

Section A. Settlement Requirements

Overview

In This Section This section contains the topics listed in the table below.

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1. General Information on Settlement Requirements

Introduction This topic contains general information on settlement requirements, including

- lender responsibility for estimating settlement requirements
 - disclosure of origination charges on the Good Faith Estimate (GFE), and
 - determining the amount needed for closing.
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Change Date March 24, 2011

4155.1 5.A.1.a Lender Responsibility for Estimating Settlement Requirements For each transaction, the lender must provide the initial [Good Faith Estimate](#) (GFE), all revised Good Faith Estimates and a final [HUD-1 Settlement Statement](#), consistent with the Real Estate Settlement Procedures Act (RESPA), to determine the cash required to close the mortgage transaction.

In addition to the minimum downpayment requirement described in HUD 4155.1 5.B.1.a, additional borrower expenses must be included in the total amount of cash that the borrower must provide at mortgage settlement. Such additional expenses include, but are not limited to

- closing costs, such as those customary and reasonable costs necessary to close the mortgage loan
- prepaid items
- discount points
- non-realty or personal property
- upfront mortgage insurance premium (UFMIP) amounts
- repairs and improvements
- real estate broker fees
- mortgage broker fees
- premium pricing on FHA-insured mortgages, and
- yield spread premiums.

References: For more information on

- closing-related expenses, see HUD 4155.1 5.A.2
 - UFMIP amounts, see HUD 4155.2 7.2.a, and
 - RESPA rules, see <http://www.hud.gov/RESPA>.
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1. General Information on Settlement Requirements, Continued

4155.1 5.A.1.b Disclosure of Origination Charges on the Good Faith Estimate

Lenders must include the sum of *all* fees and charges from origination-related charges in Box 1 on page 2 of the [Good Faith Estimate](#) (GFE). The figure in Box 1

- represents all compensation to the lender and/or broker for originating the loan, and
- will most often *exceed* the specific origination fee caps set for government programs.

The GFE requires that lenders provide an aggregated cost for origination services. Lenders may, however, itemize specific distinct origination fees and charges in the empty 800 lines of the [HUD-1 Settlement Statement](#), to the left of the column, if required by a government program or state law to provide more detailed information on those fees and charges.

Reference: For more information on charges, fees, and discounts, see [24 CFR 203.27](#).

4155.1 5.A.1.c Determining the Amount Needed for Closing

The amount of cash needed by the borrower to close an FHA-insured mortgage is the *difference* between the

- total cost to acquire the property, including the expenses listed in HUD 4155.1 5.A.1.a , and
 - amount of the mortgage, excluding any UFMIP.
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2. Settlement Requirements Needed to Close

Introduction This topic contains information on settlement requirements needed to close, including

- origination fee, unallowable fees, and other closing costs
 - types of prepaid items, including per diem interest
 - discount points
 - non-realty (chattel) or personal property
 - upfront mortgage insurance premium (UFMIP) amounts
 - repairs and improvements
 - real estate broker fees
 - mortgage broker fees
 - premium pricing on FHA-insured mortgages
 - yield spread premiums, and
 - seller credits.
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Change Date January 31, 2011

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2. Settlement Requirements Needed to Close, Continued

4155.1 5.A.2.a Lenders may charge and collect from borrowers those customary and reasonable costs necessary to close the mortgage loan.

Origination Fee, Borrowers may not pay a tax service fee.

Unallowable Fees, and Other Closing Costs FHA no longer limits the origination fee to one percent of the mortgage amount for its standard mortgage insurance programs. However, both the Home Equity Conversion Mortgage (HECM) and Section 203(k) Rehabilitation Mortgage Insurance programs retain their statutory origination fee caps.

Lenders may charge and collect

- a supplemental origination fee on Section 203(k) rehabilitation mortgages, or
- *two percent* on HECMs.

References: For more information on

- collecting customary and reasonable fees, see HUD 4155.2 6.A.3.a, and
- the supplemental origination fee for 203(k) mortgages, see HUD 4155.2 1.C.5.f
- the HECM origination fee, see [HUD 4235.1](#), *Home Equity Conversion Mortgages*.

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2. Settlement Requirements Needed to Close, Continued

4155.1 5.A.2.b Types of Prepaid Items (Including Per Diem Interest)

Prepaid items are collected at closing to cover

- accrued and unaccrued hazard insurance premiums
- mortgage insurance premiums
- taxes
- per diem interest, and
- other similar fees and charges.

Per Diem Interest

The lender must use a minimum of 15 days of per diem interest when estimating prepaid items on the [Good Faith Estimate](#) (GFE). To reduce the burden on borrowers whose loans were scheduled to close at the end of the month, but did not due to unforeseen circumstances, lenders and borrowers may agree to credit the per diem interest to the borrower and have the mortgage payments begin the first of the succeeding month. The dollar amount of the per diem interest credit may *not* be used to reduce the borrower's required cash investment.

4155.1 5.A.2.c Discount Points

Discount points paid by the borrower

- become part of the total cash required to close
 - are *not* eligible for meeting the minimum down payment requirement, and
 - must appear on Line 10 of Page 3 of form [HUD 92900-A](#), *HUD/VA Addendum to Uniform Residential Loan Application*.
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4155.1 5.A.2.d Non Realty or Personal Property

Non-realty (chattel) or personal property items that the borrower agrees to pay for separately, including the amount subtracted from the sales price when determining the maximum mortgage, are included in the total cash requirements for the loan.

4155.1 5.A.2.e UFMIP Amounts

Any upfront mortgage insurance premium (UFMIP) amounts paid in cash are added to the total cash settlement requirements. The UFMIP must be

- entirely financed into the mortgage, except any amount less than \$1.00, or
- paid entirely in cash and all mortgage amounts rounded down to a multiple of \$1.00.

Reference: For information on UFMIP amounts, see HUD 4155.2 7.2.a.

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2. Settlement Requirements Needed to Close, Continued

**4155.1 5.A.2.f
Repairs and
Improvements** Repairs and improvements, or any portion paid by the borrower that cannot be financed into the mortgage, are part of the borrower's total cash requirements.

**4155.1 5.A.2.g
Real Estate
Broker Fees** If a borrower is represented by a real estate broker and must pay any fee directly to the broker, that expense must

- be included in the total of the borrower's settlement requirements, and
- appear on the [HUD-1 Settlement Statement](#).

If the seller pays the broker fee as part of the sales commission, it is not considered an inducement to purchase, or part of the seller contributions limitation, as long as the seller is paying only the normal sales commission for that market.

Any additional seller-paid commission to the broker is considered an inducement to purchase.

To determine if the seller paid a buyer-broker fee in addition to the normal sales commission for the market, the lender must obtain a copy of the original listing agreement, and compare it with the [HUD-1 Settlement Statement](#).

References: For more information on

- seller contribution limitations, see HUD 4155.1 2.A.3, and
 - inducements to purchase, see HUD 4155.1 2.A.4.
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**4155.1 5.A.2.h
Mortgage
Broker Fees** The lender should include mortgage broker fees in the total of the borrower's cash settlement requirements and on the [HUD-1 Settlement Statement](#), if he/she pays a fee directly to a mortgage broker.

This requirement applies only when the borrower independently engages a mortgage broker exclusively to seek financing, and pays the broker directly. The mortgage broker cannot be the same as the originating lender.

Note: The payment may *not* come from the lending institution, per [24 CFR 203.27](#).

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2. Settlement Requirements Needed to Close, Continued

4155.1 5.A.2.i Premium Pricing on FHA-Insured Mortgages

Lenders may pay a borrower's closing costs, and/or prepaid items by "premium pricing." Closing costs paid in this manner do not need to be included as part of the seller contribution limitation. The funds derived from a premium priced mortgage

- may *never* be used to pay any portion of the borrower's downpayment
- *must* be disclosed on the [GFE](#) and the [HUD-1 Settlement Statement](#)
- *must* be used to reduce the principal balance if the premium pricing agreement establishes a specific dollar amount for closing costs and prepaid expenses, with any remaining funds in excess of actual costs reverting to the borrower, and
- may not be used for payment of
 - debts
 - collection accounts
 - escrow shortages or missed mortgage payments, or
 - judgments.

Reference: For more information on seller contribution limitations, see HUD 4155.1 2.A.3.

4155.1 5.A.2.j Yield Spread Premium

Yield spread premiums (YSP) are not part of the cash required to close, but *must* be disclosed to borrowers on the GFE and [HUD-1 Settlement Statement](#), in accordance with the Real Estate Settlement Procedures Act (RESPA).

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2. Settlement Requirements Needed to Close, Continued

4155.1 5.A.2.k Seller Credits on the HUD-1 Settlement Statement

RESPA regulations do not require or permit the inclusion or disclosure of seller-paid credits on the GFE. On the [HUD-1 Settlement Statement](#),

- charges must be displayed in the borrower's column, and
- a credit to offset charges must be listed in Section J, *Summary of Borrower's Transaction* on lines 204-209, with a corresponding reduction to the seller's proceeds in Section K, *Summary of Seller's Transaction* on lines 506-509.

When the seller contributes to more than one expense, the seller credit shown on the HUD-1 must reflect the lump sum payment.

Reference: For more information on RESPA rules, see <http://www.hud.gov/respa>.
