

Written Statement

**National Association of Housing and
Redevelopment Officials**

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Before the House Financial Services Committee

**The Administration's Proposal to Preserve and
Transform Public and Assisted Housing:
The Transforming Rental Assistance Initiative**

May 25, 2010



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Chairman Frank, Ranking Member Bachus, Chairwoman Waters, Ranking Member Capito, and Members of the Committee, good morning. My name is Betsey Martens, and I am the Executive Director of Boulder Housing Partners in Boulder, Colorado. I am here today in my capacity as the Senior Vice President for the National Association of Housing and Redevelopment Officials (NAHRO). On behalf of NAHRO's more than 23,000 agency and individual members, I am pleased to submit the following written testimony sharing NAHRO's views on the administration's Transforming Rental Assistance (TRA) Initiative and its Preservation, Enhancement, and Transformation of Rental Assistance (PETRA) legislative proposal.

I would like to express my appreciation to both the Committee and the administration for engaging NAHRO and other stakeholders in this important dialogue about the need to transform federal assisted housing programs. NAHRO has long advocated, as have I personally, that public housing be repositioned to align with the balance of the assisted inventory, with a long-term contract as the basis of alignment. It is monumental that we are here today considering legislation to do just that.

PETRA, if enacted as proposed, would fundamentally transform the way in which rental assistance is provided. The Department's proposal represents a massive undertaking in size and scope. For those who call public housing home, as well as for those who administer the program at the local level, the stakes could not be higher.

The fundamental premise underlying PETRA is strong and recognizes what NAHRO and others have been suggesting as the future of public housing. However, as this testimony demonstrates, despite our enthusiasm over the fact that the transformation of public housing has a placeholder in the administration's FY 2011 budget, NAHRO has serious concerns regarding the administration's proposal, which I summarize here:

Prioritizing Preservation: The preservation of the physical asset should be the first and overriding priority of any public housing conversion proposal. NAHRO believes a new conversion initiative should focus first on the need to deliver converted properties into the kind of secure, sustainable financial and operating environment that will ensure the longevity of this critically important asset. The administration's proposed TRA initiative does not sufficiently emphasize preservation over other priorities.

Options: Conversion should be a voluntary option, not an inevitable outcome of new legislation. Conversion options should be based on existing, proven programs. Furthermore, the voluntary, optional nature of conversion is ensured through a long-term commitment to the existing public housing program, which must continue to be an essential component of federal housing policy. The administration's FY 2011 budget does not reflect that long-term commitment.

Among the options that must be available to PHAs is a fully funded public housing program, supported by robust implementation of the Section 30 programs and featuring a streamlined regulatory environment, particularly for smaller agencies. NAHRO has

also developed its own voluntary public housing conversion proposal, which relies upon the existing Section 8 Project-Based Rental Assistance program. NAHRO also supports the availability of a second voluntary conversion option based on the existing Project-Based Voucher program.

Maintaining Focus: The best way to begin the work of preserving and repositioning public housing is to take a calculated and incremental first step that emphasizes above all else the financial repositioning of public housing in order to ensure preservation of the physical asset. From that platform, policymakers can then turn their attention to the related goals of enhancing resident opportunity and creating new administrative efficiencies. The introduction of additional or multiple policy initiatives at the onset risks undermining the goal of preservation. PETRA as proposed includes several collateral policy initiatives that inhibit the financial repositioning of public housing and should be avoided.

Adequate Resources: The preservation of converted public housing developments depends upon adequate, stable funding in combination with a rational approach to setting rents. NAHRO has serious doubts regarding the ability of the 8(n) program proposed under PETRA to provide the sustainable funding environment required for preservation. Because rents can be adjusted under PETRA at any time and with very few restrictions, and because HUD has the unilateral power to force contract extensions, NAHRO believes the proposal includes too many disincentives for participation by housing agencies, private owners, and lenders, particularly given the importance of debt service to the program.

Resident Choice Option: Although mobility is desirable and important, NAHRO is not convinced that the Department has made a compelling, evidence-based case for why applying PETRA's Resident Choice Option for units converted to project-based contracts will not complicate preservation efforts or significantly distort HCV waiting lists in unacceptable ways. We are deeply concerned that the Resident Choice Option risks transforming converted public housing units in an unintended and decidedly negative way, effectively turning converted developments into way stations for families seeking tenant-based vouchers.

Furthermore, the administration's legislative proposal appears to allow for the immediate extension of the Resident Choice Option to every low-income family in every unit "funded under a rental assistance program administered by the Secretary," regardless of whether the unit in question has undergone conversion. As private owners consider not only whether to convert but whether to renew existing contracts, an overreach in the area of mobility could ultimately lead to reductions within the affordable housing inventory, an outcome that is antithetical to preservation.

Program Administration: It is unclear whether the revised proposal addresses concerns NAHRO previously raised regarding the administration of vouchers by Performance-Based Contract Administrators (PBCAs) under PETRA's proposed 8(n)

program. NAHRO would strongly oppose any recasting of PBCAs' ten core oversight functions that gives PBCAs new authority regarding receipt of Housing Assistance Payment funds for the Housing Choice Voucher, Project-Based Voucher, Project-Based Rental Assistance, or new Project-Based Contract programs, including decisions regarding funding and contract renewals.

Regionalization: While the voluntary consolidation of Housing Choice Voucher programs and consortia, or the adoption of multi-agency portability agreements, would not be required under the terms of the legislative proposal, these regional configurations could still be given priority by HUD in evaluating applications and making awards as part of the competition for participation. By using this as grounds for qualification, NAHRO contends that regional consolidation would become a de facto requirement for participation. This would be a troubling outcome and should be avoided.

Unanswered Questions: The Department has still not provided details or clarification on key elements of the proposed program. Of primary concern to NAHRO is the lack of information on financing. The administration has requested \$290 million for incremental Year 1 costs, which would be spread among 290,000 units. An average of \$1,000 in incremental funding per unit could fall far short of what is needed to make up the funding difference between existing subsidies and the new subsidy forms envisioned under PETRA. NAHRO is also concerned that HUD's leveraging assumptions may be too optimistic.

A More Prudent Approach: NAHRO remains committed to working with the administration and the Congress to develop new options aimed at repositioning public housing assets to ensure the long-term preservation of this critically important component of the nation's affordable housing inventory. A simpler, more straightforward approach to voluntary conversion would be the most prudent way forward from our perspective. NAHRO's public housing conversion proposal embodies such an approach. We suggest a pilot conversion program for FY 2011 based on NAHRO's proposal.

Under NAHRO's legislative proposal, PHAs would have the option to voluntarily convert public housing projects to the existing Section 8 Project-Based Rental Assistance (PBRA) program. The option to convert public housing projects to PBRA will provide those PHAs that choose to do so with a means to recapitalize their public housing assets and preserve them for the future. NAHRO's PBRA proposal would transfer federal oversight to HUD's Office of Housing. Given the Office of Housing's less administratively burdensome regulatory environment and lenders' familiarity with the existing PBRA program, conversion under NAHRO's proposal supports long-term preservation by providing converted public housing units with a sustainable operating environment and a proven approach to leveraging assets to meet capital needs.

As this testimony demonstrates, where we have differences, we will express them and work to resolve them, and where we have alternative approaches, we will continue to promote them. With that said, when it comes to our mutually held goal of preserving the nation's public housing inventory, failure is not an option. Let there be no doubt, therefore, that NAHRO remains committed to standing shoulder to shoulder with the Department and the Committee as a partner in good faith in this critically important effort. It is in that spirit that I offer this comprehensive written statement.

PRIORITIZING PRESERVATION

NAHRO recognizes that there are many challenges facing the public housing program and many of the justifications the administration provides for its broad-reaching proposal are valid. However, NAHRO believes strongly that the preservation of the physical asset should be the first and overriding priority of any public housing conversion proposal. While the public housing in many communities, particularly small and rural ones, is in surprisingly good condition given years of chronic underfunding, much of the inventory is not. Overall, the public housing stock faces a capital needs backlog that the administration has stated is between \$20 and \$30 billion, an estimate NAHRO believes is conservative. This daunting backlog stems from years of insufficient capital funding, isolation from the private capital markets, and burdensome regulation. In addition, the public housing program over the years has been a target for various policy initiatives that have distracted from the goal of preserving affordable housing to meet the critical needs of low-income families, seniors, and persons with disabilities. As the Committee considers the administration's proposed approach to the conversion of public housing developments, NAHRO urges members to focus on the need to first deliver converted properties into the kind of secure, sustainable financial and operating environment that will ensure the longevity of this critically important asset.

OPTIONS

The conversion of public housing should be a voluntary option, not an inevitable outcome of new legislation. Just as important, a long-term commitment to the existing public housing program must be an essential component of federal housing policy. This is a crucial moment in the life of our nation's affordable housing programs. As stewards of much of our nation's affordable housing, Public Housing Authorities (PHAs) are ideally situated to lead efforts aimed at preserving the affordable inventory. For over 70 years PHAs have owned and managed public housing, and this housing has become an essential element of local infrastructures. In some communities, public housing has become a stressed and challenged asset and the voluntary conversion of public housing to a different form of subsidy represents a promising approach. In other communities, public housing works well and remains an effective, functional method for providing affordable housing, and there is no need or desire to convert to a different

form of rental assistance. The PHAs that serve these communities instead need additional regulatory flexibility and better access to the private markets.

NAHRO cannot support a policy proposal that contemplates the total elimination of the existing public housing program. NAHRO has consistently maintained that PHAs should have access to multiple options for the preservation and recapitalization of their public housing projects. Among the options that must be available to PHAs is a fully funded public housing program, supported by robust implementation of the Section 30 programs and featuring a streamlined regulatory environment, particularly for smaller agencies.

Efforts to preserve the existing affordable inventory will not succeed unless the administration requests and the Congress provides an appropriate level of federal investment in housing and community development programs, including the Operating and Capital Fund programs. Given the Department's recognition of a capital needs backlog in excess of \$20 billion, NAHRO was deeply disappointed with the administration's FY 2011 budget request for the Capital Fund. While NAHRO and its members are deeply appreciative of the capital funding provided through the Recovery Act, a proposed 18 percent year-to-year reduction to the regular public housing Capital Fund is inappropriate in the context of new initiatives for public housing preservation. And, while conversion will provide access to resources for some properties, it is equally important that Capital Fund resources be maintained at adequate levels to meet the needs of unconverted public housing units. A cut of the magnitude proposed would threaten the long-term viability of those units remaining in the public housing program.

Regarding the regulatory environment for public housing agencies, particularly smaller agencies, NAHRO is proudly working side by side with the Public Housing Authorities Directors Association (PHADA) to advance a small-PHA reform proposal. The joint PHADA-NAHRO legislative proposal, known as the "Small Public Housing Agency Opportunity Act of 2010," is designed to usher in streamlined and cost effective oversight while freeing small agencies (defined as those with 550 or fewer combined units and vouchers as per a relevant provision in the Housing and Economic Recovery Act of 2008) and residents from intrusive and burdensome requirements.

Our joint proposal, intended to meet the administrative needs of approximately 2,700 small agencies, easily fits into the Secretary's commitment to transform HUD into a nimble, evidence-based department that continuously searches for new efficiencies. We believe that the streamlining proposal provides the administration with an opportunity to follow through on that commitment by addressing the high costs of regulatory burden on HUD's housing partners. Small PHA reform would also allow the Department to be much more strategic about the deployment of limited monitoring and oversight resources for small housing agencies, which, while they represent 80 percent of all PHAs, administer only approximately 10 percent of relevant federal housing assistance resources. NAHRO and PHADA stand ready to work with the Committee to advance this proposal.

Collectively, the range of preservation options available to all PHAs should be sufficiently flexible to allow PHAs to respond to and address locally identified needs and priorities. Indeed, PHAs' market conditions and community values are sufficiently diverse that they must have a broad variety of tools at their disposal. Furthermore, in developing these options, to the extent that it is feasible, we should look first to existing, proven programs in order to avoid unnecessary confusion and risk. With those principles in mind, NAHRO has developed its own voluntary public housing conversion proposal, which relies upon the existing Section 8 Project-Based Rental Assistance (PBRA) program. We describe this proposal in greater detail later in our testimony. We also support the availability of a second voluntary conversion option based on the existing Project-Based Voucher (PBV) program.

MAINTAINING FOCUS

NAHRO members understand better than most that there are many challenges facing the public housing inventory – from insufficient funding, to failing assets, to residents challenged by poverty. Without disregard for the many important and worthy reform goals embedded within the administration's proposal, we suggest, however, that the best way to begin the work of preserving and repositioning public housing is to take a calculated and incremental first step that emphasizes above all else the financial repositioning of public housing in order to ensure preservation of the physical asset. From that platform, we can then turn our attention to the related goals of enhancing resident opportunity and creating new administrative efficiencies. NAHRO has consistently expressed concern that the introduction of additional or multiple policy initiatives will undermine what should clearly be the most important objective of any conversion proposal: the long-term preservation of the physical asset.

While the approach included under PETRA is centered on a long-term, contract-based rental assistance option, we are concerned that the proposed program includes several collateral policy initiatives that inhibit the financial repositioning of public housing and should be avoided. In addition to the creation of a Resident Choice Option, which we discuss in greater detail below, the Department's deliberations over how to impose both tenant organization and Section 3 requirements upon converted developments are good examples of the kind of overlapping, contradictory policy goals that risk undermining PETRA's potential for successfully preserving the converted inventory.

Regarding Section 3, the program as applied within the existing public housing inventory has been, at best, uneven in its implementation over the years and its overall success in permanently raising the economic status of its intended beneficiaries has not been demonstrated. Furthermore, NAHRO fully expects that those PHAs interested in converting public housing are motivated in part by a desire to move into a regulatory environment that more closely resembles the existing multifamily regulatory

environment. Because Section 3 requirements are decidedly less burdensome under the existing PBRA program, maintaining status quo Section 3 requirements for both converted public housing developments and converted privately-owned multifamily properties makes conversion less attractive to PHAs, since PHAs will be required to shoulder additional administrative burdens without incremental subsidy. This outcome only serves to reinforce the traditional, damaging isolation of public housing from the rest of the nation's assisted housing stock, thus perpetuating one of the significant problems that any carefully considered approach to conversion should seek to resolve. Requiring an unspecified portion of the Housing Assistance Payment (HAP) to be used for these purposes would also compromise a PHA's ability to fulfill its debt financing obligations, an important consideration given the important role that leveraging plays under TRA.

These concerns notwithstanding, we do believe there are some features of existing programs related to economic opportunity that could have parts to play within the converted inventory. For example, NAHRO supports the Department's apparent decision to make the Family Self-Sufficiency (FSS) program available to residents of converted developments. An expanded FSS program, perhaps supported by an expansion of the Office of Housing's Neighborhood Networks initiative, could be an extremely effective tool for creating economic opportunities for residents.

As discussed above, NAHRO suggests looking to the existing PBRA program as the basis for conversion rather than creating and relying upon a new and untested model burdened by requirements serving secondary policy objectives. NAHRO also has serious concerns about the Department's apparent intention to require the conversion of existing PBRA properties to the new long-term, contract-based subsidy envisioned under PETRA. Such a course of action would be, in our opinion, an overreach that would inevitably lead to reductions within the affordable housing inventory as private owners opt against renewing contracts due to concerns over the increased regulatory burdens associated with the new and unfamiliar subsidy form.

ADEQUATE RESOURCES

NAHRO recognizes the challenges posed by the current fiscal environment. However the preservation of converted public housing developments depends upon adequate, stable funding in combination with a rational approach to setting rents. As the top-line amount against which the HAP contract is structured, rents must support a standard of operation and rehabilitation comparable to that of market-rate housing, providing residents with desirable places to live that can be subjected to the "market discipline" which HUD has emphasized. Without adequate rents, PHAs simply will not be able to modernize and maintain properties as quality affordable housing. Adequate rents, therefore, are essential to the success of TRA or any other conversion proposal as a preservation tool. NAHRO is concerned that rents under PETRA will not provide

adequate subsidy to meet the project needs, and that these rents will not carry sufficient guarantees of stability to successfully leverage private investment.

As in any other project-based contract model, rents must cover not only the entirety of operating costs (including resident services), but also debt service for the full capital needs of the project and responsible replacement reserves for future needs. Therefore, a robust physical needs assessment (PNA) is the fundamental underpinning of a sustainable rent-setting mechanism. PETRA is silent on the issue of physical needs assessments, except in so much that it appears to take the authority to hire contractors to conduct the assessments away from owners of converting properties. Additionally, although PETRA provides authority for the Secretary to determine minimum physical conditions standards, it does not address the level of rehabilitation and modernization that properties may receive. NAHRO is concerned that without proper procedures and standards for this assessment, the rent-setting mechanism will not be reflective of the physical needs of the property, creating a chasm between the financial needs of the property and the subsidy's ability to meet those needs.

For PBC contracts, PETRA would allow rents up to 120 percent of market rate. However, this is a ceiling, and the legislation provides no guidance as to how rents would actually be set, instead giving HUD full discretion to provide the project with such amount as the Secretary deems sufficient. Without a clear sense of what amount of subsidy will be made available, public and private sector owners may be hesitant to participate in the program. Further adding to the financial uncertainties of the program is a provision which requires the Secretary to reevaluate the rents at least every five years, with the option of lowering them. Such a provision is antithetical to the principle of a contract, undermining any guarantee of stable funding.

We note also that Department officials have publicly stated that the administration will not request a statutory guarantee against downward pro-rations in the annual appropriation for annual PBC renewals, thereby increasing the level of uncertainty and risk inherent in this new program. These terms cast significant doubt on the ability of the proposed 8(n) program to provide the sustainable funding environment required for preservation.

Regarding the PBV conversion option provided for under PETRA, the proposed legislation provides a statutory guarantee against any downward pro-ration for PBV contracts. However, PHAs that opt for PBV conversions will be subject to downward pro-rations in their HCV programs. While it certainly makes sense to provide a statutory safeguard against downward pro-rations in the PBV conversion program, HUD's proposal could effectively force a Hobson's choice upon those PHAs that avail themselves of the PBV conversion program.

PETRA goes farther than the Department's earlier summaries of the TRA proposal in that the draft legislation requires additional "cost saving" measures within the HCV program. These measures would result in shallower rent subsidies in order for PHAs to

serve the same number of households with the amount of HAP left over after satisfying the required 100 percent pro-ration in the PBV program. These “cost saving” measures would most likely result in voucher-assisted households bearing higher income-to-rent burdens. A better approach would be to provide for a separate PBV HAP contract which guarantees 100 percent funding and no downward pro-rations nationwide, with separate HCV funding provided subject to nationwide pro-rations. With substantially improved budgeting, auditing, and validation tools for PHAs’ financial information for tenant-based voucher programs, the Department has within its reach the ability to calculate and request full funding levels for both HAP and administrative fees within the tenant-based voucher programs.

Finally, according to calculations released by the Department, the allowable rents under PETRA will be insufficient for some projects to leverage the debt necessary for preservation. PETRA provides no options for these properties, placing them at risk of being lost forever from the affordable housing stock.

HUD officials have also suggested that use restrictions may outlast the subsidy contract period. To meet the needs of the project and provide a bankable subsidy contract, it is essential that the time period for the use restrictions in 8(n) match that of the HAP contract. Just as the inability of PHAs to subordinate the deed of trust has deterred lenders from investing in public housing, a use restriction that outlasts the subsidy stream would be particularly unpalatable to potential investors, jeopardizing owners’ ability to recapitalize their converted properties.

Contract extensions are another significant area of concern. The Department has reserved the right to unilaterally extend contracts in perpetuity by forcing owners, as well as successors in interest, to accept extensions as part of the initial contract or contract extension. Furthermore, the Department may force PHAs that have converted units to accept extensions even if such extensions are not included in the initial contract. While NAHRO shares the Department’s goal of ensuring long-term affordability, we are concerned that these provisions diminish the ability of PHAs and private owners to negotiate future rents and contract terms. Without the ability to opt out, owners lose control of the future of their properties. We suspect that owners will be wary of these provisions and may choose not to participate, thus endangering the preservation of much of the existing stock.

Lastly, the continued isolation of converted public housing units from units converted from other programs creates a hurdle to PHAs’ ability to leverage their contracts. PETRA perpetuates the distinctions between public housing and other assisted properties through disparate rent-setting provisions, use restriction durations, and a refusal to permit public housing to shed many of the additional requirements that have proved so burdensome over the years. Lenders may interpret these features as a sign of the risks of lending to public housing, where funding streams have been subject to significant downward pro-rations and burdensome regulatory measures are abundant. Because access to private capital is a core component of the TRA model, continuing the

isolation of former public housing units endangers the success of the program and should be avoided.

NAHRO recognizes the challenges involved in designing appropriate rent structures that will meet the range of physical and financial needs of the public housing portfolio. However, to undertake conversion of properties without sufficient resources risks further destabilization. The Department should not make the mistake of trying to accomplish too much with too little. A smaller (but adequately funded) initial conversion program is far preferable to a larger program that risks failure.

RESIDENT CHOICE OPTION

In our March 10 comment letter addressed to the Department, NAHRO suggested that “mobility is generally desirable and important, [but] it should not be the paramount objective of public housing conversions or implemented in a manner that creates social inequity or destabilizes converted projects.” When the administration first introduced the proposed TRA initiative, HUD officials promised to adopt a responsible, evidence-based approach in formulating a mobility provision. In the revised proposal first described in March, the Department expressed its desire to avoid “unduly distorting voucher waiting lists and undermining the important role vouchers play in meeting diverse community needs,” and concluded that “it is not feasible to extend the existing PBV mobility policy” to properties converted to project-based contracts under TRA. NAHRO agreed with the Department’s conclusion that providing a one-year exit voucher to all tenants in converted developments simply will not work.

While we acknowledge that the Department has shown a measure of flexibility regarding the mobility provision, we are not convinced that the Department has made a compelling, evidence-based case for why applying the revised Resident Choice Option for units converted to project-based contracts is any less likely to complicate preservation efforts or significantly distort HCV waiting lists. Even with a two-year waiting period, NAHRO remains deeply concerned that the Resident Choice Option risks transforming converted public housing units in an unintended and decidedly negative way, effectively turning converted developments into way stations for families seeking tenant-based vouchers. Given the demand within the program and the scarcity of new vouchers, households seeking assistance through the HCV program may quickly realize that their prospects for obtaining a voucher are significantly enhanced by residing for 24 months in a converted development.

In the absence of incremental vouchers (a fact of life in our industry that the Department has already conceded is likely to continue for the foreseeable future), transplanting a mobility component into the converted public housing inventory as described under PETRA is likely to lead to “churning” within certain converted projects, disrupting communities, destabilizing rental income, and increasing turnover costs for both the

physical asset and the HCV program. As a result, we believe that this will threaten the sense of community within the development while undermining PHAs' collective ability to leverage private capital, a major goal of the proposed initiative, in order to preserve the affordable housing asset.

In recent presentations, Department representatives have discussed their efforts to model the impact of a Resident Choice Option using data from current move rates in the multifamily stock. NAHRO is concerned that these data are not an appropriate proxy for the potential demand for vouchers that this provision would create in properties converted under PETRA as proposed. There is reason to be concerned about the potential to underestimate the impact of this provision, as evidenced by the significantly higher annual move rates in substantially or entirely assisted PBV developments, estimated at 8 to 45 percent by the Department. In addition, the supply of turnover vouchers is highly dependent on local conditions such as the level of low-income households' incomes and affordable housing market opportunities at any given time. The unpredictable and variable rate of turnover adds an additional layer of complexity to any attempts at modeling the effects of the proposed Resident Choice Option. Finally, NAHRO believes that the Department has still not devoted sufficient attention to the threat that exit vouchers pose to the preservation of converted developments, and we remain concerned that providing exit vouchers on different terms for different projects would only add complexity to the system, both for residents and administrators.

In order to ensure that future generations of low-income families will have real choices about where to live, we must seize this opportunity to first preserve the stock of existing affordable units. If the significant and growing modernization and maintenance needs of public and other affordable housing units continue to go unmet, communities around the country will experience further declines in their already limited stock of affordable housing. NAHRO also believes that the Department's implication that public housing residents are trapped in substandard conditions and need an escape route is neither factually correct nor appropriately addressed through the Resident Choice Option. The available data on physical condition show that, while it has significant and growing capital needs, most public housing is in good shape considering the funding history of the program. And in any event, the conversion process, if structured responsibly, will allow PHAs to address deferred maintenance and modernization needs. Improving the quality of the PHA-owned housing stock will create additional communities of choice for the families that PHAs serve.

NAHRO objects to the Department's assertions that *all* public housing tenants lack "hope, opportunity, and choice." This rhetoric comes uncomfortably close to dismissing the hard work that housing professionals are engaged in every day to help low-income families experience the positive life outcomes associated with access to safe, decent, and affordable housing. Furthermore, we should not lose sight of the fact that an estimated 75 percent of households eligible for housing assistance receive no assistance at all. It could certainly be argued that these households are the ones for whom choice is truly limited. In addition to the affordable unit in which they currently

reside, public housing residents have full access to tenant-based voucher waiting lists, although they do not enjoy any preference over other families who currently receive no assistance at all. PHAs are also able to offer choices for families who would be better served in a different location through transfers to other public housing sites within their communities. As such, residents of public housing have more options than those families that are eligible for assistance but are not yet receiving it.

The structure of any enhanced mobility provision under TRA will have consequences for both assisted and unassisted families. We would urge the Department to exercise caution as it contemplates extending rights to families already receiving housing assistance that are arguably superior to those of waiting list families currently without such assistance. NAHRO notes that only about one-fourth of people who are eligible for housing assistance actually receive it, that Housing Choice Voucher waiting list applicants often live with severe housing cost burdens and in substandard housing, and that waiting list applicants often wait long periods before reaching the top of the list. Before moving forward, we encourage the Department to consider carefully whether the interests of those who already have housing assistance should trump the needs of waiting list families who have no assistance at all.

Unassisted families are just as impoverished as assisted residents of hard units and typically face much higher housing cost burdens and far worse living conditions. And they too have needs to move to opportunity and for personal exigencies or preferences, which will go unmet until they are able to lease with a voucher. Conferring additional rights and benefits on those who are already affordably housed through a federally funded program in preference to those who are not raises real questions of fairness, particularly given the limited resources available. Resident choice with a defensible priority among those vying for housing assistance may be established by ensuring that residents of converted developments take full advantage of their existing right to apply for voucher assistance and maintain their position on the waiting list. Indeed, since the enactment of Quality Housing and Work Responsibility Act (QHWRA), low-income households who apply for and receive public housing assistance have been able to maintain their place on the HCV waiting list and may elect to receive voucher assistance when their names come to the top of the waiting list (see § 982.205 Waiting list: Different programs). Furthermore, NAHRO believes it would be worthwhile to examine the possibility of amending existing law to enable residents of PHA-owned PBRA developments to have the same opportunities public housing residents currently have in terms of maintaining waiting list position and eligibility for voucher assistance.

NAHRO is additionally concerned about the potential for unforeseen problems related to the use of exit vouchers. Unless current rules change, residents choosing to exercise their option for a tenant-based voucher will have to provide notice to the PHA, effectively terminating their assistance through the public housing program. Should they not be successful in leasing up in the private market, these formerly affordably housed families will find themselves with no assistance at all, and possibly even at risk of homelessness. The reasonable solution would be for housing authorities to waive

the notice provision so that households can secure new housing without risking their public housing. The delay in vacancy notification would further slow the movement of families from the waiting list into housing, and substantially erode rental income due to increased vacancy time. Creating a dynamic in which public housing developments become de facto way stations in order for low-income unassisted households to receive any housing assistance, coupled with the process of residents giving notice to move from public housing and securing a new leased unit under the HCV program, will also create disruptions in PHAs' turnover of public housing units. Creating such disruptions will add to PHAs' costs and complicate unassisted households' ability to move into public housing from homeless shelters.

It must also be noted that the PETRA discussion draft does not identify a funding source for exit vouchers for PHAs with public housing but no voucher program. Absent any proposed authorization for incremental vouchers, PETRA requires a PHA with both public housing and voucher programs to commit a share of its turnover vouchers to support the Resident Choice Option if that PHA opts to convert public housing units. NAHRO is concerned about the potential cannibalization of the HCV program to meet the needs of PETRA's mobility feature.

In addition, HUD has indicated that reallocation of PHAs' net restricted HAP assets above the level of allowable reserves (i.e. 6 percent of annual budget authority) would provide a portion of the funding required for the exit voucher feature. If such a measure is being contemplated, the Department needs to first correct its improper assessment and offset of PHAs' NRA in 2009 and 2010, a problem created largely by HUD's wholesale use of PIC data for voucher leasing and costs. NAHRO has previously communicated a number of recommendations in this area which we would be happy to share with you.

The above discussion of the Resident Choice Option assumes that the new set of mobility features will apply only to those residents of converted public housing units, a policy change which is sufficiently problematic in its own right. However, in an unexpected development, the administration's legislative proposal appears to allow for the immediate extension of the Resident Choice Option to every low-income family in every unit "funded under a rental assistance program administered by the Secretary," regardless of whether the unit in question has undergone conversion. Although the legislation does not define a "rental assistance program" for this purpose, NAHRO assumes that all unconverted public housing and privately-owned multifamily project-based units would be covered under this provision.

Department officials have pointed out that, under PETRA, the Resident Choice Option would only be extended to residents of non-converted properties "to the extent of available resources." NAHRO notes that PETRA does not define what is meant by "available resources" in this context, nor does PETRA define the process by which HUD would determine whether resources are in fact "available." These are important omissions considering that PETRA does not authorize incremental vouchers but would

allow residents exercising the Choice option to “continue to receive rental assistance that is subject to policies *comparable to those that apply to assistance under section 8(o)* concerning income, assistance, rent contribution, affordability, and other policies as the Secretary may specify by regulation” (emphasis added). In other words, residents exercising the Choice Option may receive forms of assistance other than turnover vouchers, and PETRA would appear to empower the Secretary to create through regulation what are effectively new forms of housing assistance, with the source of funding for these other forms of assistance left undefined.

If the HUD Secretary were to “activate” the Resident Choice Option for the entire HUD-assisted rental inventory, including unconverted public housing and privately-owned multifamily units, the potentially deleterious effects of PETRA’s mobility provision, as described above, would be amplified exponentially. A lack of clarity regarding the mechanics of PETRA’s mobility feature, particularly concerning the potential forms of housing assistance beyond turnover vouchers (and corresponding funding sources) involved, creates the potential for additional financial instability within the affordable inventory.

Consistent with our position that significant changes be voluntary, we are concerned about the effects of the imposition of the Choice Option on units administered by those owners that have not opted to convert. This is an especially important consideration given the critical role that PBRA contract extensions will continue to play in maintaining the supply of affordable rental housing. As private owners consider not only whether to convert but whether to extend existing contracts, an overreach in the area of mobility could ultimately lead to reductions within the affordable housing inventory, an outcome that is antithetical to preservation.

Department officials have stated that HUD is attempting to strike a balance between preservation and choice. Given the difficulties inherent in, and the importance HUD assigns to, striking the right balance, NAHRO is disappointed that HUD did not follow through with a previously proposed pair of FY 2010 demonstrations that, had they been conducted, would have allowed HUD to explore conversions of public housing developments to both PBV and PBRA. These demonstrations would have provided the Department and stakeholders with a better understanding of the impacts of both of these models on preservation and mobility.

NAHRO suggests that the best way to address the problems the proposed Resident Choice Option seeks to address - as well as the problems this feature may inadvertently create - is for all interested parties to work together to expand the nation’s supply of affordable rental housing options by growing the hard unit inventory, especially in lower-poverty census tracts, and responding to the real need for incremental vouchers.

PROGRAM ADMINISTRATION

It is unclear whether the revised proposal addresses concerns NAHRO previously raised regarding the administration of vouchers by Performance-Based Contract Administrators (PBCAs) under the new 8(n) program. In the existing PBRA program, only HUD and the property owner are parties to the subsidy contract. PBCAs' contracts with HUD involve ten core oversight tasks to ensure compliance with statutory and regulatory program requirements, effectively allowing PBCAs to act as HUD's representatives. Currently HUD provides Section 8 rental subsidies under HAP contracts to the project owners in an amount equal to the difference between the HUD approved rent (the "Contract Rent") for a particular assisted unit and the HUD required rental contribution from eligible tenant families. NAHRO would strongly oppose any recasting of these functions that gives PBCAs new authority regarding receipt of HAP funds for the HCV, PBV, PBRA or new PBC programs, including decisions regarding funding and contract renewals. NAHRO looks forward to the currently pending PBCA contract rebid process with the hope that revisions to the Contract Administrator Handbook will provide consistency and clarity in contract oversight.

REGIONALIZATION

NAHRO appreciates the Department's reconsideration of the initial proposal's emphasis on regionalization. After reviewing the PETRA discussion draft, however, we would note that this aspect of the proposal has not changed substantially. While the voluntary consolidation of HCV programs and consortia, or the adoption of multi-agency portability agreements, would not be required under the terms of the legislative proposal, these regional configurations could still be given priority by HUD in evaluating applications and making awards as part of the competition for participation. By using this as grounds for qualification, NAHRO contends that it would become a de facto requirement for participation. PHAs would be more likely to enter into cooperative agreements with other agencies if the Department implemented Congressional directives to increase flexibility through regulatory and administrative measures, to reduce administrative burden and streamline program implementation within the HCV program. NAHRO continues to support further reform in a number of areas, including consolidated reporting for PHAs engaged in consortia (as required under QHWRA).

In implementing the administration of rental assistance under Section 8(m) for PHAs that administer the HCV program, PETRA would enable HUD to "facilitate the implementation" of regional portability agreements, consortia, and such other or additional methods of streamlining administration of vouchers and other rental assistance on an area-wide basis as the Secretary determines appropriate to promote greater efficiency in the use of resources and to increase informed resident choice and mobility;..." Currently there are statutory and regulatory underpinnings for the mobility and portability features of the HCV and PBV programs. Mobility and portability features are adequately treated under H.R. 3045, the Section Eight Voucher Reform Act of 2009

(SEVRA). Currently HUD provides Section 8 rental subsidies under HAP Contracts to PHAs that administer the HCV and PBV programs. As stated above, NAHRO continues to support further reform in a number of areas, including consolidated reporting for PHAs engaged in consortia (as required under the Quality Housing and Work Responsibility Act).

NAHRO understands and supports the need for another entity approved by the Secretary to carry out the initial inspections and rent reasonableness determinations under PBV and HCV programs for units owned by a PHA (Section 8 (o)(11)). However, there are several other sections of PETRA that are ambiguous about HUD's authority to establish new authority for PHAs to "assist in the administration of such PB contract." NAHRO would strongly oppose any recasting of the HAP contract authority or other regulatory or administrative functions for PHAs beyond what is currently in SEVRA (HR 3045).

On a related subject, PETRA would modify the current provision of law under Subparagraph (B) of section 3(b)(6) of the Housing Act of 1937 that currently defines a public housing agency eligible to administer Section 8 tenant-based assistance. PETRA would open the door to the operation of federal housing programs by a large group of entities regardless of whether those entities are authorized to administer such programs under state or local law. PETRA would also remove the reference to "tenant-based" so that the aforementioned change would apply to the administration of the HCV, PBV, and new PBC programs. By eliminating all jurisdictional constraints concerning the operation of the reformed Section 8 housing programs, PETRA would overturn long-established state and local laws. Changes of this magnitude should not be undertaken lightly or without consultation with state and local governments as an incident to federal rental assistance reform.

UNANSWERED QUESTIONS

The PETRA discussion draft is in many ways a positive step forward from the initial proposal as described in February. However, the Department has still not provided details or clarification on key elements of the proposed program. Of primary concern to NAHRO is the lack of information on financing. The Department has estimated that potential units for conversion have an average of \$25,000 in unmet capital needs. The Department has requested \$290 million for incremental Year 1 costs, which would be spread among 290,000 units. An average of \$1,000 in incremental funding per unit could fall far short of what is needed to make up the funding difference between either PBV or PBRA and public housing, not to mention address the capital needs backlog. We would appreciate assurances from the Department, by access to their conversion modeling, that the legislative proposal, in combination with the administration's FY 2011 budget request, strikes the right balance between funds appropriated and units targeted. We would note also that no information has been provided concerning how to

address the costs associated with the administration's previously announced plan to expand the FSS program, an initiative which NAHRO fully supports. PETRA also leaves unanswered questions concerning the ultimate source and adequacy of funding for relocation vouchers for residents displaced by modernization.

In addition, the Department has stated that according to its models, Year 1 incremental funding would be sufficient to leverage \$7.5 billion in private investment. At a ratio of nearly 26 to 1, NAHRO believes this is an extremely optimistic prediction, and that the dialogue around financing would benefit from increased transparency and information sharing. We would also note that the matter of adequately funding replacement reserves, a key component to ensuring the sustainability of a property's financial wellbeing, has not been addressed.

NAHRO would also note that PETRA is silent on the criteria to be employed by the Secretary when selecting properties for conversion. NAHRO believes that priority should be given to owners that are able to demonstrate that the use of a project-based contract will allow them to address severe recapitalization needs in an effective manner. The Administration's proposed elimination of the proven HOPE VI program, questions regarding eligibility criteria of the unauthorized Choice Neighborhoods Initiative, and inadequate Capital Fund resources exacerbate an already strained financial situation for PHAs, particularly those with distressed units. This uncertainty over the availability of resources only serves to underscore PHAs' need for additional tools to restore and reposition their assets. To that end, NAHRO appreciates that the administration has stepped back from the somewhat arbitrary selection criteria included in the initial TRA proposal. However, NAHRO continues to believe that the recapitalization needs of a PHA should be considered independently, and not in relation to a PHA's willingness to regionalize its HCV program.

NAHRO also believes that more information is required to properly assess PETRA's treatment of portability and absorption. On numerous occasions, NAHRO has provided the Department with a detailed portability reform proposal which could be implemented through regulatory and administrative measures in a manner that preserves the robust use of this essential feature of the Section 8 voucher program, preserves the ability of agencies to serve their waiting lists, and reduces the financial barriers to portability. Specifically, NAHRO has recommended using the VMS system to facilitate absorption of inter-agency portability billings. Through a central voucher fund, NAHRO also recommends adequately funding "receiving" agencies of portability billings, particularly where interagency billings have continued for a year or longer. This would free up budget authority necessary to maintain current leasing levels at the sending agencies. Where portability billings have occurred to areas with higher per voucher costs, absorption will have a multiplier effect at "sending" agencies.

Finally, NAHRO continues to have serious concerns regarding the lack of clarity around future phases of TRA, which HUD has repeatedly described as "a multi-year effort" with "streamlining goals." As we have repeatedly made clear, NAHRO believes strongly that

the conversion of public housing should be entirely voluntary, and that those PHAs best served by remaining within the existing public housing program should be allowed to do so, supported by robust funding through the Operating and Capital Fund programs, and with increased access to private capital through properly implemented Public Housing Mortgage, Capital Fund Financing, and Operating Funding Financing Programs. Absent a sufficient understanding of the Department's plans for future phases of TRA, not to mention a clearer understanding of the depth of the administration's commitment to the existing public housing and PBRA programs going forward, supporting this proposal would be irresponsible even if we did not have the serious concerns this written testimony is intended to convey.

A MORE PRUDENT APPROACH

Perhaps the most compelling lesson from a careful study of housing policy is that broad policy reform often brings unintended consequences. While we admire the Administration's desire to "go big," history compels us to recommend a smaller, incremental step focused on responsibly repositioning public housing on a real estate platform. With the initial and most important goal accomplished, we could then work to improve the program, both for the asset and for the residents, from there.

Although we are unable to endorse the administration's legislative proposal at this time, NAHRO remains committed to working with the administration and the Congress to develop new options aimed at repositioning public housing assets to ensure the long-term preservation of this critically important component of the nation's affordable housing inventory. To that end, and if you believe it would be helpful, NAHRO would be willing to work with the Committee to develop proposed legislative language to correct what we see as the major deficiencies in PETRA as proposed. Please be aware, however, that NAHRO continues to believe that a simpler, more straightforward approach to voluntary conversion would be the most prudent way forward. We would suggest that NAHRO's public housing conversion proposal embodies such an approach.

Under NAHRO's legislative proposal, PHAs would have the option to voluntarily convert public housing projects to the existing Section 8 PBRA program. The option to convert public housing projects to PBRA will provide those PHAs who choose to do so with a means to recapitalize their public housing assets and preserve them for the future. NAHRO's PBRA proposal would transfer federal oversight to HUD's Office of Housing. Given the Office of Housing's less administratively burdensome regulatory environment and lenders' familiarity with the existing PBRA program, conversion under NAHRO's proposal supports long-term preservation by providing converted public housing units with a sustainable operating environment and a proven approach to leveraging assets to meet capital needs.

Projects would be converted in the same manner as Section 8 project-based renewals occur under section 524 of the Multifamily Assisted Reform and Affordability Act of 1997, with some modifications. At the option of the owner, rent would either be set at the level of comparable market rent for the area or by the Secretary on a budget basis that would take into account the need to provide sufficient replacement reserves to replace capital subsidy funds. Each year, rents would be adjusted by an Operating Cost Adjustment Factor or at the request of the owner on a budget basis.

Conversions would occur with or without rehabilitation. Projects requiring rehabilitation would generate funds through a combination of grant funding, tax credits and debt. As a result of the conversion, projects will have significantly increased access to these resources. Converted projects would be permitted to address both physical and market obsolescence, and incentives would be provided for greening of projects during rehabilitation. Optionally, an FHA guarantee or loan product could be made available to reduce borrower costs and allay lender fear of appropriations risk.

At the time of conversion, the Secretary would be required to release the project from the Annual Contributions Contract, deed of trust, and any other encumbrance in favor of the federal government relating to the public housing program, and property would no longer be subject to any federal law or requirement applicable solely to public housing. Once converted, each project would be funded through a minimum 20-year HAP contract and be subject to the same program structure and regulatory oversight scheme as the existing Section 8 project-based multifamily inventory. No new program would be created for operating the properties, and HUD would utilize its existing contractors to carry out oversight responsibilities.

Under NAHRO's proposal, existing tenants will remain in occupancy, and any tenant temporarily displaced by rehabilitation activities would be able to return to the property. Income targeting requirements would be the same as in public housing. Also under NAHRO's proposal, the Secretary would evaluate the PBRA conversion program based on property condition, cost, and changes, if any, to tenant characteristics. These indicators would be compared to those of public housing projects as well as those of projects converted to Project-Based Vouchers.

Keeping in mind current fiscal constraints, and with an eye on the legislative calendar, NAHRO suggests that a preferable approach to initiating the preservation of the public housing stock through voluntary conversion would be to provide for a pilot program for FY 2011. NAHRO notes that HUD itself, in its FY 2010 Congressional budget justifications related to the proposed Transformation Initiative, described the possibility of conducting a pair of demonstrations related to the repositioning of public housing assets. The first demonstration would have given PHAs an opportunity to voluntarily convert public housing projects to PBV assistance while the second would have provided an opportunity for voluntary conversion to Section 8 PBRA. By undertaking these proposed demonstrations HUD would have been able to gauge the market response and collect the evidence needed to evaluate and refine these approaches

before bringing them to scale. Although the Congress provided funding for the Transformation Initiative, HUD opted not to conduct the proposed demonstrations.

NAHRO estimates that a pilot program converting 50,000 public housing units to units assisted through PBRA would require an appropriation of approximately \$100 million for FY 2011. This estimate is based on the assumption that public housing agencies would choose to convert properties located in areas where conversion to a rent based on comparable market rents would result in an increase in operating subsidy adequate to finance upfront property improvements and the ongoing funding of a sustainable operating and capital reserve. In addition to our formal conversion legislative proposal, NAHRO has developed suggested legislative language to authorize such a pilot, which we would be pleased to share with you. It is our hope that you will support this approach, and communicate your support to appropriators.

Thank you for the opportunity to testify today.