



Guidance for Appeals under Changing Market Conditions

Note: This document is prepared for technical support purposes only. PHAs should refer to the primary guidance on this subject, *Notice [PIH 2024-03](#), Guidance on Inventory Management System/PIH Information Center (IMS-PIC) Sub-Module Reporting and Validation*.

Per 24 CFR 990. 245, 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 result from action or inaction by the PHA management. For example, a PHA located in an area experiencing rapid population loss or economic dislocation may face decreased demand for its units in the long term—even after undertaking aggressive marketing and outreach efforts. In such cases, the PHA may file an appeal under “changing market conditions.” If approved, these units will be considered approved vacancies and should be reported under *Line 10: Units Vacant due to Changing Market Conditions* in Form HUD-52723.

1. How do I file an appeal?

For Operating Subsidy processing, PHA appeals for “changing market conditions” are to be submitted to the PIH Director at the appropriate Field Office (FO) no later than the due date—May 31st each year (or the first business day thereafter if it falls on a weekend or Federal holiday).

Please note that this due date is four weeks before the end of the reporting period on June 30th (since the reporting period for Operating Subsidy Grant Processing runs from 07/01 to 6/30 each funding cycle). Submitting by this deadline (May 31st) ensures that FOs have sufficient time to review appeals and issue approvals before July 1, which is the start of a new reporting period.



2. What happens if I miss the deadline? Can an appeal be applied retroactively?

An appeal cannot be applied retroactively. 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.” As an exception to the rule, however, retroactive appeal applications will be accepted for the reporting period that began on July 1, 2025 (i.e., the reporting period that impacts CY2027 Operating Subsidy eligibility) until June 1, 2026. Retroactive appeals will not be accepted beyond this exception.

Notice PIH-2025-22 states the following: “For the 2027 reporting period only, which begins on July 1, 2025, these appeals can be retroactive to the beginning of the reporting period. However, for all future years the deadline for PHAs to make submissions will be May 31 or the first business day thereafter if it falls on a weekend or Federal holiday.”

Consider the example below.

Example: In May 2026, a PHA submits an appeal for Changing Market Conditions (with all required evidence/documentation) by the due date. If the PHA’s appeal is approved timely, IMS-PIC data should reflect **approved vacancies (7/1/2026 through 6/30/2027) due to Changing Market Conditions (CMC)**, which would translate into full funding for those units in the CY2028 Operating Subsidy. Please note that the PHA will not receive funding based upon their CMC status in CY2027 for these units because the period of funding after approval, i.e. 7/1/2026 to 6/30/2027, corresponds with the CY2028 Operating Subsidy cycle.

3. Is there a term limit for approvals?

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 two-year initial period, PHAs need to submit updated market data/evidence to support requests for renewals. Please note that renewal applications and associated evidence will be reviewed by HUD, and it will follow review procedures similar to initial application reviews.



In other words, each Field Office approval of Market Conditions appeals is limited to two twelve-month Operating Subsidy 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.

4. How are the Eligible Unit Months (EUMs) calculated?

Vacancies approved for changing market conditions are assigned to a PHA's entire portfolio. Therefore, the PHA must demonstrate that its public housing portfolio's vacancy rate is higher than it otherwise would be due to market conditions. HUD approvals will be made on an Operating Subsidy reporting period basis (for the entire reporting period). The Field Office will look at average affordable housing market vacancy in the locality to determine what the base vacancy rate is. The Unit Status app (a PowerBI tool that is available to FO staff) has a Checklist, which includes calculator tools as well as HUD's PD&R dataset for affordable housing market vacancy rates across the nation. The FO will use the Checklist to calculate the PHA's eligible unit months (EUMs) to be approved for Changing Market Conditions.

- For example, assume that the wider vacancy rate (i.e. affordable housing market vacancy rate) is 5% but the PHA is experiencing a vacancy rate of 9%. Assume that it is a 1,000-unit PHA (total ACC including all of the developments/projects), therefore, there are potentially 12,000 Eligible Unit Months (EUMs) under the ACC (12 months * 1,000).

In this case, without an appeal submission, PHA is normally receiving full funding for Limited Vacancies (3%). With this application for Changing Market Conditions, they may be eligible for 5% funding because the average vacancy rate in the local affordable market is 5 percent. Notice that the excess/difference is 2%. (Average Vacancy Rate in Local Affordable Market (5%) – Limited Vacancies (3%) = 2%) Therefore, this 2% (12,000*2%= 240) is *Eligible Unit Months due to*



Changing Market Conditions.

Accordingly, 240 EUMs (12k x 2%) would be placed on line 10 of the Form HUD-52723 if there is only one AMP/project (*Note that the Form reported based on each project, not each PHA. Therefore, the entire PHA portfolio may get a maximum of 240 EUM to be distributed to various Line 10 lines as needed*). In this case, PHA vacancy is $9\% * 12,000 = 1080$ EUM before approval. After the approval, 240 EUM are deducted from Line 11: $1080 - 240 = 840$ EUM

840 EUM should be placed on Line 11 of the 52723 in total overall [*Again, Forms are reported at development/project level, not PHA level.*]

PHAs must ensure that their IMS-PIC unit status data meets these requirements on a reporting period basis.

Vacancies approved for changing market conditions must be applied to the entire PHA portfolio. Pursuant to 24 CFR 990.240, appeals “must cover an entire portfolio, not single projects.” However, “the Assistant Secretary for Public and Indian Housing (or designee) has the discretion to accept appeals of less than an entire portfolio for PHAs with greater than 5,000 public housing units.”

5. What type of evidence is required in the application package?

A PHA’s submission must demonstrate how the local market conditions have affected vacancies and what marketing and outreach measures the PHA has undertaken to date.

Supporting documentation includes:

- Documentation of whether there is a waiting list for the units (the list should exclude the ineligible applicants for the units).
- Documentation describing the cause of the changing market conditions and the decrease in demand that contributed to vacancies, which may include:
 - Increases in competitive housing stock (e.g., Section 202, Section



- 8, Farmer's Home, Low Income Housing Tax Credit Units, etc.).
- Lack of job growth (in recent years) that may discourage people from moving into the PHA's area.
 - Job losses (in the PHA's area) that encourage people to leave (*Note: Increases in unemployment by themselves do not qualify as market conditions, as they generally increase the population of low-income households in the community and therefore increase demand for affordable housing.*)
 - Census population estimates during the reporting period (July 1 – June 30) that show population losses.
 - High crime activity, with a detailed explanation of how increased crime at or near the PHA has created health and safety concerns for the Public Housing residents and applicants, thereby reducing the PHA's occupancy. Supporting documentation for measuring high crime need to include recent crime data for 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 existing vacant units, evidenced by units remaining on the market longer than usual.
 - 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 indicating how market conditions are impacting similar affordable housing reflected in increasing rental vacancy rates (particularly in developments that historically had high occupancy). If there is no comparable housing available for analysis, the PHA must demonstrate when the vacancies occurred and how they affected its waiting lists.
 - Documentation identifying the total number of vacancies in the PHA's portfolio, including the number of vacancies per Asset Management Project (AMP), caused by the changing market conditions.
 - Documentation showing "aggressive marketing and outreach," including
 - S.W.O.T. analysis (**S**trengths **W**eaknesses **O**pportunities **T**hreats)
 - Description of the marketing campaign (including details of activities, progress, and measures of success or lack thereof)
 - Duration of the marketing campaign



Revision Date: 12/19/2025

- Cost of the marketing campaign
- Samples of marketing materials used in the campaign
- Source and analysis of all documentation must be provided.