



Reference for Closing Agents To Provide to Lender Customers

“Excerpts” from RESPA Rules and FAQ’s

This Reference document may assist closing agents as it includes frequently asked questions related to compliant HUD-1 preparation. By selecting any question from the Table of Contents on the next page, the document will hyper-link to the appropriate RESPA Rule or FAQ section **that may be shared with lenders**. Closing agents may copy and paste that specific RESPA Rule or FAQ when following HUD’s guidance as stated below.

HUD provided guidance to agents concerned their lender clients are running afoul of the Rule. Concerns should be handled in this fashion, according to HUD:

- Share the appropriate section of the Rule or an FAQ with the lender, document your attempt.
- Require the lender to make the demand in writing, document your file.
- Follow the lender's instruction as long as it is not something egregious and criminal like handling a fee that they forgot to put on their GFE off the sheet.
- Document your file.

“If you know that it’s fraud, then you should stop,” Jackson said. “If it’s a difference on what line a number should be put on, go ahead and proceed and just document your files.”



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1. Where may I get the new RESPA regulations?

http://www.hud.gov/offices/hsg/ramh/res/respa_hm.cfm

The FAQ's are found under 'New RESPA Rule FAQ's (updated ***)'

The Appendix A is found under 'HUD-1 Instructions'

The Appendix C is found under 'Good Faith Estimate Instructions'

2. May I disclose a Yield Spread Premium on the HUD-1?

HUD FAQ's - Section GFE Block 2 Questions 2 and 7

- 2) Q:** I am a mortgage broker. If a lender is paying a yield spread premium through the loan, how do I show the charge for discount points on the GFE?

A: There may not be a credit for a yield spread premium and a charge for discount points in the same transaction. Only one box in GFE Block 2, "Your credit or charge for the specific interest rate chosen," may be checked.

- 7) Q:** May the yield spread premium be shown as "Paid Outside of Closing" (P.O.C.) on the GFE and the HUD-1?

A: No. The yield spread premium is applied as a credit to the borrower in Block 2 on the GFE and in Line 802 on the HUD-1.

3. May I disclose a lender document preparation fee on the HUD-1?

HUD FAQ's - GFE Block 1 Question 5

- 5) Q:** If a loan originator contracts loan document preparation to a third party, is this a separate charge on the GFE and the HUD-1?

A: No, loan document preparation is a processing and administrative service in the origination of a loan and is included in Block 1 of the GFE, "Our origination charge" (and



in Line 801 of the HUD-1), and may not be separately itemized. See 24 CFR § 3500.8(b) (1).

GFE Block 1 Questions 2 and 7

- 2) Q:** Where does the loan originator put the lender's processing fee on the GFE?

A: All loan originator charges including processing, application, administration fees, underwriting, document preparation, wire, lender inspection, mortgage broker, loan handling, and other miscellaneous fees—are contained in Block 1, "Our origination charge".

- 7) Q:** Where would a loan originator's commitment fee (an administrative fee to provide a loan commitment) be disclosed on the GFE?

A: Any charge by a loan originator for the commitment period is included in Block 1 of the GFE, "Our origination charge". "Our origination charge" includes processing, application, administration fees, underwriting, document preparation, wire, lender inspection, mortgage broker, loan handling and other miscellaneous origination services provided by or on behalf of the loan originator.

4. May I itemize the MERS Fee on the HUD-1? HUD FAQ's - HUD-1 800 Series Question 9

- 9) Q:** Is the charge for the Mortgage Electronic Registration System (MERS) registration fee a charge that may be separately itemized in the 800 series on the HUD-1?

A: No, the charge for the MERS registration is considered to be part of the charge for origination service and may not be separately itemized on the HUD-1.



5. May I disclose charges paid by a lender or mortgage broker as POC-L on page 2 on the HUD-1?

HUD FAQ's - Under General Question 32

32) Q: Does a loan originator have to show an appraisal fee (or other fee) paid to a third party on the GFE and HUD-1 even if the loan originator wants to cover 100% of the fee?

A: Yes. The loan originator must list all required third party services on the GFE and HUD-1 regardless of whether the charge is paid by the borrower, seller, loan originator or any other party (except for administrative and processing services). If any party other than the borrower is paying for a service that was on the GFE, such as the appraisal fee, the charge remains in the borrower's column on the HUD-1. A credit from the paying party to the borrower to offset the charge should be listed on the first page of the HUD-1 in Lines 204-209 and, if the service was paid by the seller, Lines 506-509 respectively.

HUD-1 General Question 11

11) Q: The General Instructions indicate that if a charge has been shown on the GFE as payable by the borrower but at closing it is paid by another person, including by the loan originator in a loan other than a no-cost loan, the fee should be shown in the borrower's column on the HUD-1 and be offset by listing a credit to the borrower on lines 204-209 of the HUD-1. If a HUD-1A form is being used, lines 204-209 do not exist. How should the credit be shown on a HUD-1A form?

A: Use of the HUD-1A form is an optional form to be used by the settlement agent in a transaction in which there is not a seller and as otherwise appropriate. If the use of a HUD-1A form is not appropriate, such as if there is a credit given by a loan originator or other party, the settlement agent must use the HUD-1 form.



GFE Block 2 Question 1

- 1) Q:** How does a loan originator show a “no cost” loan on the GFE?

A: Where a “no cost” loan encompasses the loan origination charge and some or all third party fees, a credit should be listed in Block 2 of the GFE to offset all fees encompassed in the “no cost” loan resulting in a negative number in Block A to cover the intended third party fees, listed in Blocks 3 thru 11 as appropriate.

6. May I disclose prepaid borrower charges as POC on the HUD-1?

HUD FAQ's - HUD-1 800 Series Question 4

- 4) Q:** If a borrower pays some of the origination charge prior to closing, how should it be disclosed on the HUD-1?

A: The full charge for origination, except for any charge for the specific interest rate chosen (points), must be shown on Line 801 of the HUD-1 to the left of the borrower's column. If the borrower pays some of the origination charge before settlement, an offsetting credit in that amount is shown on the first page of the HUD-1 in Lines 204 – 209. Lines 801, 802, and 803 of the HUD-1 may not contain any “Paid Outside of Closing” (P.O.C.) items.

HUD-1 900 Series Question 1

- 1) Q:** Where is the charge for flood insurance shown on the HUD-1? What if the borrower pays it prior to settlement?

A: Flood insurance should be disclosed on Line 904 of the HUD-1 with the charge in the borrower's column. If the borrower pays the insurance prior to closing, the item should be shown on Line 904 of the HUD-1 noted as “Paid Outside of Closing” or P.O.C. with the charge to the left of the column.



HUD-1 Page 3 Question 3

3) Q: How are items that were “paid outside of closing” (P.O.C.) shown in the Comparison Chart on page 3 of the HUD-1?

A: The HUD-1 column in the Comparison Chart must include any amounts shown on page 2 of the HUD-1 in the column as paid by the borrower, plus any amounts that are shown as P.O.C. by or on behalf of the borrower. For example, if the borrower pays \$300 towards required appraisal services, but the total charge for the appraisal is \$500, then Line 804 on page 2 of the HUD-1 will show a P.O.C. amount of \$300 outside the column and a charge of \$200 in the borrower’s column. The total amount of \$500 would be shown in the “HUD-1” column (\$300 P.O.C. + \$200 at settlement) on a separate line in the comparison chart for charges that cannot increase more than 10 percent on page 3 of the HUD-1.

7. May I exclude a POC item from the page 3 HUD-1 comparison?

HUD FAQ’s - HUD-1 Page 3 Question 3

3) Q: How are items that were “paid outside of closing” (P.O.C.) shown in the Comparison Chart on page 3 of the HUD-1?

A: The HUD-1 column in the Comparison Chart must include any amounts shown on page 2 of the HUD-1 in the column as paid by the borrower, plus any amounts that are shown as P.O.C. by or on behalf of the borrower. For example, if the borrower pays \$300 towards required appraisal services, but the total charge for the appraisal is \$500, then Line 804 on page 2 of the HUD-1 will show a P.O.C. amount of \$300 outside the column and a charge of \$200 in the borrower’s column. The total amount of \$500 would be shown in the “HUD-1” column (\$300 P.O.C. + \$200 at settlement) on a separate line in the comparison chart for charges that cannot increase more than 10 percent on page 3 of the HUD-1.



GFE General Question 13

13) Q: Can items be listed as “Paid Outside of Closing” or “P.O.C.” on the GFE?

A: No, the totals included in the column on page 2 of the GFE must be the sums of the prices or fees, by category, for all settlement services that are required to be shown on the GFE. Where individual components of these totals are required to be itemized, each third party settlement service must be identified and the estimated total price or fee to be paid for that service must be stated to the left of the column. The standardized GFE form does not allow information to be included on any part of those totals that would be paid outside of closing. Such information would not help borrowers to shop for loans and would not facilitate comparison of the charges on the GFE with the charges on the HUD-1.

8. May I disclose a buyer’s attorney charge on the HUD-1 when a buyer hires counsel to represent his/her own interest?

HUD FAQ’s - HUD-1 1100 Series Question 11

11) Q: If a borrower selects an attorney to represent the borrower’s personal interests at settlement, where is this attorney’s fee disclosed on the HUD-1?

A: If a borrower selects an attorney to represent the borrower’s personal interests at settlement, and the service provided by that attorney is separate from the functions necessary to conduct the closing, provide title services or issue the lender’s title insurance policy, this attorney’s charge may be separately listed on a blank line in the 1100 series in the borrower’s column along with the name of the attorney and the type of service provided. Accordingly, the amount of this attorney’s fee should not be included in the charge listed on Line 1101.



9. May I disclose an attorney's preparation of deed charge if that attorney has been hired to represent the buyer's or seller's interest only?

HUD FAQ's - HUD-1 General Question 15

15) Q: Where should separate charges to the seller for the preparation of deeds or a closing charge be disclosed on the HUD-1?

A: Separate charges to be paid by the seller for settlement services that are not included in the definition of "title services" for the borrower must be disclosed on a blank line in the 1100 series on the HUD-1 in the seller's column.

10. May I itemize HUD-1 line #1101 (Title services and lender's title insurance)?

HUD FAQ's - HUD-1 1100 Series Questions 2, 4 and 5

2) Q: Where should the settlement agent list the commitment fee, wire fee and other miscellaneous title fees on the HUD-1?

A: The commitment fee, wire fee, and other miscellaneous fees are included as processing and administrative fees that are part of the definition of "title services." All of these types of fees must be included in the charges shown on Line 1101 of the HUD-1, and are not to be itemized separately.

4) Q: Are delivery fees included in "Title services" and therefore included in Line 1101 of the HUD-1?

A: Yes, delivery fees are included in the definition of "title services" and are included in the charge shown in Line 1101 of the HUD-1.

5) Q: Are notary fees included in "Title services" and therefore included in Line 1101 of the HUD-1?

A: Yes, notary fees are included in the definition of "title services" and are included in the charge shown in Line 1101 of the HUD-1.



HUD FAQ's - HUD-1 General Question 1

1) Q: How are courier and overnight delivery fees shown on the HUD-1 Settlement Statement?

A: Courier and overnight delivery fees are considered to be fees for administrative or processing services. They are part of a primary service, such as the origination service or title service, and may not be separately itemized.

11. May I disclose a seller's closing fee on the seller's side on the HUD-1?

HUD FAQ's - HUD-1 1100's Series Question 16

16) Q: How is the charge for conducting the settlement disclosed on the HUD-1?

A: The charge to the borrower for conducting the settlement must be included in the total stated in the borrower's column on Line 1101 of the HUD-1. In addition, the total in the borrower's column on Line 1101 must include any amount for conducting the settlement that was paid by another person on behalf of the borrower. In such a case, an offsetting credit must be shown on page 1 of the HUD-1. If the seller paid the amount, a credit to the borrower in that amount must be listed in Lines 204-209, and a charge to the seller must be listed in Lines 506- 509. If another person pays the amount an offsetting credit is reported in Lines 204-209, identifying the person paying the charge. Any separate charge to a seller for conducting the settlement is listed in the seller's column in Line 1102. The borrower's charge for conducting the settlement should be itemized outside the borrower's column in Line 1102.

HUD's FAQ's - GFE 4 Question 7

7) Q: If it is common practice in the locality to charge both the seller and the borrower a separate charge for the service for conducting the settlement, how should the charges for that service be disclosed on the GFE?



A: The charge to the borrower for conducting the settlement must be included in the total for Block 4 of the GFE. Charges that the seller pays as a matter of common practice and experience are not disclosed on the GFE.

12. May I disclose the owner's policy charge on a seller's side on the HUD-1 if the seller is paying for the policy?

HUD FAQ's GFE 5 Question 2

2) Q: If a seller typically pays for the Block 5, "Owner's title insurance", does the charge still have to be shown on the GFE?

A: Yes, an estimate of the cost must be shown in Block 5, "Owner's title insurance" for all purchase transactions regardless of who is selecting or paying for it.

13. May I disclose the title services charge as a GFE 6 item?

HUD FAQ's - GFE Block 4 Questions 1, 2, 3, 4, 5 and 6

1) Q: Where should the quote for the Lender's title insurance policy premium be disclosed on the GFE?

A: The Lender's title insurance premium is part of Block 4, "Title services and lender's title insurance" on the GFE, along with any fees for title searches, examinations, endorsements and all charges associated with the title services and settlement (closing) agent services.

2) Q: Are delivery fees included in "Title services" and therefore included in Block 4 of the GFE?

A: Yes, delivery fees are included in the definition of "title services" and are included in the charge shown in Block 4 of the GFE.

3) Q: Are notary fees included in "Title services" and therefore included in GFE Block 4?



A: Yes, notary fees are included in the definition of “title services” and are included in the charge shown in Block 4 of the GFE.

4) Q: Does “title services” include the settlement fee?

A: Yes, “Title services” is defined to include the service of conducting a settlement. See 24 CFR § 3500.2.

5) Q: How is the charge for conducting the settlement disclosed on the GFE?

A: The charge to the borrower for conducting the settlement must be included in the total of the charges in Block 4 for “Title services and lender’s title insurance”.

6) Q: Where do I put the charge for the title commitment on the GFE?

A: The term “title services” is defined to include any service involved in the preparation and issuance of the title insurance policies. See 24 CFR § 3500.2. On the GFE, the charge for title services is part of the total charge in Block 4 of the GFE.

14. Where may I disclose transfer stamp charges on the HUD-1?

HUD FAQ’s - GFE Block 8 Questions 1 and 2

1) Q: What is the definition of “transfer taxes”?

A: Transfer taxes are taxes charged by state and local governments on mortgages and home sales based upon the loan amount or sales price and on the property address.

2) Q: How is the transfer tax disclosed in Block 8 of the GFE?

A: The amount the borrower is likely to pay for transfer taxes is disclosed in Block 8 of the GFE. In some areas this amount, as a matter of practice, is governed by state or local laws. If state or local law is unclear or does not specifically attribute transfer tax to a seller or borrower, the amount to be disclosed on the GFE is governed by common practice or experience in the locality of the property. If the seller is paying a portion of the transfer tax that



was not disclosed on the GFE, then that portion should be listed in the seller's column in the 1200 series on the HUD-1.

HUD FAQ's - HUD-1 1200 Series Question 6

6) Q: If it is required by state or local law for a seller to pay a portion of the total charge for transfer taxes, on what line should the seller's charge be listed on the HUD-1?

A: If it is required by state law for a seller to pay a portion of the total charge for transfer taxes and therefore not on the GFE, the seller's charge should be listed as a charge in the seller's column in Lines 1204 and 1205 on the HUD-1, and the total charges for transfer taxes should be itemized to the left of those columns.

GFE Seller paid items Question 1

1) Q: If at the time a GFE is issued it is known that the seller will pay settlement charges typically paid by the borrower, how are the charges disclosed on the GFE?

A: All charges typically paid by the borrower must be disclosed on the GFE regardless of whether the charges will be paid for by the borrower, the seller, or other party.

HUD-1 General Question 6

6) Q: How should payments by the seller or real estate agent that are for settlement services included on the GFE be shown on the HUD-1?

A: If a seller or real estate agent pays for a charge that was included on the GFE, the charges should be listed in the borrower's column, with an offsetting credit reported in Lines 204-209 of the HUD-1, identifying the party paying the charge. For a seller-paid charge, the charge should also be listed in Lines 506-509. For a charge paid by the real estate agent, the name of the person paying the charge must also be listed.



15. May a lender quote for basic title insurance or must the lender include the quote for extended title coverage on the GFE?

HUD FAQ's - GFE 5 Questions 3 and 4

3) Q: If a borrower was quoted a basic owner's title insurance policy, but requests an Enhanced owner's title insurance policy or an endorsement to the owner's title insurance policy, should the loan originator issue a revised GFE?

A: If the borrower requests an enhanced owner's title insurance policy or an endorsement to an owner's title insurance policy after the loan originator issues the GFE, the loan originator may choose to treat such a request by the borrower as a changed circumstance. The loan originator may then choose to provide a revised GFE to the borrower to disclose the increased charges. If the increased charges do not exceed tolerances, the loan originator may opt not to issue a revised GFE.

4) Q: Should the loan originator quote the charge for a basic owner's title insurance policy or an enhanced owner's title insurance policy on the GFE?

A: The GFE is a disclosure of charges the borrower is likely to incur in connection with the settlement. The loan originator should quote the rate for a basic owner's title insurance policy. If the borrower chooses an enhanced owner's title insurance policy before the loan originator issues the GFE, the loan originator should quote the rate for an enhanced owner's title insurance policy.



16. What if the lender forgets to put a charge on the GFE?

HUD FAQ's - Section 4 and 5 Right to Cure Tolerance Violation Question 5

5) Q: What happens if the charges are not properly calculated on the GFE and later result in a tolerance violation? Will the settlement agent be responsible for paying the difference to the consumer?

A: The lender is responsible for curing all tolerance violations; not the settlement agent. The lender must cure the violation at closing or within 30 days after settlement.

17. May I prepare one HUD-1 statement for two loans closing concurrently?

HUD FAQ's - HUD-1 200 Series Question 1

1) Q: When the borrower is using a second loan to help finance the purchase of a home, may both loans go on one HUD-1?

A: No, each loan must have a separate GFE and a separate HUD-1. The principal amount of the second loan must be listed outside the borrower's column with a brief explanation on Line 204-209 of the HUD-1 for the primary loan. If the net proceeds of the second loan are less than the principal amount, the net proceeds may be listed on the same line in the borrower's column.



18. May I reduce my title fees on a HUD-1 so that the HUD-1 may remain in tolerance?

HUD FAQ's - Section 4 and 5 Right to Cure Tolerance Violations Question 6

6) Q: If a loan originator pressures a settlement agent to reduce their charges or to cover the difference to bring the costs into compliance with the tolerances is that considered a violation of RESPA Section 8(a)?

A: If a loan originator (or other settlement service provider) pressures a settlement agent (or other settlement service provider) to reduce their charges or otherwise cover the difference to bring the costs into compliance with the tolerances as a condition of receiving future referrals of business, it may be considered a potential violation of RESPA Section 8(a). Please contact the Office of RESPA and ILS to file a complaint.