

RESPA Fallout: Lenders Combat Deficiencies With New Good Faith Estimate Through “Loan Worksheets”

by Richard D. Vetstein, Esq.

The [Los Angeles Times](#) and other media outlets are claiming that lenders’ use of loan cost worksheets and estimates are a “sidestep” of the new RESPA mandated Good Faith Estimate which went into effect on January 1. HUD officials say they plan to conduct [a review of the growing use of “worksheets” and “fee estimate”](#) forms by mortgage lenders providing quotes to home buyers and refinancers. Lenders vehemently deny that they are doing anything wrong; in fact, they argue, cost worksheets are necessary because of several glaring deficiencies with the new Good Faith Estimate. This is all part of the shake-out during the first 30 days of the new RESPA reform which went into effect on January 1.

The new closing cost rules under the [Real Estate Settlement Practices Act \(RESPA\)](#) significantly changed the manner in which lenders are required to estimate loan and closing costs. Many charges cannot deviate at all, or at most by a 10%, from the Good Faith Estimate to the closing. That’s in stark contrast to earlier rules, which essentially allowed some lenders to quote low estimates of total costs, with no responsibility for the final dollar charges at closing, HUD contended.

Lenders — many of whom are feel the new GFE is the single worst government form ever to hit the real estate industry — respond that since the new GFE has a number of major deficiencies, such as not providing a total monthly cost payment, seller paid items and most importantly cash-to-close, it justifies the worksheets/estimates. (And if you can believe this, there’s no place on the GFE for the borrower to sign!).

There is nothing explicit in the new RESPA rules prohibiting the use of these cost worksheets/estimate. Since this practice is on HUD’s radar, my recommendation to lenders is to explain clearly to the customer, preferably with a written disclosure right on the estimate, that this is not binding and not a substitute for the new GFE. That way, if HUD comes knocking on the door, you’ve covered yourself.

Lenders, what are your complaints with the new GFE? (Try to keep them under 10!). Do you think providing these worksheets will ultimately help consumers? Are the criticisms about the worksheets unfair? Did HUD get it wrong with the new GFE? (I think I know the answer to that!). What can HUD do to improve it?

