



**OLDE KEY TITLE**

RESIDENTIAL AND COMMERCIAL CLOSING SERVICES SINCE 1982

## **Introduction**

- The new GFE and HUD-1 forms must be used as of January 1, 2010. The new GFE and HUD-1 forms may be used before then though. If a loan originator issues a GFE on the new form, then the settlement agent must use the new HUD-1 form and the tolerances and other requirements in the revised RESPA regulations will apply.

## **GFE**

- General Information
  - o 3-page standardized form which provides “an estimate of settlement charges a borrower is likely to incur to obtain a specific loan”.
  - o It is now HUD-regulated.
  - o Must be provided to consumer no later than 3 business days after the loan originator receives an application or information sufficient to complete an application.
    - “Loan originator” is defined as a lender or a mortgage broker.
    - “Application is defined as the submission of a borrower’s financial information in anticipation of a credit decision relating to a federally related mortgage loan, which shall include the following: (1) borrower’s name, (2) borrower’s monthly income; (3) borrower’s social security number to obtain a credit report; (4) property address; (5) estimate of value of the property; (6) loan amount and (7) any other information deemed necessary by the loan originator.”
    - GFE is not required if application is denied or withdrawn
  - o “After a loan applicant both receives a GFE and indicates an intention to proceed with the loan covered by the GFE, the loan originator may collect fees beyond the cost of a credit report for origination-related services.”
    - Therefore, only a credit report fee may be collected at the onset.
  - o Can only issue a new GFE if there is a “changed circumstance”
    - “Changed circumstance is now defined in § 3500.2 as: (1) Acts of God, war, disaster, or other emergency; (2) Information particular to the borrower or transaction that was relied on in providing the GFE and that changes or is found to be inaccurate after the GFE has been provided, which information may include information about the credit quality of the borrower, the amount of the loan, the estimated value of the property, or any other information that was used in providing the GFE; (3) New information particular to the borrower or transaction that was not relied on in providing the

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GFE; or (4) Other circumstances that are particular to the borrower or transaction, including boundary disputes, the need for flood insurance, or environmental problems.”

- “The loan originator may only change those charges and terms that are affected by the specific changed circumstance.”
  - “If a borrower does not express an intent to continue with an application within ten business days after the GFE is provided (or such longer time period specified by the loan originator), the loan originator is no longer bound by the GFE” (i.e., the GFE will expire).
- GFE Page 1
- Page 1 is the summary page; includes a summary of key loan terms (as of the date of closing)
  - “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.”
  - If the loan originator permits a borrower to shop for a settlement service provider, the borrower does not have to select a settlement service provider from the loan originator’s written list of settlement service providers.
  - The list must list at least one provider for each service needed and it must be on a separate sheet of paper.
- GFE Page 2
- Page 2 estimates the total settlement charges
  - “Your Adjusted Origination Charges”
    - 1. The origination fee is a single fee; there is no way to decipher between the lender’s fees and the mortgage broker’s fees.
    - 2. Only checking one box here.
  - “Your Charges for All Other Settlement Services”
    - 3. Services the lender requires in order to complete the settlement (loan originator chooses the providers of these services).
    - 4. Includes the services of a title or settlement agent, and title insurance to protect the lender, if required. No more separate fees, for example, for title search, title binder, etc. Now all must be charged as a bundled/single fee.
    - 6. Required services the borrower can shop for (the lender can identify providers of these services or the borrower can shop for them him/herself). Examples include, but are not limited to, (i) survey; (ii) pest inspection; and (iii) home warranty.
    - 11. This does not only include homeowner’s insurance. This will include “estimates for premiums for all types of insurance (other than title insurance) that must be purchased to meet the loan originator’s requirements to protect the property from loss,” such as flood insurance.

- Note: All charges that the borrower typically pays for “must be disclosed on the GFE regardless of whether the charges will be paid for by the borrower, the seller, or other party.”
- GFE Page 3
  - The first table on page 3 is divided into three tolerance categories, and relates to items 3 through 11 on page 2 of the GFE.
    - These tolerance restrictions hold lenders liable for changes (increases) in certain charges/settlement fees.
    - Column 1: FIXED FEES
      - These cannot change at settlement.
    - Column 2: 10% TOLERANCE
      - The total of these charges can increase up to 10% at settlement.
    - Column 3: NO RESTRICTIONS
      - These can increase at settlement.
    - Note: The lender is responsible for curing tolerance violations. The lender has 30 calendar days to cure. If a tolerance would be violated, a settlement agent does not need to stop the closing (although HUD recommends that the lender cure the tolerance violation at closing).
  - Tradeoff Table
    - The lender is only required to complete column 1 of the Tradeoff Table.
  - Last Table/Shopping Cart
    - The lender has the option to fill out part of this table; the lender is not required to.
- Note
  - “If a borrower is taking out two loans to finance the purchase, each loan must have a separate GFE and a separate HUD-1. However, the principal amount of the second loan and a brief explanation of the second loan should be listed on Lines 204 – 209 of the HUD-1 for the first loan.”

## **HUD-1**

- General Information
  - This is a consumer disclosure document.
  - It is now 3 pages.
- Page 1
  - Page 1 is virtually the same as the old page 1.
- Page 2
  - 700 Series
    - Commission is now denoted as a dollar amount, and no longer a percentage.
  - 800, 900, 1000, 1100, 1200, and 1300 Series

- Includes “(from GFE #\_\_)” next to the itemized charges, and uses language that is consistent with the GFE.
  - Groups previously itemized title services and lender’s title insurance into single fees.
  - Itemizes agent’s portion and underwriter’s portion of the total title insurance premium (1107 and 1108).
  - Payments made to third-parties must be itemized (add lines to the 1100 series) (these charges will ultimately be included in 1101).
- Page 3
  - Adds a page 3 to the HUD-1
  - Requires comparison charts – comparing charges on the GFE with charges final settlement charges on the HUD-1
  - Also includes a summary of loan terms (bottom table on page 3)
  - The lender is obligated to give sufficient information to the settlement agent to complete page 3.
- Note
  - There are NO signature lines on the HUD-1. Can add signature lines to page 2 or add another page to the HUD (i.e., page 4) to include signature lines.
  - The final rule allows any settlement service provider to use average charges for settlement services obtained from third-parties.
    - This is optional.
    - The rule states requirements if a settlement service provider chooses to use an average charge.
  - Questions regarding any items listed on the HUD-1 should be directed to the lender.

**Conclusion**

- Continue to review the documents that I provided you with and go to [www.hud.gov/respa](http://www.hud.gov/respa) for FAQ (please note that the quotations above are from HUD’s FAQ).