



# LEGAL HOTLINE Q&A

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## Question:

Please help me understand use of Form 42C. Walk me through when and how I would use the two provisions. I'm confused by the compensation to seller vs listing firm.

## Answer:

Form 42C ("Compensation Disclosure") is a form that will be used rarely. The first provision on Form 42C mimics the Form 21, paragraph 17 provision that discloses the compensation offered by seller to buyer broker and allows buyer to accept or counter that offer of compensation. Thus, if one of the statewide form purchase agreements is used in the transaction, Form 42C will NOT be needed to disclose seller's offer of compensation to buyer broker. The first provision on Form 42C may be necessary if the purchase agreement is written on forms other than statewide forms, such as a builder's purchase agreement, an REO purchase agreement or a commercial form. If one of those forms does not include the required disclosure of compensation offered by seller to buyer broker, then broker should include Form 42C, marking and completing the first provision.

The second provision on Form 42C will be used only if the listing firm offers compensation, different from any compensation offered by seller. For example, the listing firm may offer a selling bonus or some other incentive attempting to get a buyer broker to show the listing. In that case, Form 42C should be attached to the buyer's offer with the second provision marked and completed to disclose the compensation offered by the listing firm to the buyer broker. In that scenario, it is contemplated that any offer of compensation from the seller will be disclosed in the Form 21, paragraph 17 provision but the offer of compensation from the listing firm will be disclosed on Form 42C.

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