Testimony of Thomas Gleason, Executive Director, MassHousing,

on Behalf of the National Council of State Housing Agencies

on HUD's Transforming Rental Assistance (TRA) Initiative

before the House Committee on Financial Services

May 25, 2010

Thank you, Chairman Frank, Ranking Member Bachus, and members of the House Financial Services Committee, for the opportunity to provide feedback on HUD's Transforming Rental Assistance (TRA) initiative. I am Tom Gleason, executive director of MassHousing, the Housing Finance Agency (HFA) of the Commonwealth of Massachusetts.

I am testifying on behalf of the National Council of State Housing Agencies (NCSHA), a national nonprofit, nonpartisan association that represents the interests of state HFAs before Congress and the Administration. NCSHA's members are the HFAs of the 50 states, the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands.

State HFAs are most widely known for their safe and sound first-time homebuyer lending programs, which have provided a reliable source of affordable mortgage money for working families over many decades in strong and weak economies. HFAs also provide low-cost multifamily financing to facilitate the development of affordable rental homes.

State HFAs administer several key federal housing programs, including tax-exempt Housing Bonds, the Low Income Housing Tax Credit (Housing Credit), HOME, vouchers, and Section 8 project-based assistance. HFAs are currently administering a number of federal housing recovery resources, including the Housing Credit Exchange Program, the Tax Credit Assistance Program, and the Administration's New Issue Bond Program Initiative.

NCSHA supports HUD's goals for TRA, including the preservation of public and assisted housing, more uniform policies and increased administrative efficiency across all HUD-funded rental assistance programs, and enhanced housing choice for assistance recipients. We appreciate HUD's willingness to confer with NCSHA and others in the affordable housing community as it developed its thinking on TRA. We believe the Department's current proposal, which it released on May 12, reflects a number of important improvements in the initiative.

We are continuing to analyze this proposal and to seek HFA reaction to it. However, we wanted to take this opportunity to raise some preliminary concerns and questions.

First, we believe it is important for Congress and the Administration to recognize the property recapitalization demands the TRA initiative will place on the Housing Credit and other federal housing resources, which are already oversubscribed. Second, it is essential that TRA permits property rents adequate to support recapitalization strategies and to provide for long-term property viability. Third, while we strongly support the goal of resident mobility, it must not come at the expense of new incremental vouchers, as TRA proposes. Fourth, we believe that TRA should remain a limited, voluntary program until Congress can review its outcomes. Fifth, HUD needs to be more specific about the role and selection of TRA contract administrators and their relationship to administrators of HUD's Performance-Based Contract Administration (PBCA) program. Finally, Congress should create a state-administered pool of project- and tenant-based rental assistance for HFAs to coordinate with the capital resources they administer to help meet the needs of very low-income households.

TRA Will Increase Demand on Housing Credit and Other Federal Housing Resources

As TRA properties are repositioned for the future, most will require substantial commitments of federal housing capital resources to cover their rehabilitation and other development costs. Most are likely to turn to the Housing Credit, the availability of which is already oversubscribed in most states. Appreciating that the Housing Credit falls under the jurisdiction of the Ways and Means Committee, we ask that you work with the leadership of that Committee to ensure that additional Credit is provided to states to meet this increased demand. Otherwise, states will have to make difficult choices between preserving TRA developments and producing needed new rental homes.

TRA Must Provide Flexibility in Rent-Setting

We are pleased that HUD's latest TRA proposal provides project-based Section 8 assistance for most public and assisted housing developments that undergo conversion. Project-based Section 8 currently serves over 1.2 million low-income households and remains the best tool for ensuring long-term property affordability and attracting and maintaining private capital for preservation efforts.

We believe that HUD's proposal provides the Secretary the discretion to allow converted TRA properties with project-based assistance to utilize market rents and, in some cases, budget-based rents that exceed market rents. We urge Congress to make clear in the TRA legislation that the Secretary shall allow such rents, if properties demonstrate these rents are needed to support their rehabilitation and ongoing operation. This rent-setting flexibility is necessary to ensure successful TRA conversions in high-cost and low-rent areas.

We appreciate HUD's effort to preserve properties assisted by Rent Supplement, the Rental Assistance Program (RAP), and the Section 8 Moderate Rehabilitation program within TRA. We believe, however, that Chairman Frank's preservation bill, H.R. 4868, offers more flexible and desirable rent-setting options for these properties upon conversion to new Section 8 project-based contracts. H.R. 4868 would allow these properties greater opportunity to "mark up to market" rents pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRAA).

TRA's Choice Option

NCSHA strongly supports mobility as a means for creating opportunity for residents to improve their quality of life. However, we urge Congress to find a way to achieve mobility without reducing the resources available to help additional families in need of housing assistance.

As proposed, TRA would require public housing authorities (PHAs) to utilize up to one-third of their turnover vouchers as Housing Choice Vouchers (HCVs) for residents opting to move out of TRA-converted properties. This policy would allow residents of converted project-based Section 8 developments to receive priority over unassisted individuals and families who are inadequately housed and may have been waiting for help for a long time. To avoid this "zero sum game," NCSHA recommends TRA provide an increase in incremental vouchers for unassisted households adequate to offset the additional demand for rental assistance created by its mobility feature.

Second, we are concerned that the availability of HCVs to TRA residents could present risks to properties by causing investors to assume higher vacancy and turnover rates.

Finally, we encourage Congress and HUD to attempt to limit the administrative complexities that expanded mobility will create for Section 8 contract administrators. For example, currently state HFA Performance-Based Contract Administrators (PBCAs) must notify HUD if any Section 8 property owners opt out of or terminate their Section 8 contracts and work with HUD to obtain tenant-based voucher assistance for eligible residents. PBCAs coordinate with the local HUD office to identify a PHA to administer the vouchers, provide resident payment and other data to HUD, and help residents access the vouchers.

Under TRA, however, there would not be a one-time block of Section 8 resources allocated to a voucher administrator. Instead, a series of separate, unpredictable move-outs would trigger the demand for vouchers. These would be discrete, individual events that would increase significantly the administrative burden for HUD, contract administrators, and owners as a result of higher turnover and vacancy rates. We encourage the Committee to consider these consequences carefully and ask HUD to provide more detailed information about its expectations of contract administrators in accessing HCVs for residents that exercise TRA's choice option.

TRA Should Remain Voluntary and Limited Until Congress Can Study Outcomes

NCSHA is pleased that HUD's TRA proposal relies exclusively on voluntary participation by PHAs and private owners. We urge Congress not to make participation mandatory for any parties. We believe that TRA may present some PHAs and owners with valuable opportunities to reposition their properties, but no property should be forced to convert. All owners should retain the ability to maintain and renew existing Section 8 contracts under the same terms as their current contracts provide.

HUD's TRA proposal would give the Department significant flexibility to grow the program over time. For example, HUD's legislative language authorizes it to expand the TRA initiative to include "other federal affordable housing programs, as identified by the Secretary by notice." We are concerned that this open-ended language may enable HUD to expand the program too quickly, without giving Congress and the affordable housing community a chance to review the results of its first phase. This possibility would create unnecessary uncertainty for investors and limit the private investment that TRA is trying to leverage. We urge Congress to review the outcomes of phase one, perhaps by authorizing it as a pilot program, before allowing HUD to extend the program by notice.

HUD Must Clarify the Relationship between TRA and PBCA

As HUD asks Congress for the authority to convert a portion of the public and assisted housing stock to new project-based contracts, it is puzzling to us that the Department has failed to describe what entities it expects to administer these contracts and the scope of their responsibilities. The Department also does not explain the relationship it foresees, if any, between TRA contract administrators and PBCAs.

Under different circumstances, I would expect MassHousing and many of the other state HFAs that have served ably for many years as PBCAs to look for an expanded contract administration role under TRA. However, given the uncertainty we have faced as PBCAs for the better part of two years as HUD has moved toward rebidding the PBCA work, I'm concerned that many HFAs will look at this opportunity with great caution.

Since 2000, 33 state HFAs have served as PBCAs on HUD's behalf, producing consistently outstanding results and reversing decades of poor Section 8 property oversight and financial management by HUD. For example, MassHousing currently administers 488 PBCA contracts covering more than 40,000 rental homes. Since 2000, the Agency has achieved all performance benchmarks established by HUD, saved HUD millions of dollars by verifying all Section 8 subsidy payments, provided extensive resident service programs, and improved the appearance and operation of the developments through careful asset management.

Almost two years ago, HUD announced its plans to revise the Annual Contributions Contract (ACC) for the PBCA program and rebid all contracts by January 2011. Since that announcement, NCSHA and the state HFAs have worked closely with HUD staff to help update the ACC, drawing upon 10 years of practical experience.

Last November, the HUD Inspector General published a report criticizing HUD's oversight of the PBCA program and its failure to control costs. This report was not critical of the performance of state HFA PBCAs. Nevertheless, NCSHA and the state HFAs have worked with HUD to find ways to reduce the cost of the program and streamline the administrative process.

Despite NCSHA's efforts at collaboration, HUD presented a draft ACC in January that departs dramatically from the program principles and framework we had been discussing with HUD staff for months. These materials revealed a complete change of direction programmatically for HUD, with potentially grave consequences for the PBCA program and Section 8 project-based properties, residents, and communities.

HUD originally planned to publish a revised ACC for comment last January. To date, this document has not been released, and HUD has indicated that the delay is partly due to questions about the impact of TRA on the PBCA program. HUD has suggested that TRA may affect the scope of work for PBCAs, but has failed to provide any further explanation. Recently, HUD staff said they could not make any prediction about when HUD will publish the revised ACC and move forward with its PBCA rebid.

We believe that HUD's delays in providing information about the revised ACC and rebidding process are linked to its push for the TRA proposal, but HUD has not explained this connection. These delays have created deep uncertainty about the future of the PBCA program, which is undermining the ability of state HFAs to conduct long-term planning and budgeting and is causing some agencies to lose valuable staff members. HUD needs to provide assurance that the PBCA program will continue, as well as a realistic time frame for revising the ACC and rebidding the contracts. Furthermore, HUD must alleviate uncertainty by providing clear information about how PBCAs will be affected by TRA.

NCSHA has strongly urged HUD to create a priority for state HFAs in its PBCA rebidding process, given the state HFAs' excellent track record and the public benefits they have provided as HUD's partners. In addition to fulfilling the assigned tasks under the PBCA program, MassHousing and other HFA PBCAs have gone above and beyond those responsibilities by using other state and federal resources they administer to improve their PBCA properties and thus produce additional long-term benefits to HUD, tenants, and communities. For example, since 2000, MassHousing has recapitalized 76 PBCA developments with an aggregate $1.3 billion of low-cost debt, Housing Credit equity, and state/local soft loans. This has produced approximately $30,000 per unit of rehabilitation for these developments, creating and retaining a significant number of jobs in Massachusetts.

To date, HUD has rejected any priority or preference for state housing agencies in the PBCA rebid, so we have turned to Congress to help create a priority role. If Congress approves the TRA proposal, it seems likely that PBCAs will have greater responsibilities for overseeing a larger portfolio of properties. Consistent administration of all project-based Section 8 contracts by state HFAs would promote predictability for property owners, managers, and residents over time and across regions.

However, to attract PBCAs to the TRA work and improve the PBCA program, we recommend HUD provide PBCAs more certainty, eliminate the delays in providing additional information on the program, and return to the approach HUD and NCSHA were pursuing last year. We also encourage Congress and HUD to look to HFAs to administer the project- and tenant-based vouchers under TRA.

NCSHA is also deeply concerned about the potential implications of HUD's proposal to modify the definition of a public housing agency for the purposes of TRA to include nonprofit organizations. We are concerned that this definition could be loosely defined and allow for a private contractor seeking profits to set up a shadow nonprofit entity to handle contract administration. As with the PBCA rebid, we believe that public housing agencies, such as state HFAs, are most qualified to serve as HUD's partners because they have the public purpose mission of preserving and supporting affordable housing and will direct any program fees toward these goals. We urge the Committee to eliminate this language from the TRA proposal.

Authorize State-Administered Project- and Tenant-Based Assistance

As you consider HUD's TRA proposal, we encourage the Committee to support the allocation of new project- and tenant-based rental assistance to state HFAs to combine with state-administered Housing Credit, Housing Bond, HOME, Housing

Trust Fund, and other production resources. Allowing state HFAs more direct access to rental assistance would enable them to extend the reach of these programs to more very low-income households.

States consistently target their Housing Credit, Bond, and HOME resources to households with incomes below the programs' statutory income limits. Yet it is difficult, and sometimes impossible, to reach these households at a rent level they can afford without rental subsidies. Allocating such assistance to state HFAs would simplify the affordable housing development and preservation process because they would be a "one-stop-shop" for both operating and capital subsidies. Developers would not need to first secure rental assistance from a PHA and then secure Housing Credit, HOME, or Bond financing from the state agency.

Thank you, Mr. Chairman, and members of the Committee for the opportunity to testify today. Please let me know if NCSHA can provide any additional information.