

Block 1. Our origination charge

I. REG X

Sec. 3500.7(f) Good Faith estimate page 68240

- f) *Binding GFE.* The loan originator is bound, within the tolerances provided in paragraph (e) of this section, to the settlement charges and terms listed on the GFE provided to the borrower, unless a new GFE is provided prior to settlement consistent with this paragraph (f). If a loan originator provides a revised GFE consistent with this paragraph, the loan originator must document the reason that a new GFE was provided. Loan originators must retain documentation of any reasons for providing a new GFE for no less than 3 years after settlement.
- (1) *Changed circumstances affecting settlement costs.* If changed circumstances result in increased costs for any settlement services such that the charges at settlement would exceed the tolerances for those charges, the loan originator may provide a revised GFE to the borrower. If a revised GFE is to be provided, the loan originator must do so within 3 business days of receiving information sufficient to establish changed circumstances. The revised GFE may increase charges for services listed on the GFE only to the extent that the changed circumstances actually resulted in higher charges.
 - (2) *Changed circumstances affecting loan.* If changed circumstances result in a change in the borrower's eligibility for the specific loan terms identified in the GFE, the loan originator may provide a revised GFE to the borrower. If a revised GFE is to be provided, the loan originator must do so within 3 business days of receiving information sufficient to establish changed circumstances.
 - (3) *Borrower-requested changes.* If a borrower requests changes to the mortgage loan identified in the GFE that change the settlement charges or the terms of the loan, the loan originator may provide a revised GFE to the borrower. If a revised GFE is to be provided, the loan originator must do so within 3 business days of the borrower's request.
 - (4) *Expiration of original GFE.* If a borrower does not express an intent to continue with an application within 10 business days after the GFE is provided, or such longer time specified by the loan originator pursuant to paragraph (c) above, the loan originator is no longer bound by the GFE.
 - (5) *Interest rate dependent charges and terms.* If the interest rate has not been locked by the borrower, or a locked interest rate has expired, the charge or credit for the interest rate chosen, the adjusted origination charges, per diem interest, and loan terms related to the interest rate may change. If the borrower later locks the interest rate, a new GFE must be provided showing the revised interest rate-dependent charges and terms. All other charges and terms must remain the same as on the original GFE, except as otherwise provided in paragraph (f) of this section.
 - (6) *New home purchases.* In transactions involving new home purchases, where

settlement is anticipated to occur more than 60 calendar days from the time a GFE is provided, the loan originator may provide the GFE to the borrower with a clear and conspicuous disclosure stating that at any time up until 60 calendar days prior to closing, the loan originator may issue a revised GFE. If no such separate disclosure is provided, the loan originator cannot issue a revised GFE, except as otherwise provided in paragraph (f) of this section.

Link: <http://www.hud.gov/offices/hsg/ramh/res/finalrule.pdf>

II. REG X Instructions – Appendix C to Part 3500-Instructions for Completing Good Faith Estimate (GFE Form); Federal Register, page 68253

Block 1, "Our origination charge." – The loan originator must state here all charges that all loan originators involved in this transaction will receive, except for any charge for the specific interest rate chosen (points). A loan originator may not separately charge any additional fees for getting this loan, including for application, processing, or underwriting. The amount stated in Block 1 is subject to zero tolerance, i.e., the amount may not increase at settlement.

Link: <http://www.hud.gov/offices/hsg/ramh/res/finalrule.pdf>

HUD Comment Federal Register Nov.17, 2008 page 68226

The final rule requires that in the case of loans originated by mortgage brokers, the amount in Block 1 must include all charges to be paid by the borrower that are to be received by the broker and any other originator for, or as a result of, the mortgage loan origination, including any payments from the lender to the broker for the origination. In the case of loans originated by originators other than mortgage brokers, the amount in Block 1 must include all charges to be paid by the borrower that are to be received by the originator for, or as a result of, the loan origination to the borrower, except any amounts denominated by the lender as discount points, which are disclosed in Block 2.

Link: <http://www.hud.gov/offices/hsg/ramh/res/finalrule.pdf>

III. HUD RESPA FAQ

Q: If there is a lender and a mortgage broker in the same transaction, where does the loan originator put the lender and mortgage broker charges?

A: The total of all charges for all loan originators (lenders and mortgage brokers) must be contained in Block 1, our origination charge, on page 2 of the GFE, except for any charge for the specific interest rate chosen.

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.

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.

Q: Can the charge shown on the GFE, Block 1, Our origination charge, increase after the GFE has been issued?

A: No. Block 1, —Our origination charge cannot increase unless there is a changed circumstance as defined in 24 CFR § 3500.2.

Q: Where should fees such as loan originator's Processing Fee, Underwriting Fee, and Wire Transfer Fee be disclosed on the GFE?

A: All origination charges for lenders and mortgage brokers, including fees for administrative and processing services, are included in the charge in Block 1 of the GFE, Our origination charge and should not be itemized separately.

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).

Q: Are attorney's fees charged to prepare loan documents for the lender considered part of the charge for origination services disclosed on Block 1 of the GFE?

A: Yes, attorney's fees charged to prepare loan documents for the lender are considered part of the charge for origination services disclosed on Block 1 of the GFE and should not be separately itemized.

Q: Where would a loan originator's commitment fee be disclosed on the GFE?

A: Any fee charged by a loan originator for the commitment period, including a fee to extend 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 loan originator miscellaneous fees.

Q: The regulation states that while the borrower's interest rate is locked, the credit or charge for the interest rate chosen and the adjusted origination charge may not increase from the amount shown on the GFE. On a "no-cost" loan that covers third-party costs where the rate has been locked, the GFE should show a credit for the interest rate chosen, in an amount sufficient to cover the estimated loan originator and third party fees. If the actual third party fees at closing are lower than stated on the GFE, may the loan originator reduce the amount of the credit to match what is needed to pay the actual third party and loan originator fees?

A: No, the amount of the credit may not be reduced. The loan originator may choose to: 1) have the amount of the credit remain the same as stated on the GFE to cover additional closing costs previously not anticipated to be included in the "no-cost" loan; 2) apply a principal reduction to the principal balance; 3) reduce the interest rate and the credit accordingly; or 4) have the credit remain the same, resulting in cash to the borrower.

O. A loan level price adjustment is a risk-based adjustment that is derived from specific attributes of the particular loan (LTV, FICO score, occupancy, etc.). How should a loan level price adjustment charged by the lender be disclosed on the GFE?

A: For transactions involving a mortgage broker, the credit or charge for the specific interest rate chosen is the net payment from the lender for the loan. If the net payment from the lender is positive, there is a credit to the borrower and it is entered as a negative amount in Block 2 of the GFE. If the net payment from the lender is negative, there is a charge to the borrower and it is entered as a positive amount in Block 2 of the GFE. The loan level price adjustment is included in the computation in Block 2, "Your credit or charge for the specific interest rate chosen."

Link: <http://www.hud.gov/offices/hsg/ramh/res/resparulefaqs.pdf>

IV. P&P Comment: