

final regulations appendix a

Appendix A to Part 3500 -- Instructions for
Completing **HUD - 1** and **HUD - 1A** Settlement Statements

The following are instructions for completing Sections A through L of the HUD - 1 settlement statement, required under Section 4 of RESPA and Regulation X of the Department of Housing and Urban Development (24 CFR part 3500). This form is to be used as a statement of actual charges and adjustments to be given to the parties in connection with the settlement. The instructions for completion of the HUD - 1 are primarily for the benefit of the settlement agents who prepare the statements and need not be transmitted to the parties as an integral part of the HUD - 1. There is no objection to the use of the HUD - 1 in transactions in which its use is not legally required. Refer to the definitions section of Regulation X for specific definitions of many of the terms which are used in these instructions.

General Instructions

Information and amounts may be filled in by typewriter, hand printing, computer printing, or any other method producing clear and legible results. Refer to Regulation X regarding rules applicable to reproduction of the HUD - 1. An additional page(s) may be attached to the HUD - 1 for the purpose of including customary recitals and information used locally in settlements, for example, a breakdown of payoff figures; a breakdown of the Borrower's total monthly mortgage payments; check disbursements; a statement indicating receipt of funds; applicable special stipulations between Borrower and Seller, and the date funds are transferred.

The settlement agent shall complete the HUD - 1 to itemize all charges imposed upon the Borrower and the Seller by the Lender and all sales commissions, whether to be paid at settlement or outside of settlement, and any other charges which either the Borrower or the Seller will pay for at settlement. Charges to be paid outside of settlement, including cases where a non-settlement agent (i.e., attorneys, title companies, escrow agents, real estate agents or brokers) holds the Borrower's deposit against the sales price (earnest money) and applies the entire deposit towards the charge for the settlement service it is rendering, shall be included on the HUD - 1 but marked ``P.O.C." for ``Paid Outside of Closing" (settlement) and shall not be included in computing totals. P.O.C. items should not be placed in the Borrower or Seller columns, but rather on the appropriate line next to the columns.

Blank lines are provided in Section L for any additional settlement charges. Blank lines are also provided for additional insertions in Sections J and K. The names of the recipients of the settlement charges in Section L and the names of the recipients of adjustments described in Section J or K should be included on the blank lines.

Lines and columns in Section J which relate to the Borrower's transaction may be left blank on the copy of the HUD - 1 which will be furnished to the Seller. Lines and columns in Section K which relate to the Seller's transaction may be left blank on the copy of the HUD - 1 which will be furnished to the Borrower.

Line Item Instructions for HUD - 1

Instructions for completing the individual items on the HUD - 1 follow.

Section A. This section requires no entry of information.

Section B. Check appropriate loan type and complete the remaining items as applicable.

Section C. This section provides a notice regarding settlement costs and requires no additional entry of information.

Sections D and E. Fill in the names and current mailing addresses and zip codes of the Borrower and the Seller. Where there is more than one Borrower or Seller, the name and address of each one is required. Use a supplementary page if needed to list multiple Borrowers or Sellers.

Section F. Fill in the name, current mailing address and zip code of the Lender.

Section G. The street address of the property being sold should be given. If there is no street address, a brief legal description or other location of the property should be inserted. In all cases give the zip code of the property.

Section H. Fill in name, address, and zip code of settlement agent; address and zip code of ``place of settlement."'

Section I. Date of settlement.

Section J. Summary of Borrower's Transaction. Line 101 is for the gross sales price of the property being sold, excluding the price of any items of tangible personal property if Borrower and Seller have agreed to a separate price for such items.

Line 102 is for the gross sales price of any items of tangible personal property excluded from Line 101. Personal property could include such items as carpets, drapes, stoves, refrigerators, etc. What constitutes personal property varies from state to state. Manufactured homes are not considered personal property for this purpose.

Line 103 is used to record the total charges to Borrower detailed in Section L and totaled on Line 1400.

Lines 104 and 105 are for additional amounts owed by the Borrower or items paid by the Seller prior to settlement but reimbursed by the Borrower at settlement. For example, the balance in the Seller's reserve account held in connection with an existing loan, if assigned to the Borrower in a loan assumption case, will be entered here. These lines will also be used when a tenant in the property being

sold has not yet paid the rent, which the Borrower will collect, for a period of time prior to the settlement. The lines will also be used to indicate the treatment for any tenant security deposit. The Seller will be credited on Lines 404 - 405.

Lines 106 through 112 are for items which the Seller had paid in advance, and for which the Borrower must therefore reimburse the Seller. Examples of items for which adjustments will be made may include taxes and assessments paid in advance for an entire year or other period, when settlement occurs prior to the expiration of the year or other period for which they were paid. Additional examples include flood and hazard insurance premiums, if the Borrower is being substituted as an insured under the same policy; mortgage insurance in loan assumption cases; planned unit development or condominium association assessments paid in advance; fuel or other supplies on hand, purchased by the Seller, which the Borrower will use when Borrower takes possession of the property; and ground rent paid in advance.

Line 120 is for the total of Lines 101 through 112.

Line 201 is for any amount paid against the sales price prior to settlement.

Line 202 is for the amount of the new loan made by the Lender or first user loan (a loan to finance construction of a new structure or purchase of manufactured home where the structure was constructed for sale or the manufactured home was purchased for purposes of resale and the loan is used as or converted to a loan to finance purchase by the first user). For other loans covered by Regulation X which finance construction of a new structure or purchase of a manufactured home, list the sales price of the land on Line 104, the construction cost or purchase price of manufactured home on Line 105 (Line 101 would be left blank in this instance) and amount of the loan on Line 202. The remainder of the form should be completed taking into account adjustments and charges related to the temporary financing and permanent financing and which are known at the date of settlement.

Line 203 is used for cases in which the Borrower is assuming or taking title subject to an existing loan or lien on the property.

Lines 204 - 209 are used for other items paid by or on behalf of the Borrower. Examples include cases in which the Seller has taken a trade-in or other property from the Borrower in part payment for the property being sold. They may also be used in cases in which a Seller (typically a builder) is making an "allowance" to the Borrower for carpets or drapes which the Borrower is to purchase separately. Lines 204 - 209 can also be used to indicate any Seller financing arrangements or other new loan not listed in Line 202. For example, if the Seller takes a note from the Borrower for part of the sales price, insert the principal amount of the note with a brief explanation on Lines 204 - 209.

Lines 210 through 219 are for items which have not yet been paid, and which the Borrower is expected to pay, but which are attributable in part to a period of time prior to the settlement. In jurisdictions in which taxes are paid late in the tax year, most cases will show the proration of taxes in these lines. Other examples include utilities used but not paid for by the Seller, rent collected in advance by the Seller from a tenant for a period extending beyond the settlement date, and interest on

loan assumptions.

Line 220 is for the total of Lines 201 through 219.

Lines 301 and 302 are summary lines for the Borrower. Enter total in Line 120 on Line 301. Enter total in Line 220 on Line 302.

Line 303 may indicate either the cash required from the Borrower at settlement (the usual case in a purchase transaction) or cash payable to the Borrower at settlement (if, for example, the Borrower's deposit against the sales price (earnest money) exceeded the Borrower's cash obligations in the transaction). Subtract Line 302 from Line 301 and enter the amount of cash due to or from the Borrower at settlement on Line 303. The appropriate box should be checked.

Section K. Summary of Seller's Transaction. Instructions for the use of Lines 101 and 102 and 104 - 112 above, apply also to Lines 401 - 412. Line 420 is for the total of Lines 401 through 412.

Line 501 is used if the Seller's real estate broker or other party who is not the settlement agent has received and holds the deposit against the sales price (earnest money) which exceeds the fee or commission owed to that party, and if that party will render the excess deposit directly to the Seller, rather than through the settlement agent, the amount of excess deposit should be entered on Line 501 and the amount of the total deposit (including commissions) should be entered on Line 201.

Line 502 is used to record the total charges to the Seller detailed in Section L and totaled on Line 1400.

Line 503 is used if the Borrower is assuming or taking title subject to existing liens which are to be deducted from sales price.

Lines 504 and 505 are used for the amounts (including any accrued interest) of any first and/or second loans which will be paid as part of the settlement.

Line 506 is used for deposits paid by the Borrower to the Seller or other party who is not the settlement agent. Enter the amount of the deposit in Line 201 on Line 506 unless Line 501 is used or the party who is not the settlement agent transfers all or part of the deposit to the settlement agent in which case the settlement agent will note in parentheses on Line 507 the amount of the deposit which is being disbursed as proceeds and enter in column for Line 506 the amount retained by the above described party for settlement services. If the settlement agent holds the deposit insert a note in Line 507 which indicates that the deposit is being disbursed as proceeds.

Lines 506 through 509 may be used to list additional liens which must be paid off through the settlement to clear title to the property. Other payoffs of Seller obligations should be shown on Lines 506 - 509 (but not on Lines 1303 - 1305). They may also be used to indicate funds to be held by the settlement agent for the payment of water, fuel, or other utility bills which cannot be prorated between the parties at settlement because the amounts used by the Seller prior to settlement are not yet known. Subsequent disclosure of the actual amount of these post-

settlement items to be paid from settlement funds is optional. Any amounts entered on Lines 204 - 209 including Seller financing arrangements should also be entered on Lines 506 - 509.

Instructions for the use of Lines 510 through 519 are the same as those for Lines 210 to 219 above.

Line 520 is for the total of Lines 501 through 519.

Lines 601 and 602 are summary lines for the Seller. Enter total in Line 420 on Line 610. Enter total in Line 520 on Line 602.

Line 603 may indicate either the cash required to be paid to the Seller at settlement (the usual case in a purchase transaction) or cash payable by the Seller at settlement. Subtract Line 602 from Line 601 and enter the amount of cash due to or from the Seller at settlement on Line 603. The appropriate box should be checked.

Section L. Settlement Charges.

For all items except for those paid to and retained by the Lender, the name of the person or firm ultimately receiving the payment should be shown. In the case of ``no cost" or ``no point" loans, the charge to be paid by the lender to an affiliated or independent service provider should be shown as P.O.C. (Paid Outside of Closing) and should not be used in computing totals. Such charges also include indirect payments or back-funded payments to mortgage brokers that arise from the settlement transaction. When used, ``P.O.C." should be placed in the appropriate lines next to the identified item, not in the columns themselves.

Line 700 is used to enter the sales commission charged by the sales agent or broker. If the sales commission is based on a percentage of the price, enter the sales price, the percentage, and the dollar amount of the total commission paid by the Seller.

Lines 701 - 702 are to be used to state the split of the commission where the settlement agent disburses portions of the commission to two or more sales agents or brokers.

Line 703 is used to enter the amount of sales commission disbursed at settlement. If the sales agent or broker is retaining a part of the deposit against the sales price (earnest money) to apply towards the sales agent's or broker's commission, include in Line 703 only that part of the commission being disbursed at settlement and insert a note on Line 704 indicating the amount the sales agent or broker is retaining as a ``P.O.C." item.

Line 704 may be used for additional charges made by the sales agent or broker, or for a sales commission charged to the Borrower, which will be disbursed by the settlement agent.

Line 801 is used to record the fee charged by the Lender for processing or originating the loan. If this fee is computed as a percentage of the loan amount,

enter the percentage in the blank indicated.

Line 802 is used to record the loan discount or ``points'' charged by the Lender, and, if it is computed as a percentage of the loan amount, enter the percentage in the blank indicated.

Line 803 is used for appraisal fees if there is a separate charge for the appraisal. Appraisal fees for HUD and VA loans are also included on Line 803.

Line 804 is used for the cost of the credit report if there is a charge separate from the origination fee.

Line 805 is used only for inspections by the Lender or the Lender's agents. Charges for other pest or structural inspections required to be stated by these instructions should be entered in Lines 1301 - 1305.

Line 806 should be used for an application fee required by a private mortgage insurance company.

Line 807 is provided for convenience in using the form for loan assumption transactions.

Lines 808 - 811 are used to list additional items payable in connection with the loan including a CLO Access fee, a mortgage broker fee, fees for real estate property taxes or other real property charges.

Lines 901 - 905. This series is used to record the items which the Lender requires (but which are not necessarily paid to the lender, i.e., FHA mortgage insurance premium) to be paid at the time of settlement, other than reserves collected by the Lender and recorded in 1000 series.

Line 901 is used if interest is collected at settlement for a part of a month or other period between settlement and the date from which interest will be collected with the first regular monthly payment. Enter that amount here and include the per diem charges. If such interest is not collected until the first regular monthly payment, no entry should be made on Line 901.

Line 902 is used for mortgage insurance premiums due and payable at settlement, except reserves collected by the Lender and recorded in the 1000 series. A lump sum mortgage insurance premium paid at settlement should be inserted on Line 902, with a note that indicates that the premium is for the life of the loan.

Line 903 is used for hazard insurance premiums which the Lender requires to be paid at the time of settlement except reserves collected by the Lender and recorded in the 1000 series.

Lines 904 and 905 are used to list additional items required by the Lender (except for reserves collected by the Lender and recorded in the 1000 series) including flood insurance, mortgage life insurance, credit life insurance and disability insurance premiums. These lines are also used to list amounts paid at settlement

for insurance not required by the Lender.

Lines 1000 - 1008. This series is used for amounts collected by the Lender from the Borrower and held in an account for the future payment of the obligations listed as they fall due. Include the time period (number of months) and the monthly assessment. In many jurisdictions this is referred to as an ``escrow'', ``impound'', or ``trust'' account. In addition to the items listed, some Lenders may require reserves for flood insurance, condominium owners' association assessments, etc.

After itemizing individual deposits in the 1000 series using single-item accounting, the servicer shall make an adjustment based on aggregate accounting. This adjustment equals the difference between the deposit required under aggregate accounting and the sum of the deposits required under single-item accounting. The computation steps for both accounting methods are set out in 3500.17(d). The adjustment will always be a negative number or zero (-0-). The settlement agent shall enter the aggregate adjustment amount on a final line in the 1000 series of the HUD - 1 or HUD - 1A statement.

During the phase-in period, as defined in 3500.17(b), an alternative procedure is available. If a servicer has not yet conducted the escrow account analysis to determine the aggregate accounting starting balance, the settlement agent may initially calculate the 1000 series deposits for the HUD - 1 and HUD - 1A settlement statement using single-item analysis with a one-month cushion (unless the mortgage loan documents indicate a smaller amount). In the escrow account analysis conducted within 45 days of settlement, the servicer shall adjust the escrow account to reflect the aggregate accounting balance.

Lines 1100 - 1113. This series covers title charges and charges by attorneys. The title charges include a variety of services performed by title companies or others and includes fees directly related to the transfer of title (title examination, title search, document preparation) and fees for title insurance. The legal charges include fees for Lender's, Seller's or Buyer's attorney, or the attorney preparing title work. The series also includes any fees for settlement or closing agents and notaries. In many jurisdictions the same person (for example, an attorney or a title insurance company) performs several of the services listed in this series and makes a single overall charge for such services. In such cases, enter the overall fee on Line 1107 (for attorneys), or Line 1108 (for title companies), and enter on that line the item numbers of the services listed which are covered in the overall fee. If this is done, no individual amounts need be entered into the borrower's and seller's columns for the individual items which are covered by the overall fee. In transactions involving more than one attorney, one attorney's fees should appear on Line 1107 and the other attorney's fees should be on Line 1111, 1112 or 1113. If an attorney is representing a buyer, seller, or lender and is also acting as a title agent, indicate on line 1107 which services are covered by the attorney fee and on line 1113 which services are covered by the insurance commission.

Line 1101 is used for the settlement agent's fee.

Lines 1102 and 1103 are used for the fees for the abstract or title search and title examination. In some jurisdictions the same person both searches the title (that is, performs the necessary research in the records) and examines title (that is, makes a determination as to what matters affect title, and provides a title report or opinion). If such a person charges only one fee for both services, it should be

entered on Line 1103 unless the person performing these tasks is an attorney or a title company in which case the fees should be entered as described in the general directions for Lines 1100 - 1113. If separate persons perform these tasks, or if separate charges are made for searching and examination, they should be listed separately.

Line 1104 is used for the title insurance binder which is also known as a commitment to insure.

Line 1105 is used for charges for preparation of deeds, mortgages, notes, etc. If more than one person receives a fee for such work in the same transaction, show the total paid in the appropriate column and the individual charges on the line following the word ``to."`

Line 1106 is used for the fee charged by a notary public for authenticating the execution of settlement documents.

Line 1107 is used to disclose the attorney's fees for the transaction. The instructions are discussed in the general directions for Lines 1100 - 1113. This line should include any charges by an attorney to represent a buyer, seller or lender in the real estate transaction.

Lines 1108 - 1110 are used for information regarding title insurance. Enter the total charge for title insurance (except for the cost of the title binder) on Line 1108. Enter on Lines 1109 and 1110 the individual charges for the Lender's and owner's policies. Note that these charges are not carried over into the Borrower's and Seller's columns, since to do so would result in a duplication of the amount in Line 1108. If a combination Lender's/owner's policy is purchased, show this amount as an additional entry on Lines 1109 and 1110.

Lines 1111 - 1113 are for the entry of other title charges not already itemized. Examples in some jurisdictions would include a fee to a private tax service, a fee to a county tax collector for a tax certificate, or a fee to a public title registrar for a certificate of title in a Torrens Act transaction. Line 1113 should be used to disclose services that are covered by the commission of an attorney acting as a title agent when Line 1107 is already being used to disclose the fees and services of the attorney in representing the buyer, seller, or lender in the real estate transaction.

Lines 1201 - 1205 are used for government recording and transfer charges. Recording and transfer charges should be itemized. Additional recording or transfer charges should be listed on Lines 1204 and 1205.

Lines 1301 and 1302 are used for fees for survey, pest inspection, radon inspection, lead-based paint inspection, or other similar inspections.

Lines 1303 - 1305 are used for any other settlement charges not referable to the categories listed above on the HUD - 1, which are required to be stated by these instructions. Examples may include structural inspections or pre-sale inspection of heating, plumbing, or electrical equipment. These inspection charges may include a fee for insurance or warranty coverage.

Line 1400 is for the total settlement charges paid from Borrower's funds and

Seller's funds. These totals are also entered on Lines 103 and 502, respectively, in sections J and K.

Line Item Instructions for Completing HUD - 1A Note: HUD - 1A is an optional form that may be used for refinancing and subordinate lien federally related mortgage loans, as well as for any other one-party transaction that does not involve the transfer of title to residential real property. The HUD - 1 form may also be used for such transactions, by utilizing the borrower's side of the HUD - 1 and following the relevant parts of the instructions as set forth above. The use of either the HUD - 1 or HUD - 1A is not mandatory for open-end lines of credit (home-equity plans), as long as the provisions of Regulation Z are followed.

Background

The HUD - 1A settlement statement is to be used as a statement of actual charges and adjustments to be given to the borrower at settlement, as defined in this part. The instructions for completion of the HUD - 1A are for the benefit of the settlement agent who prepares the statement; the instructions are not a part of the statement and need not be transmitted to the borrower. There is no objection to using the HUD - 1A in transactions in which it is not required, and its use in open-end lines of credit transactions (home-equity plans) is encouraged. It may not be used as a substitute for a HUD - 1 in any transaction in which there is a transfer of title and a first lien is taken as security.

Refer to the "definitions" section of Regulation X for specific definitions of terms used in these instructions.

Information and amounts may be filled in by typewriter, hand printing, computer printing, or any other method producing clear and legible results. Refer to 3500.9 regarding rules for reproduction of the HUD - 1A. Additional pages may be attached to the HUD - 1A for the inclusion of customary recitals and information used locally for settlements or if there are insufficient lines on the HUD - 1A.

The settlement agent shall complete the HUD - 1A to itemize all charges imposed upon the borrower by the lender, whether to be paid at settlement or outside of settlement, and any other charges that the borrower will pay for at settlement. In the case of "no cost" or "no point" loans, these charges include any payments the lender will make to affiliated or independent settlement service providers relating to this settlement. These charges shall be included on the HUD - 1A, but marked "P.O.C." for "paid outside of closing," and shall not be used in computing totals. Such charges also include indirect payments or back-funded payments to mortgage brokers that arise from the settlement transaction. When used, "P.O.C." should be placed in the appropriate lines next to the identified item, not in the columns themselves.

Blank lines are provided in Section L for any additional settlement charges. Blank lines are also provided in Section M for recipients of all or portions of the loan proceeds. The names of the recipients of the settlement charges in Section L and the names of the recipients of the loan proceeds in Section M should be set forth on the blank lines. Line Item Instructions for HUD - 1A The identification information at the top of the HUD - 1A should be completed as follows:

The borrower's name and address is entered in the space provided. If the property securing the loan is different from the borrower's address, the address or other location information on the property should be entered in the space provided. The loan number is the lender's identification number for the loan. The settlement date is the date of settlement in accordance with 3500.2, not the end of any applicable rescission period. The name and address of the lender should be entered in the space provided.

Section L. Settlement Charges. This section of the HUD - 1A is similar to Section L of the HUD - 1, with minor changes or omissions, including deletion of lines 700 through 704, relating to real estate broker commissions. The instructions for Section L in the HUD - 1, should be followed insofar as possible. Inapplicable charges should be ignored, as should any instructions regarding seller items.

Line 1400 in the HUD - 1A is for the total settlement charges charged to the borrower. Enter this total on line 1602 as well. This total should include Section L amounts from additional pages, if any are attached to this HUD - 1A.

Section M. Disbursement to Others. This section is used to list payees, other than the borrower, of all or portions of the loan proceeds (including the lender, if the loan is paying off a prior loan made by the same lender), when the payee will be paid directly out of the settlement proceeds. It is not used to list payees of settlement charges, nor to list funds disbursed directly to the borrower, even if the lender knows the borrower's intended use of the funds.

For example, in a refinancing transaction, the loan proceeds are used to pay off an existing loan. The name of the lender for the loan being paid off and the pay-off balance would be entered in Section M. In a home improvement transaction when the proceeds are to be paid to the home improvement contractor, the name of the contractor and the amount paid to the contractor would be entered in Section M. In a consolidation loan, or when part of the loan proceeds is used to pay off other creditors, the name of each creditor and the amount paid to that creditor would be entered in Section M. If the proceeds are to be given directly to the borrower and the borrower will use the proceeds to pay off existing obligations, this would not be reflected in Section M.

Line 1602 is the total amount from line 1400.

Line 1603 is the total amount from line 1520.

Line 1604 is the amount disbursed to the borrower. This is determined by adding together the amounts for lines 1600 and 1601, and then subtracting any amounts listed on lines 1602 and 1603.

(Approved by the Office of Management and Budget under control number 2502 - 0265)

[57 FR 49607, Nov. 2, 1992; 57 FR 56857, Dec. 1, 1992, as amended at 59 FR 6515, Feb. 10, 1994; 59 FR 53908, Oct. 26, 1994; 60 FR 8816, Feb. 15, 1995; 60 FR 24735, May 9, 1995; 61 FR 13251, Mar. 26, 1996]

