

## **RESPA GFE-HUD SETTLEMENT STATEMENT AUTHORITY**

### **I. REG X:**

None (see Instructions and FAQs).

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 68254:**

In the case of "no cost" loans, where "no cost" refers only to the loan originator's fees, Line A must show a zero charge as the adjusted origination charge. In the case of "no cost" loans where "no cost" encompasses third party fees as well as the upfront payment to the loan originator, all of the third party fees listed in **Block 3 through Block 11** to be paid for by the loan originator (or borrower, if any) must be itemized and listed on the GFE. The credit for the interest rate chosen must be large enough that the total for Line A will result in a negative number to cover the third party fees.

"Your Charges for All Other Settlement Services"

There is a 10 percent tolerance applied to the sum of the prices of each service listed in Block 3, Block 4, Block 5, Block 6, and Block 7, where the loan originator requires the use of a particular provider or the borrower uses a provider selected or identified by the loan originator. Any services in Block 4, Block 5, or Block 6 for which the borrower selects a provider other than one identified by the loan originator are not subject to any tolerance and, at settlement, would not be included in the sum of the charges on which the 10 percent tolerance is based. Where a loan originator permits a borrower to shop for third party settlement services, the loan originator must provide the borrower with a written list of settlement services providers at the time of the GFE, on a separate sheet of paper.

**Block 6**, "Required services that you can shop for."--In this block, the loan originator must identify each third party settlement service required by the loan originator where the borrower is permitted to shop for and select the settlement service provider (excluding title services), along with the estimated charge to be paid to the provider of each service. The loan originator must identify the specific required services (e.g., survey, pest inspection) and provide an estimate of the charge of each service. The loan originator must also add the individual charges disclosed in this block and place the total in the column of this block. The charge shown in this block is subject to an overall 10 percent tolerance as described above.

Link: [http://edocket.access.gpo.gov/cfr\\_2009/aprqt/24cfr3500AppC.htm](http://edocket.access.gpo.gov/cfr_2009/aprqt/24cfr3500AppC.htm)

### **III. HUD RESPA FAQs :**

#### **GFE – Written list of providers**

1) Q: When do loan originators have to provide the borrower with a written list of identified providers?

A: When a loan originator permits a borrower to shop for third-party settlement services, the loan originator must provide the borrower with a written list of settlement services providers at the time of the GFE, on a separate sheet of paper.

2) Q: Does the borrower have to select a settlement service provider from the loan originator's written list of settlement service providers?

A: No. If the loan originator permits a borrower to shop for a settlement service provider, the borrower may choose a qualified provider that is not on the originator's written list.

3) Q: If the borrower chooses a settlement service provider that is not on the written list, does the tolerance apply?

A: No, if the borrower chooses a settlement service provider that is not on the loan originator's written list of providers, the amount paid for that service is not subject to a tolerance.

4) Q: The GFE Instructions require that where a loan originator permits a borrower to shop for third party settlement services covered in Blocks 4, 5, or 6, the loan originator must provide the borrower with a separate written list of settlement service providers at the time of the GFE. Is inclusion on the written list of identified providers considered a referral under Section 3500.14?

A: Yes, the inclusion of a specifically identified settlement service provider on the — “written list” is considered to be a referral under 24 CFR § 3500.14(f).

5) Q: If a mortgage broker provides the GFE and the — “written list” of settlement service providers and the borrower chooses to use a provider identified on the — “written list” for a service, is the lender subject to tolerances for those services?

A: Yes, if the lender permits a mortgage broker to issue the GFE and the —written list|| of providers, the lender is subject to the tolerances for the services in which the borrower chooses to use the identified provider.

6) Q: In lieu of providing the — “written list” of providers, may the loan originator disclose to the borrower that if they specifically wish to shop for their own provider, but have difficulty finding a provider for a service at the disclosed price that they may contact the loan originator to ask the loan originator to identify a provider?

A: No. Where a loan originator permits a borrower to shop for third party settlement services, the loan originator must provide the borrower with a written list of settlement service providers at the time of the GFE, on a separate sheet of paper.

7) Q: Must the loan originator provide names only of those settlement service providers known to do business in the locality of the mortgage property or may

the loan originator provide a list of national settlement service providers who may or may not do business in the locality of the mortgaged property?

A: The requirements for the new GFE form provide that —[w]here the loan originator permits a borrower to shop for third party settlement services, the loan originator must provide the borrower with a written list of settlement services providers. The list should contain settlement service providers that are likely available to provide the settlement service for the borrower.

8) Q: If a loan originator permits a borrower to shop for "Title services and lender's

title insurance", should the "written list" consider "Title services and lender's title insurance" one service or would all of the sub-services (such as conducting the settlement) be listed as separate services?

A: "Title services and lender's title insurance" is a category that comprises services within the claimed term "title service", including conducting the settlement. Sub-services included within "Title service and lender's title insurance" may not be listed as separate services on the "written list".

9) Q: May a loan originator include an affiliated business on the “written list” of settlement service providers that must be provided with the GFE?

A: Yes. A loan originator may identify an affiliated business on the “written list”. The “affiliated business arrangement disclosure” must be provided at the time the GFE is provided to the borrower or at the time of referral, whichever is earlier.

10) Q: Does the requirement for a “written list” apply to Block 4, “Title services and lender’s title insurance” on the GFE?

A: Yes. The loan originator must provide a “written list” of settlement service providers, including providers of “Title services and lender’s title insurance” if the loan originator permits the borrower to shop for that settlement service.

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1) Q: If a governmental loan program requires a borrower to select an “approved” service provider, such as a HUD approved housing counselor, should the service be disclosed in Block 3 or Block 6 on the GFE?

A: Even if a governmental loan program requires a borrower to select from only “approved” service providers (such as HUD approved housing counselors) the service must be disclosed in Block 6 on the GFE. If the loan originator selects a particular settlement service provider, the service must be disclosed in Block 3. (Please note that the answer above also applies to reverse mortgage programs, see Reverse Mortgages #8.)

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

## **IV. P&P Comment:**

