



ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 22, 2004

The Honorable Alphonso Jackson
Acting Secretary
Department of Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

Dear Mr. Jackson:

Thank you for your letter providing notice that the Department of Housing and Urban Development (HUD) is withdrawing from Office of Management and Budget (OMB) review a draft final rule titled "Real Estate Settlement Procedures Act (RESPA) – Improving the Process for Obtaining Mortgages". This rule, submitted to OMB on December 16, 2003, would increase competition and inform consumer choice by making changes to the settlement procedures covered by RESPA.

OMB had not yet completed its review when it received HUD's notice of withdrawal, but we had made enough progress in our review to identify some specific issues that HUD may want to consider. We believe the RESPA reforms are promising, but agree that the rule would benefit from additional consideration. At the proposal stage, we sent HUD a post-review letter highlighting aspects of the rule that required additional analysis. HUD has substantially improved its analysis, but more work is still needed. Specifically:

Forms: HUD has improved the Good Faith Estimate (GFE) forms, but a recent study by the Federal Trade Commission (FTC) based on early drafts of the forms, concluded that the forms could produce unintended consequences. We understand that HUD undertook additional consumer testing as a result of the FTC findings. OMB urges HUD to ensure that the final forms enhance consumer comprehension without creating biases in consumer reaction to the disclosure of the yield spread premium.

Regulatory Flexibility Analysis and Regulatory Impact Analysis: HUD submitted a significantly improved discussion of the draft regulation's impact on industry and small business. HUD's analysis concluded that the rule would lead to significant consumer savings on mortgage transactions. The prospect that the rule may also stimulate new businesses and jobs merits more consideration. We look forward to working with HUD to further refine its analyses of the rule's impact on specific origination and settlement service industries.

Preemption: A host of state anti-tying, anti-affiliation and mini-RESPA laws could present significant obstacles to packaging, stifle competition, and diminish consumer savings. We believe HUD should examine the various State laws on the books and consider whether Federal preemption is needed to ensure that consumers receive the full benefits intended by this rule.

Packaging: In light of the extensive comments received, HUD should expand its analysis of how various packaging alternatives facilitate comparative shopping and consumer savings. This analysis should also evaluate the ability of various entities to offer packages.

We appreciate your consideration of our views. OMB looks forward to working with your staff to reform RESPA and make the home buying process simpler, more transparent, and less costly.

Sincerely,

A handwritten signature in cursive script, appearing to read "John D. Graham".

John D. Graham, Ph.D.