

PHA Guidance for Appeals under Changing Market Conditions

A PHA may appeal to receive Operating Subsidy for vacant units due to changing market conditions after the PHA has taken aggressive marketing and outreach measures to rent these units. The vacancies cannot be the result of action or inaction by PHA management. For example, a PHA that is located in an area experiencing rapid population loss or economic dislocation may face a decrease in demand for its units, even after the PHA has taken aggressive marketing and outreach measures. In this case, the PHA can file an appeal for changing market conditions.

For the Operating Subsidy processing, PHA appeals for “changing market conditions” are to be submitted to the PIH Director and staff point of contact at the appropriate Field Office no later than the due date provided the Operating Subsidy Notice (published each year). The due dates are always few weeks before the end of the reporting period in June 30th (given that the reporting period for Operating Subsidy Grant Processing is 07/01 to 6/30 for each funding cycle). This will ensure that there is sufficient time for FOs to review the appeals and give approvals before July 1, which is the start of a new reporting period. Per Notice PIH-2024-03, “changing market conditions appeals cannot be retroactive and must be on a reporting period basis for the entire reporting period”. Consider the example below.

Example: PHA submits an appeal for Changing Market Conditions (with all required evidence/documentation) by May 30, 2025, i.e. the due date that was provided in CY2026 Operating Subsidy Notice. If the PHA’s appeal is approved timely, IMS-PIC data should reflect **approved** vacancies (7/1/2025 to 6/30/2026) **due to Changing Market Conditions**, which would translate into full funding for those units in the CY2027 Operating Subsidy. Please note that the PHA will not receive funding in CY2026 because the period of funding after approval, i.e. 7/1/2025 to 6/30/2026, corresponds with the CY2027 Operating Subsidy cycle.

Moreover, PHAs should be aware of the following procedures described in Notice PIH 2024-03, *Guidance on Inventory Management System/PIH Information Center (IMS-PIC) Sub-Module Reporting and Validation*:

- The maximum term of initial approval for a unit that is categorized as Approved Vacant due to Changing Market Conditions is two years. Beyond the initial approval, such units are eligible for approval of term extension or renewal. In the case that the initial approval was 1-year, PHA's supporting documentation and associated data may be used as support for the following year's approval. Yet, beyond the two-year initial time period, PHAs need to submit updated market data to support requests for renewals or extensions.
- Vacancies approved for changing market conditions are assigned to the entire PHA portfolio. The PHA must demonstrate that its public housing portfolio's vacancy rate is higher than it otherwise would be due to market conditions. Approvals will be made on an Operating Fund reporting period basis, for the entire reporting period. The Field Office could look at public housing occupancy in the wider region to determine what the base vacancy rate is. In this case, assume that the wider vacancy rate is 3% but the PHA is experiencing a vacancy rate of 5%. Assuming a 1,000-unit PHA, it would have 12,000 EUMs. The first 360 EUMs (12k x 3%) would be placed on line 11 of the 52723. The next 240 EUMs (12k x 2%) would be placed on line 10. Any vacancies beyond that would be placed on line 11. PHAs must ensure that their IMS-PIC unit status data meets these requirements on a reporting period basis.
- Each Field Office approval of Market Conditions appeals is limited to two twelve-month Operating Fund grant reporting periods. As soon the development ceases to meet the criteria of this Sub-Category, it is the PHA's responsibility to ensure that any units vacant for Market Conditions are reclassified in the appropriate Sub-Category. PHAs that are unable to occupy units due to changing market conditions should evaluate the unit's condition and status (e.g., family or elderly), and determine what can be done to maximize potential resident pools, or whether repositioning their portfolio is the optimal solution. The HUD Field Office will only approve a PHA's request to place units in this Sub-Category in IMS-PIC after a successful appeal. Approvals may not be retroactive.
- Vacancies approved for changing market conditions must be applied to the entire PHA portfolio.

A PHA's submission must demonstrate how the local market conditions have impacted vacancies and what marketing and outreach measures have been undertaken by the PHA to date.

Supporting documentation includes:

- Documentation that if there is a waiting list for the units (the list does not include potential occupants that qualify for the units).
- Documentation describing the cause of the changing market conditions and decrease in demand for the units that contributed to vacancies, which may include:
 - Increases in competitive housing stock (Section 202, Section 8, Farmer's Home, Low Income Housing Tax Credit Units, etc.)
 - Lack of job growth in recent years which may discourage people from moving into the PHA's area
 - Job losses in the PHA's area that encouraged people to leave (Note: Increases in unemployment, by itself, would not qualify for market conditions, as it would increase the population of low-income households in the community, increasing demand for affordable housing)
 - Census population estimates during the reporting period (July 1 – June 30) that show population losses
 - High crime activity (detailed explanation of how crime activity at the PHA or within the vicinity of the PHA has increased the threat to the health and safety of the Public Housing residents and applicants, adversely impacting the PHA's occupancy) & supporting documentation for measuring high crime include, but is not limited to, the most recent crime data of the PHA's locality from a reputable source (e.g., local law enforcement or Uniform Crime Reports)
 - A slowdown in the absorption of new units and/or vacant units in existing developments which are remaining on the market longer
 - Widespread use of concessions and/or short-term leases for both newer and existing units
 - An excessive number of vacant rental units of a particular size, age, or other common characteristic

- Documentation should identify a trend, for similar housing, in increasing rental vacancy rates (particularly in existing developments that previously had a history of high occupancy). If there is no like housing to compare, the PHA must show when the vacancies occurred and its impact on their waiting lists.
- Documentation must identify the portfolio's total number of vacancies including the number of vacancies per Asset Management Project (AMP), caused by the changing market conditions.
- Documentation that shows PHA's calculation deriving the maximum number of EUMs that could be placed in this approved status (pursuant to the PHA's request, should HUD approve it).
- Documentation showing "aggressive marketing outreach" to include:
 - * S.W.O.T. analysis (Strengths Weaknesses Opportunities Threats)
 - * Description of marketing campaign (including details of activities, progress, and successfulness/unsuccessfulness)
 - * Length of marketing campaign
 - * Cost of marketing campaign
 - * Samples of marketing materials used in campaign
- Source and analysis of documentation must be provided.