

Legal Information for Moving Companies

For all US DOT FMCSA regulated interstate movers of household goods

Prepared by Michael A. Garcia, Attorney at law
2900 Gordon Ave., Suite 100-60 • Santa Clara, California 95051
Telephone: 408-730-8683 • Fax: 408-292-9651

Estimate Information

Are written estimates required for each move?

Yes. A motor carrier must provide a written estimate to each prospective consumer shipper. An estimate must list all charges for transportation, accessorial services, advance charges, and the form of payment accepted. Both the consumer shipper and a representative from the motor carrier must sign and date each estimate. (49 CFR section 375.401(a)).

Is the estimate a contract?

No. An estimate is neither a bid nor a contract. It is merely an approximation of what the move may cost based on the services listed on the estimate. The only contract between a motor carrier and a consumer shipper is the “bill of lading.” The motor carrier or the consumer shipper may cancel the move at anytime prior to a bill of lading being signed. Consumer shippers should be informed that the charges listed on the estimate are not guaranteed and that the actual charges of the move may be higher or lower than the amount estimated.

What types of estimates are allowed?

Federal law governing interstate motor carriers requires that the consumer shipper receive a written and reasonably accurate estimate of all charges for the services proposed. Federal law permits and requires only two types of estimates: BINDING and NON-BINDING. The written estimate document must expressly state whether it is BINDING or NON-BINDING and must be signed by both the motor carrier and the consumer shipper. (49 CFR section 375.401(a)).

Federal law does not have a provision for any type of estimate other than BINDING or NON-BINDING. For example, estimates issued as “not to exceed” or “guaranteed not to exceed” or “flat rate price” are not specifically allowed under any provision of federal law.

Non-binding estimate:

A non-binding estimate is the estimated total cost of the entire move, based upon the estimated weight of the shipment and the accessorial services requested. A non-binding estimate is meant to give the consumer shipper a general idea of the cost of the move. The non-binding estimate is not a guarantee that the actual charges will not be higher than estimated. The estimate document must explain to the customer in easy to understand language that the final charges are based on the actual weight of the property and accessorial services.

Non-binding estimates must be in writing and clearly describe the shipment and all services proposed. (49 CFR section 375.405(b)(6)). Any time a motor carrier provides such an estimate, the amount of the charges estimated must be transferred to the order for service and/or bill of lading. The figures on both documents must match. Non-binding estimates must be provided to a prospective consumer shipper for free. (49 CFR section 375.405(b)(3)).

The 110% rule only applies to non-binding estimates. Under the 110% rule, the motor carrier may only demand the total charges listed on the estimate plus 10%. If the consumer shipper pays the amount of the estimate plus 10%, then the motor carrier must deliver all of the consumer shipper's property even if the consumer shipper stills owes a balance.

When a move is to be charged based on weight, the final charges will be determined by the actual weight of the shipment, the services provided, and its tariff provisions in effect. A shipper should be prepared to pay up to ten percent (10%) more than the estimated amount at delivery. The final charges for a move will be based upon and in accordance with the motor carrier's published tariff.

If the consumer shipper orders additional services after the goods are in transit, the motor carrier will then bill the shipper 30 days after delivery for any remaining charges. (49 CFR section 375.405(b)(10)). However, if the motor carrier believes that additional services are needed after the goods are in transit, the company must first inform the shipper of the additional service and obtain their approval. (49 CFR section 375.405(b)(9)).

Binding estimates:

A binding estimate is an agreement made in advance between the consumer shipper and the motor carrier. It provides that the total cost of the move will be based upon the description of services and quantity of items (item list) shown on the binding estimate. (49 CFR section 375.401(a)(1)).

The term "binding" is misleading in that it suggests that the total amount listed on the binding estimate is guaranteed. This is not the case. A binding estimate may be "revised" on the date of pick-up, prior to any work beginning, for a higher charge based on additional services or items being transported.

A binding estimate must be in writing, state that it is "binding", and contain the signatures of both the motor carrier and the shipper. A binding estimate must clearly describe the shipment and all services provided. (49 CFR section 375.403(a)(4)). A motor carrier may charge a shipper a fee for providing a binding estimate. (49 USC 14104(b)(1)(C)(ii)).

Generally, when charges are based on binding estimates the shipper will not be required to pay more than the estimated amount at delivery. The charges are due at the time of delivery, prior to unloading in compliance with the carrier's published tariff. (49 CFR section 375.407(a)).

If the consumer shipper has requested additional or accessorial services that were not listed on the estimate, the motor carrier may demand full payment for those added services at the time of delivery prior to unloading. Such services might include destination charges that often are not known at origin (such as long carry charges, shuttle charges, or extra stair carry charges).

Revised written estimate or rescission.

An estimate, whether binding or non-binding, may be increased or decreased in price anytime prior to work beginning. In accordance with 49 CFR § 305.403(a)(5)(ii) and/or 49 CFR § 305.405(b)(7)(ii): If prior to or on the day of the scheduled pick-up the shipper tenders more property or makes a change to the initial order for which they received an estimate; the motor carrier may either (1) undertake the job with the additional property, in which case the shipper would only be required to pay 10% more than the initial estimate to receive the property on a non-binding estimate or 100% of the binding estimate and the remaining balance will be billed after the 30 day deferment; **or** (2) the carrier and shipper may execute a Revised/Rescission document, **PRIOR TO LOADING OR OTHERWISE BEGINNING THE JOB.**

The rescission document and new estimate given prior to loading will serve as the only active estimate for which charges will be calculated. To change an estimate, the consumer shipper and the motor carrier must both agree to make changes and must do so before the shipment has been loaded. (49 CFR section 375.401(g)).

For example, a shipper may receive over the telephone a non-binding estimate based on 200 items to be moved for a price of \$2,000. Based upon that estimate the shipper will book the job, pay the deposit, make travel arrangements, and plan to vacate their home on the scheduled moving date. However, when the motor carrier arrives on the pickup date he visually inspects the property and determines, prior to beginning any work, that there will be 400 items to be moved and not the estimated 200 items. This situation creates problems for both the motor carrier and the consumer shipper.

Confronted with the situation described above, a motor carrier may legally rescind/cancel the original estimate and provide the consumer shipper with two options. First, cancel the job in its entirety; or second, create a revised written estimate based upon 400 items to be moved at a price of \$4,000. If the customer agreed to the new price and signed the “revised written estimate,” then the original estimate is canceled and the goods will be transported under the terms of the new estimate.

Although perfectly legal, this situation is not a good option for the motor carrier or the customer. Consumer shippers may feel like they have no choice but to agree to the new price because they have made plans scheduled around the move date. Nevertheless in this situation, assuming the revised estimate was written correctly, the motor carrier has acted legally.

To avoid placing the customers in this situation it is advised that motor carriers do the following: 1. Provide shippers with visual in-home accurate estimates or estimates based on a detailed and accurate item list. 2. Inform the shipper of the possibility of any and all additional charges well in advance of the move date. 3. Make certain the shipper understands that the price is NOT guaranteed.

ABOUT THIS DOCUMENT: This document was created to help protect consumers by educating moving companies as to the regulations they must follow. Federal laws regulating moving companies are designed to help protect consumers and create an even playing field for moving companies. By following the law, moving companies can avoid government fines, lawsuits, and provide better service to their customers. This document is provided for general informational purposes only. This document is not intended to and does not provide legal advice or counsel. The author of this document is offering general information about the law cited and is not offering specific legal advice. Laws and procedures change frequently, and they can be interpreted differently by different people. For legal advice and answers to specific questions regarding your situation please call the Law Offices of Michael Garcia at 408-730-5683.