

ALTA Best Practice #4 – Do It On Time & Do It Right

“Do it on time and do it right.” This sounds like a lesson from any teacher, coach, mentor, or employer you have ever had. Every test you took in school, every term paper you wrote, and every game you played had a time limit and an expectation for you to perform at a high level during the allotted time. The American Land Title Association (“ALTA”) Best Practice #4 asks us to incorporate this simple standard into our everyday real estate settlement policies and procedures and to put a priority on compliance and training to meet this standard.

ALTA Best Practice #4 :

Adopt standard real estate settlement procedures and policies that help ensure compliance with Federal and State Consumer Financial Laws as applicable to the Settlement process.

Purpose:

Adopting appropriate policies and conducting ongoing employee training helps ensure the Company can meet state, federal, and contractual obligations governing the Settlement. *(emphasis added)*

Adopting compliant, written procedures is the first step in the process. We can all follow a rule as long as we know what the rule is. With the adoption of Best Practice #4, ALTA recognizes that you are the expert in real estate settlement procedures and gives you the opportunity to write your own rules. There are numerous rules, laws, and expectations that will shape our written real estate settlement policies and procedures; however, the overriding theme remains: “Do it on time and do it right.”

Do It On Time

Part 1 of Best Practice #4 requires you to review your legal, contractual, and ethical requirements and incorporate those standards into your written settlement procedures. These are things that you are already doing. Now you must document them in writing while ensuring that your procedures meet the timing requirements of Best Practice #4.

As to these timing requirements, ALTA Best Practice #4 only requires that all documents to be recorded in a particular transaction be presented for recording within **TWO DAYS** of the closing of the transaction. If, however, you are not the party that performed the closing for the transaction and are otherwise tasked with the obligation of recording, you have to record within two days of your receipt of the documents. That’s it. You set every other time frame in your policies and procedures (except one to be featured in the next article on ALTA Best Practice #5). In many cases, these time frames will be based upon the expectations of third parties, such as clients and lenders. ALTA Best Practice #4 only provides this one timing requirement, which, in practice, is less stringent than the expectations of other parties in your deal flow.

One important thing to consider when writing your real estate settlement policies and procedures is to include time frames for which you are willing to be held accountable. You are not looking for your record, but rather to be compliant on your worst day. Two days is the backstop set by ALTA. With that in mind, it is important in training and practice that we do not allow the minimum standard to become the standard. We all strive to be better than the minimum. Whatever time frames you set, remember the words of Ben Franklin, “You may delay, but time will not.” Set achievable, compliant standards and then strive every day to beat them.

Do it Right

Part 2 of Best Practice #4 requires you to make sure that everyone is charged the correct amounts on the settlement statement. Again, this is not a novel concept, but rather something that you are already doing. When you go to the grocery store, to the gas station, or to any place where you put down your hard earned money, you expect to pay only for that which you have received. Nothing more - nothing less. Your clients have the same expectation. ALTA Best Practice #4 merely requires you to put into place procedures and protections that make

certain that the appropriate amounts are charged and collected for everything from title premiums to your fees in the transaction.

John Wooden, legendary basketball coach and educator, famously asked the rhetorical question, “If you don't have time to do it right, when will you have time to do it over?” If, when you find time to do it over, there is a shortage to one party and a windfall to another, you will then be tasked with compensating for the shortage regardless of whether you receive remuneration from the benefactor of your mistake. Therefore, this policy protects you as much as anyone in the transaction.

Written Policies

We all have policies and procedures in place that address elementary items such as “doing it on time and doing it right.” In many instances, however, these policies and procedures are not written down. They are second nature and continually evolving with experience. Written policies and procedures should never replace that which requires your professional touch; however, they are required to demonstrate that you have the knowledge, experience, and controls in your office to deliver a quality, professional, and ethical service.

In writing real estate settlement policies and procedures for your office, please keep in mind those things that are not mentioned in the ALTA Best Practices but expected of you and your staff. The missing items include but are not limited to: (1) conflict check; (2) review of the contract or loan commitment; (3) title examination; (4) review of the legal description; (5) preparation of the settlement statement; (6) performing the closing conference; and/or (7) disbursement. Where would the closing be without timely performance of these very important steps?

You may debate internally whether to include items that are not “required” for compliance with the ALTA Best Practices. At the end of the day, you should look at this question in the context of whether you believe that your written real estate settlement procedures should be a complete document that can be used for training or should be just the minimum to keep your office compliant.

Training

After completing your written real estate settlement policies and procedures, the next step is to comply with your documented expectations. ALTA Best Practice #4 requires that you train your staff on the expectations and standards set forth in your written real estate settlement policies and procedures. While Best Practice #4 does not set a minimum standard for the duration or frequency of training, it does make training a priority. Your mandate from ALTA is that training be “ongoing.” The mistake would be to do it once and stop. If you chose to make your written real estate policies and procedures comprehensive in their approach, you have a training document at your disposal.

Follow Up

Finally, the last step to knowing whether you are “doing it on time and doing in right,” is to monitor your successes and deficiencies. The only way to know whether you are hitting the mark on compliance is to routinely check to see if your practices are actually compliant with your written policies and procedures. We are not talking about a full blown audit, but internal practices that monitor and account for the successes in your office. Simply put, we now live in a world where you must be able to demonstrate that you are “doing it right and doing it on time.”

Conclusion

Within the confines of compliant and legal practices, ALTA Best Practice #4 asks us to define what we are doing in writing, train our staff and ourselves to do it that way, and then demonstrate that we are successful in doing what we set out to do. ALTA does not tell you what to include (other than one timing element) and allows us to run our business in a competitive and entrepreneurial manner. ALTA Best Practice #4 underscores the importance of punctuality and proficiency in a very competitive real estate landscape and then asks you to look in the mirror and see if you are meeting your own expectations. Do it on time and do it right.