

RESPA Reform



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What We Are Going to Cover

- Main components of final RESPA rule
 - Providing a Quote to an Originator
 - How the new 3-page HUD-1 Settlement Statement is prepared in conjunction with the new 3-page Good Faith Estimate (GFE)
 - Tolerance limitations on settlement charges
 - Suggested list of providers

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Loan Origination

- At the time the GFE is given to the borrowers the Originator must provide a list of title service providers.
 - If you are on the Originator's list, the Lender is held to a 10% tolerance with the fees quoted on the GFE
 - If the borrower selects your agency independently, the Lender is not held to those tolerances.

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Tolerance Buckets

- Zero tolerance
 - Origination fees
 - Transfer taxes
- 10% tolerance
 - Lender selected providers
 - Lender suggested providers
- No tolerance restrictions
 - Consumer selected providers
 - Interest and reserves

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Communication with Originator

- Originators are asking for either a blanket quote that they can use for all files with your company or an individual quote for each files.
- Contact your originators now to determine which method they intend on using.

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New Definition of Title Services

- RESPA defines Title Services as “Any service involved in the provision of title insurance including but not limited to:
 - Title Exam and Evaluation
 - Prep & Issuance of Commitment
 - Prep & Issuance of Policies ...AND
 - All Administrative & Processing Services required to perform these functions”
 - e.g. document delivery, preparation & copying, wiring fees, notary fees, etc.

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Blanket Quote

Settlement Service Charge (1)	\$
Abstract	Included in Premium Fee
Title Examination	Included in Premium Fee
Binder Fee	Included in Premium Fee
Document Preparation	TBD
Premium (2)	See Rate Schedule
Standard PA Endorsements (3)	\$150
Closing Service Letter	\$75

(1) Includes settlement fee, notary, wire, email doc fee, courier costs, tax certifications.

(2) Premium is determined based on length of time since the last institutional mortgage was recorded.

(3) Includes Standard PA Endorsements 100, 300, 8.1-06 (900). Additional endorsements are available – PUD, Adjustable Rate, etc. See rate filing for costs.

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Missing from Blanket Quote

→ Recording Fees

- Held to a 10% tolerance
- If originator does not know the number of pages for the mortgage, calculate at 25 pages
- Each county is different – how are you communicating these differences to the originator?

→ Transfer Tax

- Held to a 0% tolerance
- Calculation is different for each county and in some situations, townships within the county – information you don't have until the search is complete.

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GFE Changed Circumstances

- Acts of God, war, disaster or other emergency
- Information about the borrower or transaction that changes or is found to be inaccurate after issuance of GFE
 - e.g. credit quality, loan amount, property value or other information
- New information not previously relied upon
- Other circumstances
 - e.g. boundary disputes, required flood insurance, environmental problems
- If changed circumstances affect settlement costs or borrower's eligibility for loan:
 - Loan originator may provide a revised GFE
 - Revised GFE may reflect only the increased changes

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HUD-1 Settlement Statement – Page 3

"Zero" Tolerance Comparison

Comparison of Good Faith Estimate (GFE) and HUD-1 Charges		Good Faith Estimate	HUD-1
Charges That Cannot Increase			
Our origination charge	HUD-1 Line Number # 801	1,000.00	1,000.00
Your credit or charge (points) for the specific interest rate chosen	# 802	2,000.00	2,000.00
Your adjusted origination charges	# 803	3,000.00	3,000.00
Transfer taxes	# 1203	2,500.00	2,500.00

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HUD-1 Settlement Statement – Page 3

"10%" Aggregate Tolerance

Charges That in Total Cannot Increase More Than 10%		Good Faith Estimate	HUD-1
Government recording charges	# 1201	180.00	180.00
Appraisal fee	# 804	300.00	300.00
Credit report	# 805	15.00	15.00
Tax service	# 806	95.00	95.00
Flood certification	# 807	5.00	5.00
Title services and lender's title insurance	# 1101	1,334.89	1,334.89
SURVEY	# 1306	526.00	526.00
Total		2,455.88	2,455.88
Increase between GFE and HUD-1 Charges		\$0.00	or 0.00000%

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When the GFE Doesn't Match the HUD-1

"10%" Aggregate Tolerance

Charges That in Total Cannot Increase More Than 10%		Good Faith Estimate	HUD-1
Government recording charges	# 1201	180.00	180.00
Appraisal fee	# 804	300.00	300.00
Credit report	# 805	15.00	15.00
Tax service	# 806	95.00	95.00
Flood certification	# 807	5.00	5.00
Title services and lender's title insurance	# 1101	2,500.00	1,586.75
SURVEY	# 1306	526.00	526.00
Total		3,621.00	2,716.75
Increase between GFE and HUD-1 Charges		\$904.25	or 24.97500%

Charges That in Total Cannot Increase More Than 10%		Good Faith Estimate	HUD-1
Government recording charges	# 1201	180.00	180.00
Appraisal fee	# 804	300.00	300.00
Credit report	# 805	15.00	15.00
Tax service	# 806	95.00	95.00
Flood certification	# 807	5.00	5.00
Title services and lender's title insurance	# 1101	1,000.00	1,596.75
SURVEY	# 1306	526.00	526.00
Total		2,121.00	2,716.75
Increase between GFE and HUD-1 Charges		\$595.75	or 28.08824%

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Cost of Compliance

→ Implementation - \$170 million

- \$62 million - software
- \$37 million – legal
- \$71 million – training

→ Annual expense

- Lending and title industry - \$918 million per year

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RESPA Q&A

If the lender provides a list of settlement service providers and the Borrower picks one, is the lender subject to the tolerances?

Answer: Yes.

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RESPA Q&A

→ If an attorney prepares the loan documents for the lender where is the fee shown?

- GFE – Block 1 along with all other origination charges.
- HUD1 – A part of 801 and rolled into 803.

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RESPA Q&A

Who will determine if the tolerance is exceeded?

Answer: The settlement agent completes the HUD-1. It is the lender's responsibility to rectify the tolerance violation. If the cure is done pre-closing, the lender would send the revised figures to the settlement agent or the lender has 30 days post-closing to cure.

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RESPA Q&A

If the lender issues a tolerance violation refund, must the HUD-1 be reissued to reflect the refund?

Answer: No. However, it is likely that lenders will require an updated HUD-1 showing the cure.

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RESPA Q&A

Can the lender issue a new GFE at closing to match the HUD-1?

Answer: No. Not unless a "material change" has occurred.

Is it o.k. if the tolerances decrease by more than 10%?

Answer: Yes. The lender may estimate high on the GFE.

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RESPA Q&A

Can the settlement agent charge for preparing a revised HUD-1 if the tolerance is exceeded?

Answer: We are seeking clarification from HUD on this point.

What if the lender asks the settlement agent to reduce a fee to stay within the tolerances?

Answer: The violation would shift from a Section 5 violation for lender to a Section 8 violation for the lender and settlement agent.

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RESPA Q&A

Why must the premium split between the agent and underwriter be shown?

Answer: HUD believes all 3rd party charges should be delineated on the HUD-1.

What if the settlement agent doesn't know the split between the title agent and the underwriter?

Answer: The settlement agent must obtain it.

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RESPA Q&A

Where do items such as settlement service providers' document preparation, wire fees, notary, etc. appear?

Answer: These fees are included in the Line 1101 total and are not separately set forth on the HUD-1 unless they are paid to a 3rd party provider.

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RESPA Q&A

Must a revised HUD-1 be signed by the Borrower?

Answer: HUD does not require the Borrower's signature on either HUD-1 or HUD-1A. However, the lender and/or state law may require it to be signed.

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RESPA Q&A

If recording fees are \$100 on the GFE and \$200 on the HUD-1, is the lender responsible?

Answer: It is 10% of the total charges in the 10% category (aggregate). The excess recording charges may be offset by decreases in other charges in the 10% category.

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RESPA Q&A

If the lender fails to show or shows the transfer tax incorrectly on the GFE, is the lender responsible for any refund?

Answer: Yes. The lender is responsible.

If a government entity changes its transfer taxes after the GFE is issued but before the HUD-1 is issued, what happens?

Answer: If the transfer tax increased, the lender can revise the GFE because of a "material change", which constitutes a change in circumstances.

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RESPA Q&A

Where would outside attorney's fees be shown on the HUD-1?

Answer: If the attorney is the settlement agent, then the fee should be included in Line 1101. If the attorney is 3rd party engaged by settlement agent, then itemized in 1100s (outside the column) and included in Line 1101 total. If the attorney is engaged by the Borrower, then put in the miscellaneous 1109 inside the Borrower's column.

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RESPA Q&A

If a real estate agent charges an administrative fee in addition to the commission, where should it be shown on the HUD-1?

Answer: It should be recorded on an additional line in the 700 section, inside the Borrower's or Seller's column (as appropriate) and included in the commissions disbursed at closing.

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RESPA Q&A

Is the Seller entitled to see the 3rd page of the HUD-1 form?

Answer: RESPA says the Seller's and borrower's HUD-1's can be separated but aren't required to be.

Does the new Rule conflict with FHA's prohibition against lumping fees together?

Answer: Yes. Expect additional guidance from FHA.

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