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TO: All owners of LIHTC properties in Hawaii
FROM: Spectrum Enterprises, Inc., on behalf of Hawaii Housing Finance and
Development Corporation
RE: Utility allowance final regulations (Section 1.42-10) **UPDATE MAY 2009**

On September 29, 2008 the IRS issued IRB2008-39 which contained the final regulations for utility allowances. We have posted the final regulations on our web site for your reference.

In late 2008 we informed you that the final regulations stipulated that utility allowances were to be used only when tenants paid the cost of utilities directly to the service provider. However, IRS notice 2009-44 now clarifies that utility costs paid by a tenant based on actual consumption in a sub-metered rent-restricted unit are treated as paid directly by the tenant for purposes of 42(g)(2)(B)(ii) of the Internal Revenue Code.

The effective date for this notice is the same as for the final utility allowance regulations, July 29, 2008.