. The UA is determined under the method prescribed by the RHS.

Q. I want to use the Public Housing Authority (PHA) method to calculate the UA. How do I figure out what PHA is most applicable to my property?

A. The Department defers to [Chapter 392 of the Texas Local Government Code](#) in making this determination. Please see [PHA-Flow Chart](#) for guidance. Locate a PHA: [PHA by County](#) or [PHA by City](#). If the Development is located in an area that does not have a municipal, county, or regional housing authority that publishes a UA schedule for the Housing Choice Voucher Program (HCVP), Owners must select an alternative methodology, unless the building(s) is located in the published Housing Choice Voucher (HCV) service area of:

1. A Council of Government created under [Texas Local Government Code, Chapter 303](#), which operates a HCVP
2. The Department's HCVP, or
3. Another PHA that publishes a separate UA schedule specific to the Development's location

Q. If I have a household that has a Section 8 HCV, what is the UA for that unit?

A. The correct UA for a unit occupied by a household that has a HCV is the UA schedule from the PHA that issued the voucher. No other UA method is allowed when a household has a HCV. This is true except in cases where the building is RHS or HUD (including MFDL) regulated. Then the applicable UA is that prescribed by the RHS, HUD, or MFDL program.

Q. If I have one (1) or more Public Housing Unit in a building (note, this is not referencing households that have a Section 8 HCV), what is my UA to maintain compliance with Department administered programs?

A. If a building has, one (1) or more Public Housing Units, the building is HUD-Regulated. For HUD-regulated buildings, (as long as neither the building nor any tenant in the building receives RHS rental assistance payments) the UA for all rent restricted Units in the building is the applicable HUD UA for the Public Housing program at your property. No other utility method described in this section can be used by HUD-regulated buildings, as long as the building is not covered under [Multifamily Notice 2015-04](#).

Q. I received approval from the Department last year to use a Written Local Estimate (WLE), the HUD Utility Schedule Model (HUSM), the Energy Consumption Model (ECM) or the Actual Use Method (AUM). However, the amounts for this year have not changed. Do I need to submit an approval again for this year?

A. Yes. If you are using a WLE, the HUSM, the ECM or the AUM you must update the UA once a calendar year and submit a request for approval to the Department. As a reminder, for a WLE, HUSM or ECM to be considered in effect by December 31st, the Notice to the Residents and Department must occur no later than October 1st. For the AUM, since the notification cannot occur until the Department calculates and approves the UA, the annual review request must be submitted no later than August 1st to allow for the 45 day review period.

Q. I want to use the WLE methodology but I am unsure what the written estimate letter from the utility provider needs to include.

A. The WLE is a letter that you obtain from the applicable residential utility provider that gives an estimated cost of a utility from that provider for units of similar size and construction in the same geographic area as your property. The letter must be dated, signed by the utility provider representative, and specifically include all "component charges" for providing the utility service that will be reflected on the tenant's utility bill.

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Q. I am using the PHA schedule for my UA and the applicable PHA publishes 2 different UA schedules, one for Apartments (5 or more units per building) and one for Row House/Townhouse & Semi-Detached/Duplex (up to 4 units per building). At my property, I have buildings with four (4) units, eight (8) units, and twenty (20) units. Can I use the “Apartments (5 or more units per building)” for all of my buildings?

A. No. If the PHA publishes different schedules based on building type, the owner is responsible for implementing the correct schedule based on the development's building type(s). In this example, you would use the UA schedule for Apartments (5 or more units per building) for the buildings that have 8 units and 20 units. For the buildings with 4 units, you must use the Row House/Townhouse & Semi-Detached/Duplex (up to 4 units per building) schedule. You cannot use the Apartments (5 or more units per building) schedule for buildings that have only 4 units.

Q. My development is located in Anytown, Texas and I need the latest PHA UA schedule that applies to me. Can you please send it to me?

A. You need to contact the applicable PHA and request a copy of their UA schedule for the Section 8 HCVP. This information is available to you under the Public Information Act ([Texas Government Code, Chapter 552](#)). Locate a PHA: [PHA by County](#) or [PHA by City](#).

Q. I have 3 properties that are all located in different cities and I am trying to figure out how to calculate the taxes for the HUSM. Why do I include the local tax for some cities, but not for others? Why don't I include the county tax?

A. Taxes for the electric utility are regulated by the Texas Comptroller of Public Accounts. The electric tax is comprised of three (3) factors:

1. Miscellaneous Gross Receipts Tax - this tax varies based on the City's population
2. Public Utility Gross Receipts Assessment Tax - Currently, this rate is set at 0.1667% and is included for all properties
3. Local Sales Tax - Residential use is exempt unless your city is included in this list. If the city in which your property is located is included on that list, you must also include the Local Sales Tax for your city.

Q. I want to start charging residents a utility (gas, water/sewer, trash, etc.). Do I need approval to do so? When can I start charging them the utility?

A. Yes. You must request approval from the Department to start or stop charging for any utility. In the event you want to start charging for a utility, after you receive approval from the Department, you must charge residents for the utility in accordance with the lease terms. If the household is within a current lease contract that specifies that a specific party pay for a utility, the tenant cannot be required to start paying for that utility until a new lease is in effect. At that time, the utility must be considered in the UA and included in the gross rent calculation. The utility can be charged to new move-ins, as long as the utility is included in the UA.

Q. The residents at my development are responsible for electric and gas utilities. Can I use different UA methods for each utility? For example, can I use the PHA method for electric and the WLE method for gas?

A. Yes. You can use different UA methods for different utilities, as long as you do not have HUD-regulated building(s) and/or RHS assisted buildings/tenants. Remember, each method has different annual requirements and you must comply with both.

Q. Can a property monitored by TDHCA use a “flat-rate” utility allowance published by a Public Housing Authority?

A. Certain housing authorities, including "Moving to Work" Housing Authorities, have the option of publishing a flat-rate utility allowance instead of publishing an allowance for each utility (electric, gas, water and/or trash). Provided the “flat rate” utility allowance is compliant with HUD requirements, it can be used by a property monitored by TDHCA.

Q. I need to submit a UA request, what do I need to submit and how do I submit the request?

A. A request to calculate your UA using an alternate method or an annual review request must include the Utility Allowance Questionnaire, a copy of the Notice to the Residents, the proposed UA, and all back up data used for the allowance. The Utility Allowance Questionnaire and Notice to Residents of Annual Review of Utility Allowances can be found on the Department website under Requests for Existing/Established Developments, Forms here: <https://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>. All requests must be uploaded to the property's CMTS account. See the CMTS User Guidelines found on the Department's website here: https://www.tdhca.state.tx.us/comp_reporting.htm for instructions on how to attach documents to the CMTS account. Please note, all UA requests and documentation must be uploaded in CMTS to the Utility Allowance Team by selecting Utility Allowance Documents from the “Type” of attachment dropdown menu and select Utility Allowance from the “Contact” dropdown menu.

Q. What does “implement” mean with regards to utility allowances?

A. When the Department asks a development to implement the UA we are asking that the Owner review all rents and make sure that all units are properly rent restricted. The implementation is evidenced by updating the Unit Status Report (USR) with current rents and utility allowances as of the effective date of the approved UA (based on the methodology used). Different UA methodologies have different implementation requirements with regards to effective dates; however, implementation must be executed property wide regardless of the methodology used. Do not wait to implement at the household annual recertification.

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Q. When should the development implement the UA?

A. Implementation will be determined by the methodology utilized. The following examples are in accordance with [§10.614\(f\)](#) for the allowed methodologies:

- 1. Rural Housing or HUD-Regulated** – must be implemented by the effective date. For example, the property has HUD funding which required an annual review and approval of the UA from HUD. The HUD Schedule received states that the rents and utilities are effective 4/1/2021. For all rents due on, or after, 4/1/2021 the UA used must be the approved amount from the HUD schedule. This also means that the USR is updated, so that all occupied units as of 4/1/2021 reflect the UA amount from the approved schedule.
- 2. PHA** – can be implemented immediately, but must be implemented for rent due 90 days after the PHA releases an updated schedule. For example, the property uses the City of Austin Housing Authority. The PHA releases a new schedule on 10/1/2021. This schedule can be put in place for rents due on November 1st and the USR must be fully updated for all occupied units as of 11/1/2021, or the Owner can elect to wait the 90 days and implement the new amounts on 1/1/2022. Then the USR must be fully updated for all occupied units as of 1/1/2022. The Owner must review rents and make sure that all households are properly rent restricted using the new UA as of the effective date elected.
- 3. HUD Utility Schedule Model and Energy Consumption Model** – the implementation dates should be outlined in the approval letter issued by the Department and will tell the development that “these amounts are for rents due after Month, day, year.” This will be the date on which the USR must be updated and the rents must be reviewed and properly restricted using the new rates. For instance, the submission on September 28, 2021 includes a request (which is compliant and, therefore, approved for use) with a resident posting dated 9/28/2021. Based on the resident posting date of 9/28/2021, the UA will go into effect on December 27, 2021 and the January rents must be reviewed to ensure they are restricted using the new UA. The USR is updated with the new UA and any rent changes.
- 4. Written Local Estimate** – method is not approved by the Department, though annual submission is required. The resident posting must still give 90 days from the posting date to the implementation date. The USR is updated with the new UA and any rent changes by the implementation date.
- 5. Actual Use Method** (Department calculated) – the submission for review will happen prior to the resident notification. The Department will issue the UA response and that is the date that the resident posting must be completed/posted. The UA must be implemented 90 days after the resident posting. For example, the development submits a packet for review on August 1, 2021. The Department reviews the submission on September 1st and issues a response dated 9/1/2021. The resident posting must be done on 9/1/2021 for rents due after 11/30/2021. The development must review all rents for December 1st to ensure that the rents are properly restricted. The USR is updated with the new UA and any rent changes.