

NAHMAanalysis

NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

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HUD Utility Allowance Methodology issued June 2015

Background

In September 2014, HUD issued a [notice](#) containing new draft methodology for completing a multifamily housing utility analysis (UA). This notice provided instruction to owners and management agents (O/As) for completing their utility analysis required at the time of the annual or special adjustment of contract rents. The notice built upon a June, 2011 [memo](#) titled Clarification Utility Allowance Regulations, which provided clarification on existing statutes, regulations and policies, but did not identify a methodology to be used to complete a utility analysis and determine utility allowances.

The 2014 UA notice was released as part of HUD's effort to streamline the UA methodology and to continue to make energy and water conservation a priority at all HUD Multifamily properties. Additionally, the 2014 UA notice sought to produce a national standard for an acceptable utility analyses at multifamily properties, reduce O/As' operating costs and reduce HUD outlays for utilities, which total more than six billion dollars a year.

Stakeholders were invited to comment on the 2014 UA notice and its draft methodology. After receiving comments from NAHMA and other industry groups, HUD issued its revised notice, [Methodology for Completing a Multifamily Housing Utility Analysis](#), on June 22, 2015. The revised notice adopts some of NAHMA's recommendations while other sections of the draft methodology remain unchanged. This NAHMAanalysis will compare the recently issued notice with our comments and will explain considerations O/As should make when completing a utility analysis.

NAHMA Comments – Section III, Background

In our comments to the opening section of the 2014 UA notice, NAHMA recommended that HUD maintain a minimum threshold of a 10 percent change in the utility allowance before a utility analysis adjustment would be required.

HUD has adopted this recommendation in the 2015 revised notice: "A utility allowance must be increased mid-year when changes in utility rates result in an increase of 10 percent or more to the utility allowance from the most recently approved utility allowance."

NAHMA Comments – Section IV, Utility Analysis Methodology

NAHMA provided numerous recommendations to the Utility Analysis Methodology in the 2014 UA notice; some of the changes were adopted while others remain unchanged in the 2015 revised notice:

Three Year Baseline: Rather than completing a baseline utility analysis every three years as was proposed in the 2014 UA notice, NAHMA recommended that HUD conduct the analysis every five years to coincide with the rent comparability study. The cost of this study should also be included in the rent comparability study.

Unfortunately, HUD has maintained the three year threshold for completing a baseline utility analysis: “Multifamily property owners must establish baseline utility allowances for each of their bedroom sizes once every third year.” Additionally, the revised notice does not allow for the cost of the study to be included in the rent comparability study.

Baseline determined for bedroom sizes per building: In our comments submitted to HUD on the 2014 UA notice, NAHMA took issue with the proposed sample size used to calculate the baseline utility analysis. To perform a baseline analysis, the 2014 UA notice required that O/As must request utility data from either the utility company or the tenant household for at least the amount of units determined by a proposed sample size methodology detailed below:

Number of Units	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

The 2014 UA notice states that this must be done for each bedroom size at the property. If the property consists of multiple buildings then the sampling must be performed for each bedroom size for each building.

NAHMA argued that the required sample size will be administratively burdensome, particularly for garden-style properties that have multiple buildings. Properties with less than 20 units of a particular type (studio, 1 bedroom, 2 bedroom), would have to include all of the units for that

bedroom type in the sample. The burden is multiplied when the property has several buildings with less than 20 of each unit type. The 2014 draft notice would have effectively required garden-style properties to include all of their units in the sample because they will not be able to meet the required sample size per building.

NAHMA recommended basing the sample size upon the bedroom size in the property rather than the building. In the revised 2015 notice, HUD partially adopted this recommendation: "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 size." However, the 2015 revised notice continues: "If the buildings are not identical, the sampling must be done for each bedroom size for each building." So O/As of properties with multiple buildings with different unit configurations will need to include all of the units for the bedroom types in the sample.

In addition to the recommendation to alter the sample size requirements in the UA notice, NAHMA also recommended that the Department allow O/As to remove outliers when calculating the utility analysis baseline. The 2014 UA notice directed O/As to "not remove the highest or lowest utility cost household when determining the average [for the baseline]." NAHMA's recommendation was not adopted and the language remains unchanged in the 2015 revised notice. O/As will be required to include outliers in their baseline, which may negatively impact the average level gained from the unit size sample.

NAHMA also requested a "safe-harbor" for O/As who may not be able to obtain the required data for a utility analysis. For example, O/As should have an alternative method of verification, such as a letter from the utility provider of rate changes since many utility companies will not give detailed billing information for residents. Unfortunately, this safe-harbor provision was not included as part of the 2015 revised notice, and NAHMA remains concerned that O/As who are unable to obtain the required utility data may face complications in compliance.

Factor-Based Utility Analysis: For the two years after a baseline utility analysis is completed, the 2014 draft notice allowed for the utility allowance amounts for each bedroom size and each utility at the property to be adjusted by a state-specific increase factor, the Utility Allowance Factor (UAF), provided by HUD, in lieu of a baseline utility analysis. NAHMA supports the concept of having an adjustment factor in lieu of a new baseline analysis in the off years. However, the UAF referenced in the draft notice was not available on the HUDUser website, and NAHMA was unable to offer specific feedback on its utility as an adjustment factor.

Still, the comments received from NAHMA members highlighted their concerns about the instructions for the UAF. Several NAHMA members requested clarification on the instructions with the most common point of confusion on whether an O/A has to do a baseline analysis in order to determine what the paid utilities were and whether the factor-based analysis is reasonable.

The 2015 revised notice fails to provide the requested clarification, so it remains unclear as to what constitutes a "significant disparity" between the adjusted UA and the paid utilities over the previous 12 months, and if O/As are being asked to compare the rate of change over the previous twelve months on the common area utilities paid by the project.

Implementation Dates: Due to the increases in sample size requirements, NAHMA commented that the proposed implementation dates would be difficult to achieve. Projects with contract anniversary dates 150 days after publication of the 2015 revised notice must use the new

methodology, and since the renewal packages are due 120 days prior to anniversary date, it will be difficult to meet this deadline.

HUD took notice of this recommendation and has changed the implementation schedule for properties with contract anniversary dates within 180 days of publication of the 2015 revised notice. This additional time will reduce some of the complications presented by the first deadline of 150 days.

NAHMA Comments – Section V, Utility Allowance Decreases

Turnover and vacancy – NAHMA commented that the draft notice provided no adjustment for tenants with less than 12 months of utility consumption. We noted that since utility invoices are in the resident's name, utility companies will not provide information for a resident that has moved out--even with the resident's release. NAHMA strongly urged HUD to exclude vacant units and tenants with less than 12 continuous months of occupancy and utility service from the required sample.

In the revised 2015 notice, HUD included some of NAHMA's recommendations. Here is the baseline utility analysis language now in the revised notice:

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

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

This language was entirely absent from the 2014 draft notice. NAHMA is glad to see HUD provide the necessary clarifications.

Additionally, NAHMA requested that HUD provide clarity on whether households that receive utility assistance through federal, state, local or private charitable programs, or households that pay fixed monthly payments should be included in the baseline analysis. In the 2015 revised notice, HUD has clarified that: “Households are required to disclose whether they are receiving utility assistance from sources other than HUD. O/As must ask this question at a tenant's annual recertification of income and family composition, because these assistance payments are a source of income and are included in the determination of annual income and the calculation of total tenant payment.”

Conclusion

The 2015 revised “Methodology for Completing a Multifamily Housing Utility Analysis” notice adopts some of NAHMA's previous recommendations, but many sections remain unchanged from the 2014 draft notice. NAHMA will continue to work with the Department to clarify the necessary provisions and address problematic areas as the notice becomes effective.

Additional Resources

[Frequently Asked Questions](#): guide to assist and answer questions regarding the June 2015 revised notice, Methodology for Completing a Multifamily Housing Utility Analysis.