

CONTRACT WRITING GUIDELINES

The main thing you need to keep in mind when purchasing a bank-owned property are that the bank intends to sell AS-IS, and they want all terms negotiated UP FRONT. The top 3 tips, along with other helpful information and guidelines are listed below, as well as in our Offer Cover Form.

#1 The Seller intends this property to convey AS-IS.

The Seller will NOT make repairs to the property. The Seller will not pay for inspections, surveys or other certifications. If the Buyer wishes to conduct inspections, etc., they must be done at Buyer's expense.

#2 ALL terms are to be negotiated UP FRONT as a specific DOLLAR AMOUNT.

(**Example:** Do not request seller to pay "closing costs;" you must put a dollar figure. Note that once terms have been agreed, no further concessions will be granted regardless of actual final costs. If contracted agreement is \$5000 in Buyer closing costs, you will receive ONLY \$5000 regardless of your final total costs.)

#3 PROPERTY INSPECTION CONTINGENCIES

may or may not be allowed depending on each Seller. When a contingency is allowed, it is no longer than a 5-7 day inspection period in most cases. **PLEASE NOTE: INSPECTION CONTINGENCY IS ONLY FOR PURPOSES OF DETERMINING WHETHER BUYER WISHES TO PURSUE THE PURCHASE. IN MOST CASES, NO REPAIRS WILL BE MADE/FUNDED BY SELLER BASED ON THE RESULTS OF THE INSPECTION!**

PURCHASE PRICE

* Generally, Seller aims to net within 5% of the list price, especially within first 30 days of listing.

* There may or may not be negotiating room in price. Realize foreclosure properties are already priced at or below market value with their AS-IS condition considered. Offers significantly lower than list price may be automatically rejected.

EMD

* \$500 minimum initial deposit is required— no exceptions. Seller may request an additional EMD amount in negotiations – some ask for 1%. Note that the more EMD you put down, the stronger your offer looks.

FINANCING

* FHA/VA are sometimes acceptable, but Buyer and his/her lender must have a realistic idea of property condition will qualify— keeping in mind seller isn't under any obligation to make repairs! The Listing Agent cannot verify for a Buyer if the property will meet their particular lender's appraisal requirements. If you are unsure, please contact YOUR appraiser.

* Please include additional lender-required documents/addenda at time of offer if possible to avoid delays (Seller Affidavits, Seller Certifications, etc).

* Conventional, Cash & Hard-Money Lenders are acceptable. (POF required for cash buyers)

PREAPPROVAL LETTERS/PROOF OF FUNDS

* Buyer must provide a **non-contingent preapproval letter**/ proof-of-funds dated within last 30 days at the time initial offer is made. Only contingencies allowed are final underwriting, appraisal and title. **Letter must specifically state lender has verified all income, assets and ratios.** Lender must state loan amount and LTV% in letter. Offers WILL be rejected because of incomplete or unsatisfactory preapproval letters.

CLOSING COSTS

* Request in contract as specific dollar amount (Do NOT Write: "Seller to pay all closing costs.") Some Sellers will only grant 3% closing costs, or may only grant concessions with a full-price offer. Some sellers will require you to use their financing company for pre-qualification of for the loan in order to grant seller concessions.

CLOSING DATE

* Please list close by 25th of the month, or push to next month. (Sellers prefer to close and fund in the same month.)

* Allow at least 30 days from acceptance to close for FHA/VA. Some lenders suggest 45 days.

* With the large volume of foreclosures in recent months, we are seeing delays on the Seller-side of processing foreclosure title and/or removal of liens; don't expect to close in 1-2 weeks, even with cash purchases.

* Banks WILL charge per diem of \$28—\$250 (or more) for closing delays not caused by Seller, which will appear as part of the Seller's contract addendum. Be sure to allow sufficient time for Buyer loan processing when projecting your closing date.

INSPECTIONS

* While inspections are usually allowed by the Seller, the property is intended to sell AS-IS.

* Some Sellers will not allow a Property Inspection Contingency, and not more than 5-7 day period if they do. Sellers who do not allow contingencies will usually allow inspections to be conducted prior to ratification.

* **“For informational purposes” doesn't mean “Non-contingent.” Please don't write “for informational purposes only” unless the offer is intended to be non-contingent.** If the Buyer wants the option to withdraw the contract based on the results of the inspection (regardless of repairs), it IS a contingency— so write it as such! If the Buyer intends to pursue the purchase the property NO MATTER WHAT the results of the inspection, then, and only then, is the offer truly non-contingent and may be written as such. Please note that requesting repairs after ratification may result in automatic termination of contract.

REPAIRS

* **The Seller intends to sell the property AS-IS.** If you write in repair work, your offer may be automatically rejected.

* Requests for REPAIR ALLOWANCES may or may not be considered by the Seller— and must be written as specific dollar amount in offer. Please note some banks may require multiple estimates to verify need, which will slow down negotiations.

* Repair requests or additional concession after inspection will be reviewed by the seller, but remember that in most cases they do not repair and offer very little, if any, further concessions.

DEED

* Title to convey as “Special Warranty Deed.” No exceptions. Be sure to cross out “General Warranty Deed” and write in “Special Warranty Deed.”

DISCLOSURES

* As foreclosures, Sellers are exempt from disclosures. If they are not included in the listing, there is no need to submit or request them as they will not be completed.

* **Lead-Based Paint & AICUZ** and (if applicable) Mold Disclosure will be included with Seller’s addenda which are issued after accepted contract terms.

TERMITE INSPECTION AND TREATMENT

* Many Sellers will cross out the termite inspection upon contract review since the VA Regional Sales Contract does not provide a specific dollar amount. As such, do not select seller to pay for termite inspection as it could introduce a delay in getting your contract ratified for you to obtain an addendum.

* If termites are found during the inspection, the seller generally will pay for treatment, but not for work beyond that. In order to get that paid by the seller, provide the inspection report, the estimate for treatment, and an addendum for the amount.

HOME WARRANTY

* Many Sellers will not provide a Home Warranty. In allowable cases, a Seller-paid Home Warranty must be requested with a specific dollar amount at time of initial offer.

WALK—THROUGH INSPECTIONS

* Remember— property is selling AS-IS. Seller will not provide utilities for walk-through inspections.

HOA/POA/CONDO DOCS

* Seller/Listing Agent does NOT have a copy of HOA/POA/CONDO documents nor any knowledge of the details therein. Documents will be provided at Seller’s expense, payable on the HUD. Documents will be

provided in electronic format available. Buyer's agent assistance may be requested in document ordering/delivery.

CLOSING COMPANY

* Virginia allows the Buyer to choose their own settlement agent. It's recommended to use the same settlement agent as Seller if possible, as there may be additional discounts and they are familiar with REO sales.

MULTIPLE OFFERS & ESCALATION CLAUSES

* Seller will not accept/negotiate escalation clauses. Buyers should make their best offer, period.

* In multiple offer situations there may be multiple offers that are at or above asking price. It is at the sole discretion of the Seller to accept or further negotiate one, all or none of the offers during multiple offer situations. **PLEASE NOTE** even if a Buyer had the first/sole offer in negotiation prior to multiple offers, the Seller is under NO obligation to further negotiate with that Buyer. Seller will not offer first right of refusal or additional opportunity to supersede other offers that may be presented.

* **ESCALATION CLAUSES – NOT RECOMMENDED** – Note that all offer communication is via entry into an electronic form. As such, the Listing Agent can only enter one number in the offer price field. Escalation clauses are only able to be noted in a "comments" section, which sometimes are very limited in size. When the seller reviews offers, they compare them side by side using their system that shows them a net number. Obviously, the note is not taken into consideration in the system's calculation. Unless they happen to see that note and does their own hand calculation, your highest offer will most likely be missed. Offers are reviewed independently without reviewing in real-time with the Listing Agent. Therefore, the buyer assumes all risk for an escalation clause not being acted upon by a seller. It is recommended that the buyer provide their best offer as a single number in order to avoid losing a property that they highly desire.