RESPA Reform Takes Effect: Reducing Confusion and Costs for Mortgage Borrowers

The U.S. Department of Housing and Urban Development (HUD) issued a final rule (which became effective on January 1, 2010) under the Real Estate Settlement Procedures Act (RESPA) to improve the process of obtaining home mortgages and to reduce settlement costs for borrowers.[1] The final rule is expected to accomplish a reduction in consumers' closing costs through use of a new Good Faith Estimate (GFE) form, which includes both a one-page summary of the critical mortgage loan characteristics and an accounting summary of settlement costs that focuses the consumers' attention on the bottom line. Placing a tolerance level on potential increases of settlement costs ensures that the GFE is a reliable mortgage-shopping tool. Before this rule, settlement costs could change until the day of closing (even after the settlement costs had been agreed on). The new mortgage disclosure is expected to encourage consumers to shop for the best mortgage and to increase efficiency in the settlement industry, lower borrowing costs, and promote the use of loans most suited to a household's needs.

RESPA Before the 2010 Reform

RESPA is a consumer-protection statute passed in 1974. RESPA regulations govern the business practices of settlement service providers and require that borrowers receive various disclosures concerning their mortgage loans. When borrowers apply for a mortgage loan, loan originators must provide the borrowers a GFE form of settlement costs, which lists the charges the buyer is likely to pay at settlement. This list is only an estimate, and the actual charges may differ at closing. Borrowers receive a HUD-1 Settlement Statement at closing. This final settlement document is a standard form that itemizes the actual settlement charges imposed on borrowers and sellers.

Before the final rule became law, RESPA regulations did not ensure that the GFE form provided a reliable estimate of final settlement costs. Previous regulations lacked meaningful standards and offered little guidance to loan originators in providing GFEs of settlement costs to borrowers. As a result, the final settlement statement could include significant cost increases for items estimated on the GFE form and previously undisclosed "junk fees," adding substantially to the borrower's ultimate closing costs. The earlier GFE form, with a prescribed format, frequently contained a long list of charges that often overwhelmed consumers and did not highlight the bottom line. A proliferation of charges made shopping for a loan and the mortgage settlement process difficult and confusing, even for the most informed shoppers. The former HUD-1 Settlement Statement could list an array of charges bearing names entirely unrelated to anything in the GFE, making it nearly impossible to judge whether the GFE form provided the borrower any useful information.

The old GFE form did not provide information about important loan terms nor did it explain how the borrower could use the document to shop and compare mortgage loans. Also, the GFE failed to make a clear relationship between the closing costs and the interest rate on a loan. The process of shopping for a mortgage loan involves discerning the benefits of complicated financial tradeoffs, such as paying settlement costs up front or paying them over time through a higher interest rate. Loan originators do not always clearly explain this tradeoff to borrowers and the tradeoff was not evident from the former GFEs. The typical GFE form before the current rule was not an effective tool for either facilitating borrower shopping or for providing reliable estimates of origination and third-party settlement costs.

Until the recent RESPA reform, RESPA rules had also deterred efficiency and competition by acting as barriers to innovative cost-reduction arrangements. For example, average-cost pricing was not permissible under RESPA because loan-specific prices were required. Average-cost pricing requires less recordkeeping because the closing costs reported to the settlement agent need not be transaction specific. This practice is less time-consuming and is less burdensome for industry. The settlement process needs a regulatory framework that encourages competitive negotiations and allows for alternate arrangements that lead to lower settlement costs. The needed framework is provided through the new GFE requirements and other changes to RESPA regulations.

Evidence of the Need for RESPA Reform

Acquiring a mortgage is one of the most complex transactions a consumer will ever make. It may be difficult for borrowers to understand the financial tradeoffs associated with interest rates, discount points, yield spread premiums (YSPs), and upfront settlement costs. Settlement costs, and especially the multiplicity of lender fees and the title charges, may add to the borrower's confusion. To exacerbate this situation, typical homebuyers may be rushed and easily steered into a bad loan because they are under pressure to make an offer on a home. The average borrower is at an extreme informational disadvantage compared to the lender, because consumers borrow infrequently. First-time homebuyers are especially disadvantaged because they are less likely to challenge lenders, who may be viewed as unquestionable, benevolent experts. Lenders and third-party service providers can exploit this market imbalance by charging excessive fees to the incautious borrower.

The potential for cost reductions in today's market is indicated by studies showing relatively high and variable charges for third-party services, particularly for title and closing services that account for most third-party fees. The Urban Institute (Woodward, 2008) collected data on 7,560 Federal Housing Administration (FHA) loans. The mean total closing cost for all loans was $4,917 for an average loan amount of $108,237. Total charges were composed of loan origination charges ($3,081), title charges ($1,329), and other third-party charges ($507). Significant variation exists in closing costs, resulting in a standard deviation of $2,381. The mortgage market appears to be characterized by a high degree of price dispersion. In other words, some borrowers get market-price deals, but other borrowers do not.

Because total loan charges are correlated with the loan amount, it is useful to examine the distribution of closing costs as a percentage of loan amounts to ascertain whether the variation in fees is still present. HUD calculated the distribution of these ratios for nonsubsidized loans from a data set of closing costs that the Urban Institute provided (see Exhibit 1). Slightly less variation occurs when the costs are measured as a percentage, but the variation is still substantial: the ratios of what the 75th-percentile borrower pays as a percentage of the loan to what the 25th-percentile borrower pays are 1.8 for total loan charges, 2.1 for the YSP, and 2.3 for direct loan fees.

Data indicate that one-half of borrowers pay loan charges equal to or greater than 3.2 percent of their loan amount, one-fourth of borrowers pay loan charges of at least 4.2 percent of their loan amount, and 5 percent of borrowers pay loan charges of at least 6.2 percent of their loan amount. The variation is similar for title charges and other third-party charges. One-half of borrowers pay total closing costs equal to or greater than 5.1 percent of their loan amount, one-fourth of borrowers pay total closing costs of at least 6.4 percent of their loan amount, and 5 percent of borrowers pay total closing costs of at least 8.9 percent of their loan amount.

The data strongly indicate price dispersion among borrowers and thus confirm the existence of price discrimination. This article is not concerned with price discrimination that is based on costs but with discrimination based on the result of a markup over costs. Price discrimination will always lead to a loss in consumer surplus, and, unless price discrimination manages to transfer all consumer surplus to producers, it will also lead to a loss in social welfare. It is important to note that, if the variation of fees and charges paid is greater than the actual costs of providing the services, then that variation constitutes evidence of a violation of RESPA, which explicitly prohibits price markups.[2]

In a competitive market, the price of goods should depend on quality and not on consumer-type or the method of sale. If dispersion occurs because the negotiations are conducted face to face, it would suggest that the nature of the market exacerbates the consumer's informational disadvantage, as mentioned previously. Indeed, strong evidence indicates that individuals pay different prices for reasons other than the cost of providing the service. After taking into account borrowers' differences, such as credit scores and loan amounts, the Urban Institute (Woodward, 2008) found that, compared with White consumers, African American consumers pay an additional $415 for settling their loans and that Hispanic consumers pay an additional $365 to settle their loans.[3] These loans are not subprime loans but are standard FHA loans.[4] Other researchers, reviewed in the Regulatory Impact Analysis (HUD PD&R, 2008), found similar results. Discrimination

Exhibit 1. Distribution of Categories of Closing Costs as a Percentage of Loan Amount*

Series	5th Percentile	25th Percentile	50th Percentile (median)	75th Percentile	95th Percentile
Total closing cost	2.9	4.1	5.1	6.4	8.9
Total loan charges	1.3	2.4	3.2	4.2	6.2
Yield spread premium	0.3	1.3	2.0	2.7	3.8
Direct loan fees	0.0	0.8	1.3	1.8	3.3
Total title charges	0.6	0.9	1.2	1.6	2.3
Other third-party charges	0.2	0.4	0.6	0.8	1.4

* Calculated by the Department of Housing and Urban Development from data provided by the Urban Institute.

by race or ethnicity is not economically efficient and would not prevail in a perfectly competitive market. Increasing transparency in lending practices should reduce the presence of price discrimination.

The YSP is one element of a mortgage that a borrower is not likely to fully understand. The YSP is compensation to the broker by the wholesale lender for selling a loan with a relatively high interest rate. A similar incentive exists for direct lenders, although the value of such "implicit YSPs" cannot be as readily measured as those resulting from brokered loans. Thus, as the interest rate rises, so should the YSP. This relationship appears to hold true in the closing cost data analyzed (Woodward, 2008). The burden of the YSP, however, is on the borrower, who pays a higher interest rate with loans having a higher YSP.

If borrowers were better informed, a negative one-to-one relationship would exist between upfront fees and the YSP. The upfront fees and the YSP simply represent two different ways of compensating the broker for the effort required to originate a loan. A loan originator earns income from two sources: through a YSP, which is the premium the market pays for a relatively high interest rate, and through direct fees, both of which the borrower pays.

The Urban Institute (Woodward, 2008) found no strong tradeoff between the YSP and upfront cash payments. Ideally, each $1.00 of YSP generated by a higher interest rate would result in a $1.00 reduction in upfront fees. In a sample of nonsubsidized loans with rates above 7 percent, which are appropriate rates for investigating YSPs during the time the loans were made, the Urban Institute found that brokers' loan origination fees, rather than being lower by $1.00 for each $1.00 of YSP, were actually *higher* by $0.16.[5] Such a relationship is contrary to expected trends for a market in which only minor imperfections existed.[6]

Confusion could also result from the variety of loan products and permutations of those products. If informational asymmetries in the market are significant, lenders will earn more when selling complex products. Borrowers who simplify their mortgage shopping by rolling all lender and broker fees into the interest rate (that is, get "zero-cost" loans) pay $1,200 less for their loans than borrowers who pay lender or broker fees as measured by implicit YSPs. Borrowers who pay points realize only $20 of benefits for every $100 of points paid, for a net loss of $80. It appears that the industry is able to take advantage of the confusion created by loan complexity—further evidence of price discrimination not related to the cost of originating the loan.

Another element in price discrimination is title insurance, an industry with a strong potential for anticompetitive practices, including price fixing. There is a large fixed-cost of entry to the industry: compiling a database of transaction and lending records. Such a barrier to entry inhibits competition. To make matters worse, Eaton and Eaton (2007) found that current federal and state policies inhibit competition in the title industry. The costs of providing title insurance are primarily related to the costs of research for property transactions. Thus, a great variation in title insurance charges should not be evident, because the only component that varies substantially is the insurance premium. Eaton and Eaton (2007) found that borrowers pay title fees far greater than what is needed to cover costs and earn a reasonable return. The Urban Institute (Woodward, 2008) found an average $1,329 title charge in its sample of all loans, with a standard deviation of $564. The Urban Institute also found a significant variation by state with titles charges in New York, Texas, California, and New Jersey all costing at least $1,000 more (holding property values constant) than charges in North Carolina, the state with the lowest title costs. It is reasonable to ask what extra benefits consumers realize in states with high-cost title insurance relative to consumers in states with low-cost title insurance, and if people are not receiving extra benefits, why are costs so high?

HUD also compared variations in title insurance costs among states to account for the different legal requirements that exist within the states and the different customs that may have evolved. One measure of variability calculated for each state was the different title insurance costs realized between the median cost in the highest quartile and the median cost in the lowest quartile. This difference was more than $1,000 for nine states. Based on the extent of price dispersion, significant title insurance savings for consumers in the highest quartile can be expected with the final rule in place.

Overview of the Final Rule

The final RESPA rule provides a new, simplified GFE form that includes tolerances, or limitations on increases, on final settlement costs and a new method for reporting wholesale lender payments in brokered transactions.[7] The GFE format simplifies the process of originating mortgages by consolidating costs into a few major cost categories. The first page of the new GFE form provides a brief description of the loan's terms and includes warnings to prospective borrowers about potentially risky aspects of the loan. This description includes the exact loan amount and a statement regarding whether interest rates and payments can change, and, if so, when they will change and by how much. The GFE also divulges any prepayment penalties and the total estimated settlement charges. The second page of the GFE provides more details about charges for loan origination and other settlement service charges. The third page provides a tradeoff table that illustrates for consumers the relationship between the interest rates and total settlement costs. The third page also includes a table for mortgage applicants to take notes about alternative loan offers, thus providing a visual means to compare options. The terms and conditions (unrelated to the interest rates) of the GFE are valid for a 10-business-day period before borrowers lock their interest rates.

The GFE form was designed to ensure that borrowers using a broker receive the full benefit of the higher price paid by wholesale lenders for a loan with a high interest rate; that is, the so-called YSP. The new GFE form prominently and accurately discloses the YSP and discount points in brokered loans and presents the information in an informative way so borrowers may use the information to their advantage. The prominent placement of the YSP and discount points in the calculations that lead to net settlement costs makes them difficult to miss. The prominent placement can also enhance borrowers' comprehension of how to use YSPs to reduce upfront settlement costs. The new tradeoff table helps borrowers understand the relationship between higher interest rates and lower settlement costs.

HUD contracted with forms development specialists, the Kleimann Communication Group, Inc., to analyze, test, and improve the GFE and HUD-1 Settlement Statement form, resulting in consumer-friendly documents that efficiently convey the terms of the loan and settlement costs (Kleimann Communication Group, 2008). HUD conducted multiple rounds of extensive consumer testing of the GFE during a 6-year period, from August 2002 until September 2008. The testing included qualitative interviews and quantitative evaluations of the forms involving nearly 1,600 homebuyers, potential homebuyers, and homeowners who had refinanced in 17 cities across the United States. Testing results showed that consumers could identify the lowest settlement charges in nearly all instances when shown two GFE forms, compare across multiple GFEs easily, identify key loan details, and understand the reciprocal relationship between settlement charges and interest rates. This success rate was maintained when the number of loan offers increased. Rather than being overwhelmed by additional loan offers, consumers found the larger number of offers helped them focus on key information.

HUD designed the new GFE form to help borrowers focus on the right numbers to maintain competition between brokers and lenders even though their disclosure requirements differ slightly. Participants in the form-testing process were highly successful in identifying the cheapest loan, achieving success rates as high as 90 percent or more, regardless of whether the brokered loan was cheaper, the lender loan was cheaper, or the loans cost the same. Broker bias was not evident.[8] The form-testing process confirmed the advantages of an easy-to-understand, professionally developed document.

The new GFE form includes a set of tolerances on originator and third-party costs: originators must adhere to their own origination fees and give estimates subject to a 10-percent upper limit on the increase of the sum of certain third-party fees. Tolerances will limit how much settlement charges can increase after the originator has completed the GFE form. The comparison page of the HUD-1 form will serve to double-check the GFE form regarding settlement charges and the key terms of the borrower's loan at settlement. The tolerances on originator and third-party costs will encourage originators not only to lower their own costs but also to seek lower costs for third-party services.

The final rule allows service providers to use pricing based on average charges for third-party services they purchase, assuming that the average charge is calculated using a documented method and that the charge on the HUD-1 form is not greater than the average charge for that service. This method of pricing will make internal operations for the loan originator simpler and less costly, and competition among lenders will compel them to pass on these cost savings to borrowers.

HUD also revised the HUD-1 Settlement Statement form to make the GFE and HUD-1 forms easier to compare.[9] The revised HUD-1 form describes categories of charges using the same language as the GFE form and orders the categories of charges in the same order as the GFE. The final rule introduces a comparison page in the revised HUD-1 form that (1) compares the GFE estimates to the HUD-1 charges and advise borrowers whether tolerances have been met or exceeded; (2) verifies that the loan terms summarized on the GFE match those in the loan documents, including the mortgage note; and (3) provides additional information on the terms and conditions of the mortgage.

The final rule creates a more level playing field through a more transparent and standard disclosure of loan details and settlement costs, tolerances on settlement charges leading to prices that borrowers can rely on, and a comparison page on the HUD-1 form that enables the borrower to compare the amounts listed for particular settlement costs on the GFE form with the costs listed for those charges on the HUD-1 form. It also enables borrowers to double-check the loan details at settlement.

Economic Effects of RESPA Reform

The primary economic impact of the final rule under RESPA is the transfer of markups from firms charging excessive fees to consumers. The enormous potential for cost reductions in today's market is indicated in the wide variation in prices unrelated to costs. It was estimated that the average consumer would benefit by a reduction of settlement costs of $670 per loan from the improved disclosures and tolerances of the new GFE.[10] The results from the Urban Institute study (Woodward, 2008) imply that the savings to borrowers may be as much as $1,200 per loan.

Although most of the rule's benefits to borrowers come in the form of transfers from originators and settlement firms, certain economic benefits stem from an increase in efficiency. These efficiency gains are derived primarily from the time saved by using simpler forms, which can benefit both borrowers and originators. The new GFE will enable applicants to spend more time comparing and evaluating offers and less time trying to decipher the loan details.[11] The mortgage industry will benefit from spending less time answering borrowers' questions and from the simplicity of average-cost pricing.[12] Average-cost pricing reduces costs, because firms do not have to maintain an itemized, customized cost accounting for each borrower. Average-cost pricing not only saves costs when generating the GFE, it also saves the costs of quality control and other costs afterwards.

Positive spillover effects will be evident in the parts of the industry that stem from increasing consumers' level of awareness. With the first positive spillover effect, consumers will be less susceptible to predatory lenders. Many price-discriminating loan originators and settlement firms extract excess fees without significant effort.[13] In contrast, some predatory loan originators expend additional resources to seek out borrowers who are less sophisticated financially and more likely to accept loans with excessive fees. Consumers can be steered into unfavorable loans by aggressive mail, phone, TV, or door-to-door sales tactics targeting neighborhoods with a high proportion of minority or elderly people. This targeted approach allows aggressive and unscrupulous lenders to identify borrowers who are in the market for a loan and lure them into a predatory loan. A deadweight loss for society results whenever producers expend substantial effort to raise prices rather than increase output or quality.

With improved mortgage and settlement disclosure, borrowers will be better informed, more likely to reject loans with excessive fees, and less susceptible to predatory lenders. The new RESPA rule will raise the predatory lender's cost of searching for vulnerable borrowers and will thus inhibit predatory behavior. Reducing this predatory activity will lead to a net gain in social welfare equal to the costs of actively searching for less informed borrowers and extracting an abnormally high markup. Thus, the gain to consumers will outweigh the loss in profits to predatory firms.

With the second positive spillover effect, consumers will begin to realize the rule's contribution to sustainable homeownership. First, by reducing settlement costs, the rule provides a small cushion for borrowers in the event of financial distress. Second, by educating consumers, the rule should lead to better decisions by borrowers when choosing the best loan or determining whether homeownership is the optimal choice. Consumers who understand the details of their loans are more likely to avoid default and thus avoid foreclosure. For example, knowing how high your interest rate and monthly payments can go should make the loan applicant hesitant to accept an adjustable-rate mortgage (ARM) unless the borrower has the income security to do so. Bucks and Pence (2008) found that borrowers with ARMs appear likely to underestimate or to not know how much their interest rate could change. To better inform borrowers, the first page of the final GFE form presents critical loan terms, such as the maximum monthly payment for ARM loans.

The resulting decrease in defaults will reduce the dramatic social costs that accompany foreclosures. Foreclosures generate private costs to the borrower and the lender, and they generate substantial negative economic externalities to neighboring properties and local governments. The Joint Economic Committee of the U.S. Congress estimates the total cost to society at $78,000 per foreclosure. A more recent analysis by HUD (2009) adjusts this estimate to $55,500: $10,100 of losses to the borrower for moving costs, legal fees, and administrative charges; $26,600 of losses to the original lender from the loss on loan and property value, property maintenance, appraisal, legal fees, lost revenue, insurance, marketing, and cleanup; $4,300 of losses to neighboring property owners for decreasing home values; and $14,500 of losses to local governments for lost tax revenue. It is difficult to estimate how many foreclosures a uniform and transparent GFE form with settlement-fee tolerances will prevent. HUD does not estimate it for the purpose of this analysis; however, preventing only 2,000 foreclosures nationwide would yield $110 million in benefits.

The creation of economic efficiencies and transfers to consumers may impose some costs to the settlement and lending industries beyond the transfer itself.[14] HUD estimated that the industries would incur one-time adjustment costs of $571 million related to new software, training, and legal consulting. After the transition expenses have been incurred, any ongoing costs that are substitutes for the software, training, or legal consulting costs, which would have been incurred anyway, do not represent an additional burden. Annual recurring costs could result from additional time spent handling GFE forms; additional time making arrangements for third parties to provide settlement services; additional underwriting time; and additional time implementing the comparison page on the HUD-1 form. These annual recurring compliance costs could be close to $0. HUD, however, assumed significant costs, ranging from $50 to $74 per loan.

An obvious question is whether the costs of the new RESPA rule will negate the consumer savings and efficiency benefits of the rule. Suppose, for the sake of illustration, that all adjustment costs are imposed on borrowers the first year the rule is in effect. Estimates of net consumer savings are $548 in the first year and $594 in subsequent years. Adding the firms' and borrowers' value of time efficiencies to the consumer savings provides a higher estimate of the potential borrowers' *net* benefits per loan: $696 in the first year and $742 in subsequent years.

Conclusion

The ultimate goal of the final rule under RESPA is to improve consumer welfare by eliminating informational asymmetries in the housing finance market. An obvious alternative to the final rule—one preferred by many industry groups—was to maintain the status quo.[15] This alternative was rejected because the previous GFE form was not an effective tool for facilitating borrower shopping or for controlling origination and third-party settlement costs. Thus, not updating the GFE would have allowed the previous system to continue, leaving some consumers to pay noncompetitive and discriminatory prices for mortgage services.

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Notes

[1] The final rule, "A Rule to Improve the Process of Obtaining Mortgages and Reduce Consumer Costs" (FR-5180-F-03), was printed on November 17, 2008, and is available at http://www.hud.gov/offices/hsg/ramh/res/respa_hm.cfm.

[2] The goal of this discussion is not to portray loan originators as unscrupulous or harmful to economic welfare. It is clear from the statistical evidence presented here that many loan originators are ethical. If the entire market mirrored this more efficient segment, then RESPA reform would not have been as urgent.

[3] For its statistical analysis, the Urban Institute focused on a subsample of 6,366 nonsubsidized loans, for which the mean total charges were slightly higher at $5,245. Lender charges for nonsubsidized loans are $3,390, of which $1,450 is in direct fees and $1,940 is the average YSP.

[4] Susan Woodward, the lead analyst for the Urban Institute study, completed a similar study for *Glover* v. *Standard Federal Bank* (Civil No. 97-2068, U.S. District Court of Minnesota). See Woodward (2003) for a more detailed followup.

[5] In a larger sample of all nonsubsidized brokered loans, the Urban Institute found that paying $1.00 of YSP to a mortgage broker reduces upfront fees by only $0.07, for a net loss of $0.93 per $1.00.

[6] Jackson and Berry (2002) found that consumers get only $0.25 of value for every $1.00 of YSP. They concluded that the problem of price dispersion occurs when YSPs are present because, in these situations, no single price exists for broker services. Their research was prepared for the same court case that Woodward (2003) researched.

[7] See http://www.hud.gov/offices/hsg/ramh/res/gfestimate.pdf for a copy of the GFE.

[8] Bias does show up in comparisons in which broker and lender loans are otherwise identical. In such cases, borrowers who do not think of the two loans as identical tend to favor the lender loan. The likelihood, however, of borrowers getting two identical loans is extremely low.

[9] See http://www.hud.gov/offices/hsg/ramh/res/hud1.pdf for a copy of the HUD-1 form.

[10] See the Regulatory Impact Analysis (HUD PD&R, 2008), section VII.E.4 of chapter 3, for a description of the alternative estimates of consumer savings.

[11] In the Regulatory Impact Analysis (2008), HUD estimated savings of $1,169 for consumers. This amount is derived from a time savings worth $55 per applicant (75 minutes at $44 per hour) over 21.25 million applications.

[12] If one-half of the borrowers' time saved comes from less time spent with originators and third-party settlement service providers, then originators and settlement agents will spend 37.5 fewer minutes answering borrowers' follow-up questions, which will generate savings of $75.50 per loan (37.5 minutes x $72 per hour x 1.7 applications per loan).

[13] The Fannie Mae Foundation (2001) found that as much as 35 to 50 percent of the borrowers in the subprime market could have qualified for lower cost prime-market loans.

[14] The impact of the final rule on small businesses is significant only because a large percentage of the origination and settlement services firms are small. These small firms collectively generate a large percentage of the industry's revenue and employ a large percentage of the industry's workers. Small businesses, however, are not expected to suffer disproportionately from the final rule because no evidence indicates any greater prevalence of small businesses overcharging consumers. For a detailed discussion of the effects on industry structure, see section II.C.5 of chapter 6 of the Regulatory Impact Analysis (HUD PD&R, 2008).

[15] For a description of all the alternatives considered to the proposed and final rule, see chapter 4 of the Regulatory Impact Analyses (HUD PD&R, 2008) of the proposed and final rules.