

the Mortgage Bulletin

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Non-recurring costs and seller credits

Suppose you are a pre-approved buyer and you've made an offer to purchase property for \$900,000 with \$180,000 down payment, and a loan of \$720,000. The non-recurring closing costs (those costs attributable to the transaction itself) are \$3,000.

The subsequent property inspection indicates that \$13,500 work is necessary to correct what you believe are deficiencies in the property. The seller agrees with that figure and offers to give you a \$13,500 credit. You are buying your first home and therefore don't know how such seller credits to buyers are handled. Which of the following describes the best way to address this scenario?

Option A. Your Realtor prepares an addendum stating that the seller will be giving you a credit of \$13,500 for repairs. This is signed by you and the seller, and a copy is given to the lender.

Option B. The seller writes you a check for \$13,500 after escrow has closed and this is not disclosed to the lender.

Option C. An addendum to the purchase agreement is executed, reducing the price of the property by \$13,500 and your down payment and the loan amount are adjusted accordingly.

Option D. An addendum is prepared by your Realtor, signed by you and the seller, giving you a credit of \$3,000 for nonrecurring closing costs and the purchase price is reduced by \$10,500 with down payment and loan amount adjusted accordingly.

The answer could be either Option C or Option D. Neither Option A nor Option B is acceptable.

We won't even discuss Option B because should that option be taken, you, your Realtor, and anyone else associated with the transaction and with knowledge that this is being done are committing fraud.

Fraud could get you introduced to the FBI in less than pleasant circumstances.

What is wrong with Option A? Most all lenders will allow credits from seller to buyer up to a certain percent of the sales price (typically not more than 3%) and this is the important part ----- **ONLY FOR NON-RECURRING CLOSING COSTS.** And \$13,500 is more than \$3,000.

Now, that's the rule. Of course there can be exceptions. At the lender's discretion, credits may be allowed for recurring costs as well. Examples: one year's insurance premium, prepaid interest, and tax proration. But this would be an exception to policy and the exception might not be granted.

The standard lender rule regarding seller credits to buyer rule is so important, and so often forgotten, that it bears repeating. **SELLERS CAN CREDIT BUYERS (ONLY) FOR NON-RECURRING CLOSING COSTS IN AN AMOUNT NOT TO EXCEED 3% OF THE PURCHASE PRICE.**

One of the major purposes of the Mortgage Bulletin is to inform buyers (and Realtors if they need the information) so as to prevent breakdowns in the loan process. Handled improperly, seller credits to buyers indeed can cause breakdowns.

Most Realtors are well informed on this issue, and their buyers are unlikely to suffer any negative consequences.

How should the \$13,500 be handled? One good way is to simply give a credit for non-recurring closing costs (\$3,000) and reduce the sales price by \$10,500.

Or buy the interest rate down. Points are non-recurring closing costs. And \$13,500 is 1.5 points in this example, and would (probably) buy a thirty year fixed rate down by .5%; from 5.500% to 5.000%, saving \$223 per month in loan payments.

But whatever you do --- involve the lender immediately. This allows all options to be discussed and agreed upon in advance and eliminates potential problems and/or delays in closing.



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