

Red Flags Rule – Do It Yourself or Outsource

by : *Gil Van Over*

A friend and I started building a house at about the same time, with different approaches. We both selected our flooring, cabinetry and lighting. Our homes were completed at about the same time. We (and our spouses) are pleased with the end results.

I hired a builder who handled the project from beginning to end. My friend acted as the general contractor on his home.

I visited my home site once a week, monitoring progress and making little changes to the design as my home went from a hole in the ground to a dream home.

My friend was onsite daily, managing sub-contractors, scheduling deliveries, meeting with bankers.

Depending on your ability, desire and free time, you can either manage the entire Red Flags Rule solution yourself or outsource it to a competent vendor. You only have a few months left.

The magic seven words

The final rules and guidelines of the Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003 were issued by several federal regulatory agencies late last year. Dealers are required to have a program in place by November 1, 2008.

The PDF version I have of the final rules is 125 pages long. About 13 pages apply to car dealerships. Complying with the Red Flags Rule can be broken down into seven words: policy, train, detect, prevent, mitigate, oversight and ensure.

If you decide to become the general contractor you must find vendors who will provide tools to comply with the magic seven words.

Policy

The RFR requires that the dealer have a written policy that outlines the program and the processes within the dealership.

As a general contractor, you must find and manage a vendor who will provide you with a written policy specific to your dealership.

Train

You are required to train your employees in your program and the processes within your program. To protect yourself, you should keep track of which employees were trained and when the training was administered.

As a general contractor, you must find and manage a vendor who will train your employees in the RFR program with your solution and for your own protection and documentation, keep track of which employees were trained and the date they were trained.

Detect

The RFR provides a list of potential red flags. While the rule does not require that a dealer develop a program that incorporates the detection of each of these potential red flags, try explaining why you didn't if it would have flagged a transaction.

As the general contractor, you must find and manage a vendor who will deliver a solution that helps to detect the potential red flags identified in your program, both electronic and manual red flags.

Prevent

Here the agencies are ambiguous. They simply require a dealer to have processes in place to help prevent identity theft from occurring in a transaction at your dealership. Most ID theft experts agree that asking out-of-wallet questions provides a higher degree of prevention than simply comparing application data to credit bureau data.

As the general contractor, you must find and manage a vendor who will provide a solution that requires a consumer to answer out-of-wallet questions as a way of protecting both the consumer and your dealership.

As an aside, please understand that no solution can guarantee that a consumer's identity will not be stolen. If the vendor will give you a guarantee, get it in writing.

Mitigate

If a security breach happens at your dealership, you will be required to mitigate the damage to the consumer.

As the general contractor, you must find and manage a vendor who will provide a tool to mitigate the effects of identity theft on your customers.

Oversight

The owner, or board of directors, is required to approve the initial program, ensure oversight of the development, implementation and administration of the program, training staff and overseeing service provider agreements.

As the general contractor, you are the oversight committee. Just make sure you write your annual written report on the sufficiency of your program.

Ensure

This is another way to say audit. The rule requires that dealers ensure the program is updated periodically, the program is tested for sufficiency and an annual written report is provided to the owner of the dealership on an annual basis.

As the general contractor, you must find and manage a vendor who will provide the program audits, update your program as needed and write the annual written report to me.
Or, you can do like I did...hire a general contractor and end up at the same result without the angst.

Gil Van Over is the president of gvo3 & Associates, a nationally recognized dealer compliance consulting firm. He assists dealers with F&I and sales compliance.