

RESPA Technology Compliance – Could an Outside Source Be The Answer?

By David Leoncavallo

In the ever changing world of regulatory compliance, lenders and mortgage professionals are constantly being subjected to new requirements and, as a result, continue to seek clear guidance and interpretation of lending regulations. Despite the fact that mortgage professionals and lenders continually take extensive measures to meet the always changing regulation requirements – including investment and commitment in technology, training and quality control – the fight never ends.

Recently, new RESPA regulations have produced another significant challenge for mortgage professionals. A recent *RESPA News* survey found that nearly 81 percent of respondents have encountered difficulties in beginning to use the new Good Faith Estimate (GFE) and the HUD-1 and HUD-1A uniform settlement statement forms.

The new RESPA amendment, which went into effect on May 1, 2010, made significant changes to the GFE and the HUD-1 and HUD-1A forms. These changes have thrown the entire industry into flux while everyone figures how to stay compliant. Lenders are beginning to be hit with fines almost daily and those charges can quickly add up.

With every new set of regulations that face mortgage professionals brings a new set of compliance challenges that must be met. Staying on top of all the new compliance rules can be challenging enough, so how can the use of technology help you win the compliancy battle? When should you use an outside company to assist with your compliancy issues?

The new RESPA regulations present a unique set of challenges for mortgage professionals because staying compliant means having real time data. The revised GFE is now a three-page form, reflecting the additional information lenders must now disclose. The Department of Housing and Urban Development had several goals in revising the GFE:

- to encourage to and make it easier for consumers to compare loan options and closing costs
- to increase the accuracy of settlement costs listed on the GFE by improving disclosures of yield spread premiums (YSP);
- to facilitate comparison of the GFE and HUD-1/ HUD-1A forms; and
- to strengthen RESPA's prohibition against the required use of affiliated businesses

While the new GFE is intended to be an “estimate” of the loan terms and settlement costs for such things as settlement and title services, title insurance, inspections, and depending on the fee or service the estimate must be either exact or within 10% of the fees paid or the lender must pay the overages and penalties will be levied. These are changes that everyone in the mortgage industry is facing right now and becoming compliant is not an option, it's a must. Mortgage professionals across the country are asking, “How can we avoid these penalties and stay complaint?”

With many other previous regulations, proper education and the simple implementation of new rules were sufficient enough to staying compliant and keeping the issue in-house. However, with the new RESPA regulations, staying compliant means providing accurate costs for local service providers such as title services and inspection services, many of which were previously never quoted. As a result, mortgage lenders are quickly finding themselves in the uncharted waters of trying to provide accurate costs for services outside of the mortgage industry, such as home inspections, structural inspections, water testing, etc. I have heard of mortgage lenders hiring new teams of employees to work on these changes internally, and in some cases, building separate data or software divisions just to work on becoming compliant

When completing a cost analysis of how to stay compliant, one question that should be asked is, "Should we find a third party technology and services solution provider to assist us with compliance or can we handle this in-house?"

Weighing the cost of staying compliant by using a trusted outsourced solutions provider that has the technology and networks in place versus an in-house solution is something that many mortgage lenders are facing. Technology provided by an outside vendor can easily solve problems that might incur new risks for the lender and would require an immense time and effort on the part of mortgage professionals. To stay compliant with the new GFE, HUD-1 and HUD-1A, there are outside vendors that can provide solutions that are guaranteed, provide mortgage lenders piece of mind when facing potential RESPA penalties and keep their deals moving along.

In many cases we learned that mortgage professionals find it crucial to have a reliable third party source to provide verified information when implementing technology and service solutions to meet the requirements. We saw an opportunity to use our more than 30 years of experience in the home inspection industry to create GFEazy and make it easy for lenders to comply with new regulations.

When weighing the costs of using new or outsourced technology and solutions provider, time should be the driving factor involved. If new technology, from an outside source or not, can provide time saving methods in solving problems and staying compliant, the savings are multiplied. In addition to saving time, customer service should be thought of as well. Are your customers going to see a benefit from using this new technology? Will the technology save the customer time as well as mine?

Without the use of newly developed technology and service solutions lenders are facing non-compliance and the potential cost of penalties can add up quickly. One bank recently failed to include an \$80,000 transfer tax on the GFE and was responsible for the oversight. Another bank I spoke with recently has said that they are receiving penalties almost daily for non-compliance. Finally, one lender recently told a borrower that his land survey would cost around \$450, a standard figure that the lender had used in their GFE for years. The only problem was that the survey was to be conducted on 20 acres of land and the \$450 figure is accurate for a much smaller area. Without the new regulations the difference in the estimate and actual cost for the land survey used to be changed during the final closing and added to the closing costs. Not any longer. The actual total for the land survey was \$4,700 and the lender had to cough up the difference.

The bottom line is that changes in regulations and compliance are happening all the time. New technologies are proving to be a useful tool for many of these problems. Evaluating your specific situation, understanding the changes in regulation and how they could affect your business is

crucial. The most important objective is to stay compliant. After that, look at how you can stay compliant while also saving time and money and providing an added benefit to your customer base. More times than not, an outside technology solutions provider could be the answer.