

Supporting Statement for Paperwork Reduction Act Submissions

Real Estate Settlement Procedures Act Disclosures

OMB Control No. 2502-0265

(Forms HUD-1 and HUD-1A and GFE)

A. Justification

1. The information collection, which consists of third party disclosures needed to inform borrowers about the home loan and settlement process, as well as loan servicing and escrow, is being submitted by the Department of Housing and Urban Development to extend a currently approved collection. Certain disclosures are required by the Real Estate Settlement Procedures Act (RESPA) of 1974 amended by Section 461 of the Housing and Urban-Rural Recovery Act of 1983 (HURRA), and other various amendments. The statute is found at 12 U.S.C. 2601 *et seq.* and the implementing regulations at 24 CFR 3500. Required disclosures include: the Good Faith Estimate (GFE), Special Information Booklet and the HUD-1/HUD-1A Settlement Statement. Other disclosures may be required under certain circumstances and include: the Initial Escrow Account Statement, Annual Escrow Account Statement, Affiliated Business Disclosure, and Consumer Disclosure for Voluntary Escrow Account Payments. The Department is revising this collection to protect consumers from unnecessarily high settlement costs by taking steps to: (1) improve and standardize the GFE form to make it easier to use for shopping among settlement service providers; (2) ensure that page one of the GFE provides a clear summary of the loan terms and total settlement charges so that borrowers will be able to use the GFE to comparison shop among loan originators for a mortgage loan; (3) provide more accurate estimates of costs of settlement services shown on the GFE; (4) improve disclosure of yield spread premiums to help borrowers understand how they can affect their settlement charges; (5) facilitate comparison of the GFE and the HUD-1/HUD-1A Settlement Statements; (6) ensure that at settlement, borrowers are aware of final costs as they relate to their particular mortgage loan and settlement transaction.

2. Further explanations of RESPA, including the statute and regulations that require these disclosures are available through CFPB's web page at http://files.consumerfinance.gov/f/201308_cfpb_respa_narrative-exam-procedures.pdf. These third party disclosures are required by statute and regulations. Real estate settlement service providers make these disclosures to homebuyers/borrowers, and in some cases, sellers, pursuant to transactions involving Federally related mortgages. Disclosures are not submitted to the Federal Government.

- Good Faith Estimate (GFE). Lenders must give borrowers an estimate of the settlement costs that the borrower is likely to incur in connection with settlement (see Section 5 (c) of RESPA). The final rule makes the GFE a form and expands the information provided the borrower at the time a GFE is given. These changes will greatly improve the ability for a borrower to shop for the best loan product for the borrower.
- Special Information Booklet. Homebuyers receive this disclosure regarding the nature and costs of real estate settlement services (see Section 5(d) of RESPA).
- HUD-1/HUD-1A - Uniform Settlement Statement. Borrowers and sellers receive a statement of actual charges and disbursements pursuant to the settlement (see Section 4(a) of RESPA). The final rule modifies the HUD-1 to reflect changes to the GFE and requires an additional page on the HUD-1/1A settlement statement that sets forth a comparison between the charges listed on the GFE and the charges listed on the HUD-1/1A, and summarizes the final loan terms of the borrower's loan.
- Escrow Disclosures. An initial escrow account statement is provided to borrowers at or within forty-five calendar days of the loan closing, and an annual statement is provided to borrowers showing the previous year's activities in the escrow account. The lender may ask the borrower to voluntarily contribute additional funds if the charge will substantially rise in the second year; a disclosure must be signed by the borrower. Section 924 of the Cranston-Gonzalez Affordable Housing Act of 1990 (P. L. 101-625, approved November 28, 1990), amended Section 10 of the Real Estate Settlement Procedures Act of 1974 (RESPA, U.S.C. 2609 (c)). Regulations allowing voluntary collection of additional funds were published January 21, 1998, FR-3236.

- Affiliated Business Arrangement Disclosure (formerly Controlled Business Arrangement). This disclosure is required when a settlement service provider refers a borrower to an affiliated provider. Section 461 of the Housing and Urban-Rural Recovery Act of 1983 added an exemption under Section 8 of RESPA for affiliated business arrangements (AfBAs) as long as certain requirements were met. The implementing regulations at 24 CFR 3500.15, require that a disclosure be given when a settlement service provider refers a borrower to another settlement service provider, when an AfBA exists.
- Notice of Transfer. This disclosure is required of all transferring and transferee loan servicers upon assignment, sale, or transfer of the servicing of the loan. These servicers must notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan. The transferring loan servicer must provide notice to the borrower not less than 15 days before the effective date of transfer of the servicing of the loan and the transferee loan servicer must provide notice to the borrower not more than 15 days after the effective date of the loan transfer. (Section 941 of the Cranston-Gonzalez National Affordable Housing Act, P.L. 101-625 amended Section 6 of RESPA).
- Servicing Disclosure Statement/Acknowledgement of Probable Transfer of Loan Servicing Disclosure. The final rule substitutes the Servicing Disclosure Statement for the Acknowledgement of Probable Transfer of Loan Servicing Disclosure. All lenders are required to provide a Servicing Disclosure Statement at the time a GFE is delivered. The Servicing Disclosure Statement will provide notice to the borrower that the servicing of the loan may be transferred.
 3. These third party disclosures may be submitted to consumers electronically. Additionally, most disclosures are computer generated. The HUD-1 and HUD-1A are available on the RESPA web site and private companies offer software programs which generate the HUD-1 and HUD-1A. The new GFE form will be made available on the RESPA web site and the Department anticipates that private companies will offer software programs to generate the GFE. Except for the HUD-1, HUD-1A and GFE, settlement providers are free to develop forms that are tailored to their individual procedures and needs. Lenders/brokers may use a computer generated program to estimate costs reported on the GFE for specific settlement services. Approximately 50,000 loan originators process an estimated 21,250,000 loan applications which would require a GFE. It is estimated that at least 90% of the GFEs are now generated by computer. Most servicers are using integrated computer systems for billing, recordkeeping, and generating escrow statements. Software manufacturers continue to market improved versions of these systems.
 4. The only disclosure containing partial duplication is the annual escrow account statement. To reduce duplication, servicers may adapt HUD-required information to comply with IRS reporting requirements regarding escrow account items, such as taxes. Furthermore, the rule allows servicers to report a “short year” in the first annual statement so that HUD-required annual statements can be issued coincident with IRS forms. In open-end lines of credit, the GFE and HUD-1 are not required when certain truth-in-lending disclosures are given.
 5. The Department estimates that 52% of the paperwork costs associated with the GFE are borne by small business and that 38% of the closings are performed by small business.
 6. This information is not submitted to the Federal Government. These third-party disclosures are required by statute, 12 U.S.C. 2601 *et seq.* and regulations. The burdens on respondents are the minimum necessary to comply with the statute, and to assist borrowers in comparison shopping for loans and tracking escrow funds.
 7. Information is not reported to HUD. Respondents are required to keep records (HUD-1, HUD-1A, escrow account records) for five years. Respondents are required to keep the GFE for three years and, if the respondent uses average cost pricing, records that document that the respondents’ average cost pricing is accurate for three years. Information may be requested from providers as part of an investigation. There is a three-year statute of limitations for the Secretary to bring an action under Sections 6, 8 and 9. RESPA does not provide for a statute of limitations for escrow disclosures. The Inspector General recommended a five year record retention to limit the paperwork burden.
 8. In accordance with 5 CFR 1320.8(d), this information collection soliciting public comments was announced in the *Federal Register* on April 24, 2013 (Volume 78, Number 79, Page 24227). No comments were received.
 9. There are no payments or gifts to respondents.
 10. There are no assurances of confidentiality provided to respondents.

11. There is no information of a sensitive nature being requested.

12. Estimated Number of Respondents, Responses and Burden Hours Per Annum

Information Collection	Number of Respondents	Frequency of Response	Responses per Annum	Burden Hour per Response	Annual Burden Hours	Hourly Cost	Annual Cost
GFE/Information Booklet	50,000	425	21,250,000	0.17	3,612,500	\$31.14	\$112,493,250
Servicing Disclosure	0	0	0	0	0	0	0
Transfer Disclosure	20,000	3,000	60,000,000	0.03	1,800,000	10.00	18,000,000
HUD-1 or HUD-1A	20,000	625	12,500,000	0.58	7,250,000	72.00	522,000,000
Initial Escrow	2,000	4,875	9,750,000	0.08	780,000	*0.00	0
Annual Escrow	2,000	21,110	42,200,000	0.08	3,376,000	*20.00	67,520,000
Voluntary Escrow Account Payments	2,000	600	1,200,000	0.08	96,000	20.00	1,920,000
AfBA	10,000	269	2,689,500	0.10	268,950	20.00	5,379,000
TOTALS			149,589,500		17,183,450		\$727,312,250

* Cost of initial escrow is included in the annual escrow cost of \$20.00, which also includes staff time, mailing cost, and equipment.

Explanation of Burden:

Good Faith Estimate and Special Information Booklet

- Minimum Burden hours are assigned to the Booklet since lenders merely “hand” it to prospective borrowers. It is estimated that the GFE can be completed in ten minutes. This represents an increase from the previous estimate of six minutes to complete the GFE. The increased time to complete the GFE is due to an increase in the amount of information that will be transmitted to consumers on the GFE. Specifically, the GFE will contain additional information on the loan product and closing charges associated with the closing of a mortgage transaction. Additionally, lenders are likely to spend additional time ensuring that information on the GFE is accurate because lenders will be prohibited from increasing certain charges above the cost listed on the GFE at closing. The additional information required on the GFE and the required accuracy of the GFE will help borrowers shop among settlement service providers and will facilitate comparison of the GFE and the HUD-1/HUD-1A Settlement Statements at closing. The Department believes that the scenario presented above is the most likely estimation of GFE responses per annum and burden per response. However, for an analysis of the potential increase in both responses per annum and burden increase per application, see the Regulatory Flexibility Analysis.

Servicing Disclosure Statement

- The burden time and cost associated with the Acknowledgement of Probable Transfer of Loan Servicing Disclosure has been eliminated because the form is being replaced with a one page disclosure (Servicing Disclosure Statement) that does not require any calculations by the lender. The Servicing Disclosure Statement will be similar to the Special Information Booklet in that lenders will check one of three lines and then hand it to prospective borrowers at the time that they provide the prospective borrower with the GFE. Accordingly, the Servicing Disclosure Statement will no longer constitute a measurable burden on respondents. Previously the Department had estimated that mortgage lenders gave 13,200,000 servicing disclosure statements per annum. Because there is effectively no burden associated with the delivery of those servicing disclosure statements, they are no longer included in the responses per annum total.

Servicing Transfer Disclosures

- Loan servicers must give this disclosure when there is an assignment, sale, or transfer of the servicing of the loan. The transferor and transferee may send this disclosure jointly. About 60 million transfers of servicing rights occur every year. HUD estimates that approximately 10 percent of the 60 million transfers receive a single disclosure. There is no change to this disclosure and accordingly no change to the burden estimate for this disclosure.

HUD-1/HUD-1A

- Approximately 12,500,000 RESPA covered mortgage loans close per year; each requires a HUD-1/HUD-1A. Open-end lines of credit (home equity plans), even if covered by RESPA, do not require the use of a HUD-1/HUD-1A if the provisions of Regulation Z are followed. The increase in total number of responses for HUD-1/HUD-1A is solely

attributable to adjustments in the expected number of mortgage transactions. The rule does not expand the definition of covered transactions. The total response burden for the HUD-1/HUD-1A is estimated at thirty five minutes. The total response burden for the HUD-1/HUD-1A includes thirty minutes for preparation of the HUD-1/HUD-1A and five minutes for its review. This represents an increase of 20 minutes per response above the Department's previous estimate for the time burden of the HUD-1/HUD-1A.

Initial Escrow Account Statement

- Approximately 78 percent of the 12,500,000 loans carry escrow accounts requiring an initial statement (12.5 million loans x .78 = 9,750,000 responses). There is no change to this disclosure and accordingly no change to the burden estimate for this disclosure.

Consumer Disclosure for Voluntary Escrow Account Payments

- The Department estimates that 1,200,000 borrowers will voluntarily contribute additional escrow funds into accounts. Servicers may collect additional funds as long as borrowers agree to do so through a disclosure. There is no change to this disclosure and accordingly no change to the burden estimate for this disclosure.

Annual Escrow Account Statement

- Approximately thirty-seven million mortgages carry escrow accounts. It is estimated that 15 percent of these mortgages change servicers each year requiring a new annual escrow account statement. Thirty-seven million escrowed mortgages plus 5.55 million (15 percent of 37 million) change servicers each year, which equals to approximately 42,200,000 responses. Actual responses per respondent will vary according to the number of escrowed mortgages serviced by each respondent. There is no change to this disclosure and accordingly no change to the burden estimate for this disclosure.

Affiliated Business Arrangement Disclosure

- An estimated 4.516 percent of all home sales transactions will involve an affiliated relationship (12,500,000 mortgages x .04516 = 564,500). An additional 10 percent of all contacts that lead to a GFE will require an AfBA disclosure (21,250,000 x .10 = 2,125,000). The Department estimates the total AfBA disclosures to be 2,689,500 annually. There is no change to this disclosure and accordingly no change to the burden estimate for this disclosure.

13. In speaking with industry representatives, the Department believes that many lenders and loan servicers subscribe to services that provide updated forms as they become available. Some industry representatives have indicated to the Department that these services do not charge for updating their services to reflect changes in information collection. Rather, updating services are included in the regular cost of the service. Accordingly, the Department does not believe that there will be significant costs to respondents associated with updating to reflect the changes on these forms. Additionally, the new rule includes a one year transition period before the updated information disclosures are required. During the one year transition period, settlement service providers and other persons may comply with either the current requirements. –The Department believes that this transition period will allow service providers to train personnel and implement changes without significant opportunity cost. This one year transition period should also allow service providers to provide training on the new disclosures during the normal course of employee training throughout the year. The Department does not believe that this extension will result in additional capital, start-up, operation, maintenance or purchase of services costs.
14. There are no costs to the government except for a small cost associated with keeping the Special Information Booklet and the HUD-1 or HUD-1A up-to-date. These are third party disclosures that are not reported to the government.
15. This is a extension of a previously approved collection. In early 2012 the CFPB reached an agreement with OMB and HUD whereby covered persons may continue to list HUD's OMB control number on the HUD-1/1A and GFE forms until a final rule to the contrary takes effect. Once the CFPB's final rule takes effect, the regulated industry will no longer be able to use the HUD control number. Thus, the HUD control number needs to be extended until the final CFPB final rules are in effect.
16. The results of the information collection will not be published.

17. HUD is seeking approval to not display the expiration date on the forms HUD-1, HUD-1A and GFE because of the very large volume that is generated. The forms are not only required by RESPA but are used for virtually all one-to-four family residential transactions and have become a standard instrument for settlement procedures throughout the industry.
18. There are no other exceptions to the certification statement identified in item 19 of the OMB 83-I than what is stated in item 17 above.

B. Collections of Information Employing Statistical Methods

The collection of information does not employ statistical methods.