

## Research



# Examining Department of Housing and Urban Development's Regulatory Growth

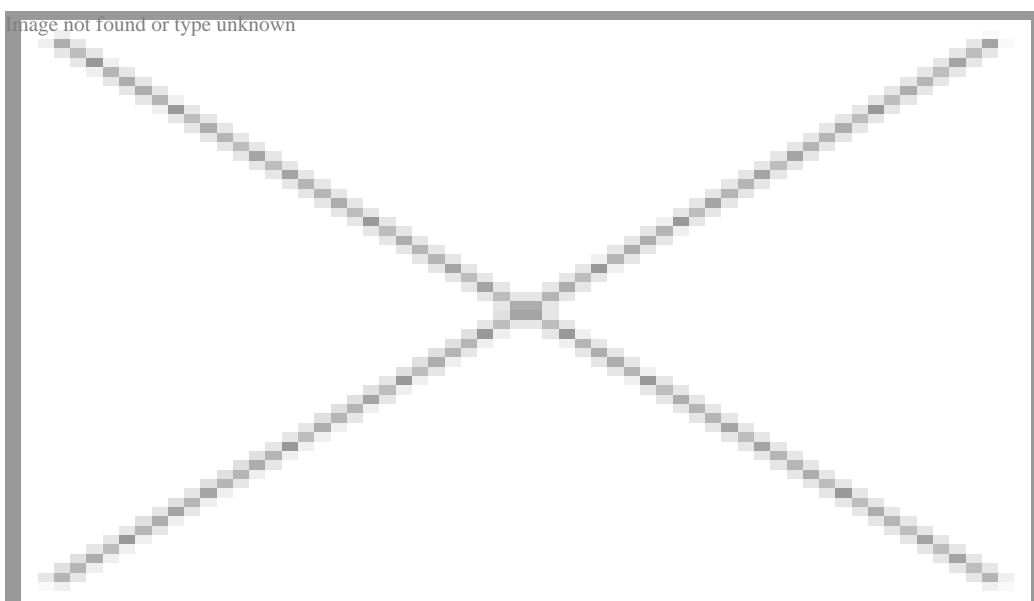
ANDY WINKLER, SAM BATKINS | OCTOBER 27, 2013

The Department of Housing and Urban Development (HUD) is rarely in the regulatory spotlight. HUD primarily transfers tax dollars, as opposed to imposing new regulatory requirements on states and the private sector. During the last ten years, the Department has only finalized six “economically significant” rules (impact of \$100 million or more). By contrast, the U.S. Environmental Protection Agency (EPA) published 53 economically significant final rules during that period.

Despite the relative lack of major regulation, HUD’s paperwork burden has grown substantially during the last few years. One-third of its paperwork requirements are new, according to the Office of Information and Regulatory Affairs (OIRA). In FY 2008, HUD imposed 27.4 million paperwork burden hours; that figure rose to 51 million hours in FY 2009, and today HUD imposes more than 56 million hours of paperwork. For perspective, it would take more than 28,000 employees working 2,000 hours to complete one year of the Department’s paperwork.

### HUD Paperwork Toplines:

- 424 Million Responses
- 56 Million Paperwork Burden Hours
- \$1.7 Billion in Direct Costs
- 1,417 Forms



## THE FORMS

Although \$1.7 billion in direct paperwork costs might sound meager compared to other federal agencies, HUD imposes more than 1,400 forms, roughly the same number as the Department of Treasury and its sundry tax forms.

The most burdensome HUD paperwork collection (by hours), and the reason for the significant spike in FY 2009, is the Real Estate Settlement Procedure Act (RESPA) disclosures. The law requires “settlement providers to give homebuyers certain disclosure information at and before settlement.” This increased the existing collection by 5.6 million hours. In 2009, the paperwork collection contained 11.2 million hours, four separate forms, and a reported \$219 million in costs. After Dodd-Frank implementation, the paperwork burden jumped to 17.1 million hours, but the reported costs disappeared for some reason.

The RESPA collection now has four associated forms, totaling ten pages. Homeowners are most likely to encounter the “Good Faith Estimate” (GFE) form during settlement. The GFE “gives [the potential buyer] an estimate of settlement charges and loan terms if [the buyer is] approved for this loan.”

Individuals with Federal Housing Administration (FHA) loans are likely to encounter six different HUD forms, combining for more than 2.6 million paperwork burden hours. Individuals could encounter an “Application for Homeowner Assistance,” a four page form that takes roughly 20 minutes to complete. The FHA program also contains provisions allowing HUD to make payments on behalf of troubled homeowners. The Department estimates the “Monthly Summary of Assistance Payments” will take approximately one hour to complete.

The most burdensome collection, by total number of forms, is the “Comprehensive Listing of Transactional Documents for Mortgagors, Mortgagees, and Contractors.” The collection imposes 115 different documents, more than the total amount from some Cabinet agencies. One associated document, “Healthcare Regulatory Agreement – Master Tenant,” is 14 pages and HUD estimates it will take respondents 30 minutes to collect, review, and report the relevant data. Lenders complying with the paperwork will likely have to complete the “Lender Narrative,” a 21-page form that will take 22 hours to finish. It does contain a two-page table of contents to ease the process.

For states, the Community Development Block Grant Program imposes the most burdensome requirement. Each state spends 2,243 hours to complete the three-page form. HUD does not provide that hourly estimate, but 50 states spend more than 112,000 hours to submit the data.

In total, HUD imposes the ninth most paperwork in the Executive Branch, at 56 million hours, far behind Treasury’s 7.8 billion hours. However, with 1,400 forms, and an average of 20 hours per response, HUD’s paperwork burden is anything but trivial.

## THE REGULATIONS

In the past five years, HUD has only finalized four economically significant regulations, but this figure is somewhat misleading, as only two regulations imposed notable costs or burden hours.

Recent “Economically Significant” HUD Regulations

<u>Regulation</u>	<u>Cost (in millions)</u>	<u>Paperwork Hours</u>
RESPA Amendments	\$1,489	17,183,450
Income for Assisted Housing Programs	\$0	4,680
Emergency Homeowners' Loan Program	\$128	N/A
SAFE Mortgage Licensing Act	N/A	N/A

A notable rulemaking on this list is the “Emergency Homeowners’ Loan Program,” implemented as an interim final rule in 2011. The regulation provided relief to certain homeowners “experiencing temporary involuntary loss of employment or underemployment resulting in a substantial reduction in income due to adverse economic conditions.”

When Dodd-Frank passed, it provided \$1 billion in funding to allow certain homeowners with income at least “15 percent lower than the income the homeowner had prior to loss of employment or underemployment” to receive up to \$50,000 in assistance. The regulation did not add additional reporting requirements but did impose roughly \$120 million in costs, and was considered a “major” rule.

The other notable recent regulation, RESPA amendments to reduce settlement costs, did impose substantial private-sector burdens, despite the ostensible goal of consumer relief. The RESPA amendments, finalized during the height of the financial crisis, provided for additional disclosure during settlement, and were “intended to make the process of obtaining mortgage financing clearer.” These changes to RESPA added millions of additional paperwork hours for lenders and consumers, and imposed more than \$1.4 billion in costs.

More surprisingly, the administration admitted the rule would impose “a significant economic impact on a substantial number of small entities.” Specifically, HUD estimated that small firms would face \$407 million in first-year costs and \$471 million in annual recurring costs. The average cost of per loan would increase by more than \$73.

## **HUD’S RESPONSIBILITIES UNDER DODD-FRANK**

To date, there are only six HUD paperwork collections associated with Dodd-Frank implementation. Combined, they impose 17.5 million burden hours, \$547 million in costs, and 40 forms. The aforementioned Emergency Homeowners’ Loan Program, the newest collection, imposes 169,000 hours and seven forms.

There are only three HUD rulemakings to date under Dodd-Frank: the Homeowners’ Loan Program, Credit Risk Retention, and Qualified Mortgage Definition for HUD loans (QRM). The Department’s overall regulatory burdens have been trivial, compared to Dodd-Frank in total, but QRM does have profound policy implications.

Although HUD's QRM rule appears to create a cost savings for private market participants, this is somewhat deceiving. HUD's rule expands the number of loans that have a safe harbor (legal protection for lender) and makes the assumption that less litigation risk will generate savings then passed on to borrowers. But that change is not without costs to the private market. Politicians have expressed a desire to shrink the federal government's footprint in mortgage finance, but this rule and others issued as part of the Dodd-Frank Act's implementation work in opposition to that goal. HUD's QM rule in particular has the potential to limit borrowers with high debt-to-income ratios to only FHA loans, which helps neither those borrowers nor the precarious finances of the FHA. Dodd-Frank's patchwork implementation is reshaping mortgage markets, though all effects of credit risk retention, ability to repay, and other rules are still uncertain.

## WHAT'S PENDING?

Biannually, the federal government publishes its "Unified Agenda" of regulations, a schedule of likely rulemakings. Traditionally, HUD is hardly the most aggressive regulator, and the current Unified Agenda identified one economically significant rulemaking: Housing Trust Fund, which transfers money to states and localities to address affordable housing.

However, beyond the "economically significant" label, other rulemakings will have an impact on homeowners and potential homebuyers.

Notable Pending HUD Regulations:

- FHA: Elimination of Post-Settlement Interest Charges (scheduled for [September 2013](#))
- FHA: Qualified Mortgage Standards (proposal published [September 30, 2013](#))
- FHA: Multifamily Mortgage Insurance (proposal published [July 10, 2013](#))

The remaining proposal, "Elimination of Post-Settlement Interest Charges," was scheduled for September 2013, but HUD obviously missed that target. The proposal arrived at the White House on September 13 and the government shutdown likely contributed to the missed deadline.

## CONCLUSION

The Department of Housing and Urban Development is not the most aggressive regulator in the executive branch, but in recent years its paperwork growth has increased substantially. A doubling of paperwork since FY 2008 is a feat not even Treasury or HHS could match, despite the implementation of Dodd-Frank and the Affordable Care Act. HUD's new regulatory burdens are more than just big numbers; they have profound implications for consumers, lenders, and the nation's housing market.