

CHAPTER 9. DEPARTMENT OF VETERANS AFFAIRS (VA) PURCHASE

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### 9.01 VA PURCHASE – GENERAL (38 C.F.R. § 36.4320)

a. A VA Purchase is when the VA elects to exercise the authority at 38 U.S.C. § 3732 to purchase a delinquent loan from the holder and provide for loan servicing responsibilities. Depending on the type of VA purchase, either (i) VA then holds the loan in VA's own loan portfolio and modifies the loan to resolve the delinquency and make the payments more affordable for the Veteran, or (ii) the servicer modifies the loan to bring it current before VA purchases it and boards it in VA's own loan portfolio. In general, VA uses this authority to assist Veterans who are most at-risk of foreclosure and cannot resolve their delinquency through traditional home retention and loss--mitigation options.

b. VA has established two types of VA Purchase under VA's implementing regulation at 38 C.F.R. § 36.4320:

1. Traditional VA Purchase (tVAP) – Loan is evaluated by VA on a case-by-case basis when VA determines this option may be in the best interest of both the Veteran and VA.

2. VA Servicing Purchase (VASP) – Loan is evaluated by the servicer under streamlined criteria. This option may be available when it is the most appropriate home retention option under VA's Home Retention Waterfall.

c. A borrower cannot elect to use the tVAP or VASP programs. The programs are offered to a borrower based on a review of all home retention options available and qualifying criteria.

### 9.02 TRADITIONAL VA PURCHASE (tVAP) CONSIDERATION

a. Initiating tVAP Consideration. Either the servicer or the VA-assigned technician may initiate a request for tVAP evaluation. In initiating a tVAP, the servicer does not review any qualifying loan criteria, and simply refers the loan to VA to conduct a review. VA generally considers tVAP when the original obligor(s) are on the guaranteed loan. However, in rare circumstances, the VA-assigned technician may consider tVAP after an assumption if the case meets the conditions outlined in 9.02.b. and the technician determines the tVAP is in the best interest of the Government.

b. General tVAP Requirements. While each loan is considered under tVAP on a case-by-case basis, a loan cannot be approved for tVAP unless all the following conditions are met:

1. The servicer has made the final decision to foreclose.
2. If the tVAP is completed, the borrower certifies the borrower intends to retain home and occupy it as their residence.
3. The borrower overcame the reasons for default and regained the ability to resume monthly payments or will have that ability in the reasonably foreseeable future.

4. The VA-assigned technician determines the borrower and all other obligors on the loan had an acceptable credit history prior to default and can verify current or future income that is stable and reliable.

5. The borrower is the current legal owner of record on the property.

6. The borrower and all other obligors on the loan agree to the modification offered by VA. The modification will include a provision calling the loan due on the sale of the property.

7. The VA-guaranteed loan is in first lien position and the property is not encumbered by any liens or judgments that would jeopardize VA's first lien position.

c. Preliminary Review. The VA-assigned technician will conduct a preliminary review of the loan to determine viability for tVAP.

1. The servicer is responsible for providing VA with the following information: the Total Eligible Indebtedness, the borrower's and other obligors' monthly gross income, and the expected monthly escrow amount.

2. The VA-assigned technician will complete the preliminary review, including checking the Credit Alert Interactive Voice Response System for federal debts owed by the borrower and other obligors, and evaluate the loan and any potential modifications to the guaranteed loan terms. The technician will determine the viability for tVAP consideration and notify the servicer of VA's preliminary decision. The preliminary decision will be communicated to the servicer and borrower and thoroughly documented in the VA Loan Electronic Reporting Interface (VALERI) case notes.

d. Full tVAP Review. If the VA-assigned technician decides to pursue further consideration, the technician will notify the servicer and request suspension of all efforts to terminate the loan until VA's final decision is rendered.

1. The servicer will obtain a title search and provide required loan data to VA, including, but not limited to, all tax and insurance information, copies of the mortgage note and recorded security instrument, and amounts of any outstanding Homeowner Association (HOA) charges and special assessments.

2. The VA-assigned technician will notify the borrower and request the following financial information from the borrower and all obligors: proof of income, hardship letter, VA Form 26-5655, [\*Financial Status Report\*](#), and VA Form 26-6807A, [\*Supplemental Certification for Financial Statement\*](#).

3. Upon receipt of all documentation, VA will conduct an analysis and complete the tVAP decision process. The VA-assigned technician will open the traditional VA Purchase Decision process in VALERI and review to determine if VA will approve the VA Purchase of the loan. If the recommendation by the technician is approved by the Servicing Officer, the VA-assigned technician will document the decision in VALERI and notify the servicer and the borrower of

VA's decision. The final tVAP decision will be communicated to both the servicer and the borrower and must be thoroughly documented in the VALERI case notes.

### 9.03 PROCESSING TRADITIONAL VA PURCHASE (tVAP) LOANS

a. Upon approval of the tVAP, servicers are required to submit the Basic Claim event for the tVAP, with supporting invoices, ledgers, and other documentation in VALERI, not later than the settlement date provided in VA's approval letter. VA cannot issue the tVAP claim payment until the event has been submitted.

1. VA's systems do not allow for supplemental or appeal tVAP claims.

b. A complete title and loan package is forwarded to VA before the settlement date provided in VA's approval letter. Servicers are to provide the following for a complete and acceptable title and loan package:

1. Original mortgage or security instrument, with all assignments and any subordination agreements. VA will accept copies certified by a local authority.

2. Original note endorsed to the Secretary of Veterans Affairs, an Officer of the United States.

3. Recorded assignment of mortgage to the Secretary of Veterans Affairs, an Officer of the United States, or copies certified by a local authority.

4. Original or copy of the mortgagee's title insurance policy, naming the Secretary of Veterans Affairs, an Officer of the United States as a co-insured, and an updated policy or endorsement naming the Secretary of Veterans Affairs, an Officer of the United States as insured as of the date the assignment was recorded.

c. After receiving the complete title and loan package, VA will submit the documents to the Office of General Counsel's Loan Guaranty National Practice Group (NPG) for final title assessment. VA does not certify claim payment until after receiving NPG's title assessment. If NPG does not identify a legal problem (actual or potential) with the quantum or quality of title, VA will process the Purchase Claim and prepare a tVAP set-up sheet. If the title is not acceptable, VA may decline the tVAP and reassign the loan to the servicer.

d. After receiving the NPG's favorable title assessment, the VA-assigned technician will process the Purchase Claim and prepare a set-up sheet to populate both the current loan terms and the Modified Loan terms of the tVAP loan and upload the information into VALERI. The technician will also send an electronic copy of the final title package to VA's portfolio contract servicer (contractor), to prepare the loan modification agreement using the terms outlined in the tVAP set-up sheet. The Loan Administration Officer (LAO) will confirm with the Administrative Loan Accounting Center that the loan was boarded with the contractor in its delinquent status.

e. The contractor prepares the tVAP loan modification agreement for signature. After the contractor receives the borrower's executed loan modification agreement, the contractor forwards the agreement to the VA-assigned technician for the LAO or the Assistant Director of Loan Administration signature. The fully executed loan modification agreement is then sent back to the contractor and the tVAP is finalized. If the borrower fails to return the executed agreement and arrearages remain unpaid, the loan will remain in a delinquent status and the contractor may initiate immediate foreclosure action.

f. After receiving the title policy endorsed to the Secretary of Veterans Affairs, an Officer of the United States, or a new title policy, along with the recorded assignment of mortgage to the Secretary of Veterans Affairs, an Officer of the United States, the VA-assigned technician will forward these documents to the contractor.

g. Once the tVAP is completed, the contractor has limited authority to assist borrowers in the event of a future default.

#### 9.04 VA SERVICING PURCHASE (VASP) PROCESS

a. VASP is when VA elects to purchase a loan from the servicer under an expedited process. VASP payments will include the full balance of the loan, as described below. After VA has certified the VASP payment, servicers are to complete a VASP loan modification.

b. VASP differs from tVAP, in that, for VASP, the servicer evaluates a delinquent loan and, if certain criteria are met, completes prescribed actions that will result in a loan purchase by VA. Also, unlike tVAP, VASP criteria may include a trial payment period (TPP) before VA purchases the loan. More information about TPPs is found below. Servicers are to follow the VA Home Retention Waterfall to determine the most appropriate home retention option. If the waterfall review leads to VASP, then the servicer will review the qualifying loan criteria:

1. The loan is between 3- and 60-months delinquent on the date the servicer submits in VALERI either the VASP TPP event or the VASP with No TPP event. For additional information on VASP events, refer to section 9.06(a) of this chapter.

2. The property is owner-occupied. Rental or investment properties do not qualify for VASP. Servicers are to confirm occupancy status with the borrower during the VASP review. In the case of a divorce, the criterion of owner-occupancy is met if the individual who received the property through the divorce resides in the property as their primary residence. In a case where the borrower is deployed on military service, hospitalized, or in a long-term care setting, the occupancy requirement can be met if an immediate family member resides in the property.

3. Neither the borrower nor any other obligor is in active bankruptcy at the time of the applicable VASP event submission outlined in section 9.07 and 9.08 of this chapter. Dismissed or discharged bankruptcies, whether Chapter 13 or Chapter 7, do not preclude the VASP review.

4. The reason for default has been resolved and the borrower has indicated they can resume making scheduled payments.

5. The borrower and all other obligors have a stable and reliable source of income.
6. The VA-guaranteed loan is in first lien position, and the property is not encumbered by any liens or judgments that would jeopardize VA's first lien position.
  - (a) Servicers are to confirm that Homeowner Association (HOA) charges are current. If they are not current, servicers are to include any outstanding HOA charges and special assessments in the VASP payoff.
7. The borrower has made at least six-monthly payments on the loan since origination. If the loan has been modified, the borrower has made at least six-monthly payments since the most recent modification.
8. The borrower is the current legal owner of record on the property.
  - (a) All parties obligated on the note are to sign the VASP modification, even if one co-borrower has executed a quit claim deed to the other obligor(s).
  - (b) In the case of a divorce, a spouse obligated on the original note can be treated as a borrower under the VASP program, if the spouse received the property in the divorce. No assumption paperwork is necessary, unless required under other federal or state law. A divorced spouse who is not an obligor on the original note but who received the property through the divorce will need to complete an assumption of the loan before the servicer offers VASP. Compliant documents for the latter will show that the spouse fully assumed the loan and is the current legal owner of record on the property.
  - (c) In the case of a deceased borrower, the surviving spouse obligated on the original note can be treated as a borrower under the VASP program, if the spouse received the property in the distribution of the estate (whether testate or intestate) and continues to occupy the property as a residence. If the surviving spouse is not an obligor on the original note, VASP is only available if—
    - (i) the surviving spouse continues to occupy the property,
    - (ii) the surviving spouse completes an assumption of the loan before the servicer evaluates the loan for VASP, and
    - (iii) all legal owners of record on the property agree to any security instrument securing the assumption (where legally necessary).
9. The servicer has confirmed the borrower and all other obligors are willing and able to execute the VASP loan modification, if approved.
  - c. Servicers are to review and determine if the borrower and other obligors meet the qualifying loan criteria. Servicers are responsible for offering the most appropriate option to the borrower in

accordance with the VA Home Retention Waterfall. VA will conduct an automated, preliminary review of the qualifying loan criteria through VALERI, and oversight will be conducted through a Post Audit process after the VASP payment certification.

d. VASP is the final home retention option available in the VA Home Retention Waterfall. If the loan does not meet the qualifying loan criteria, then the servicer evaluates and offers any appropriate alternatives to foreclosure. More information on alternatives to foreclosure can be found in Chapter 5 of this manual.

#### 9.05 VA SERVICING PURCHASE (VASP) TERMS

a. After the servicer determines the loan qualifies for VASP, the servicer is to evaluate the loan to determine the appropriate terms that can be offered to the borrower.

b. Until further notice, all VASP loans will be modified at a fixed interest rate of 2.5%, with either a 360- or 480-month term. Servicers will first calculate the payment at 360 months. If this does not realize at least a 20% reduction in the principal and interest portion of the monthly payment, servicers will extend the term to 480 months. If the borrower cannot afford to resume monthly payments with the term of 480 months, the servicer is to evaluate and offer any appropriate alternatives to foreclosure. More information on alternatives to foreclosure can be found in Chapter 5 of this manual.

1. For an adjustable-rate mortgage (ARM), the 20% reduction is determined based on the amount for the current monthly payment due.

2. The servicer includes the VASP payoff amount which means the sum of the unpaid principal balance, accrued unpaid interest, expenses, and advances and credits when calculating the VASP loan modification amount. Late fees and other charges not expressly authorized by VA may not be capitalized.

c. Loans will require a TPP under any one or more of the following circumstances:

1. The loan is 24 months or more delinquent.

2. The principal and interest portion of the monthly payment is not reduced by at least 20%. For an adjustable-rate mortgage (ARM), the 20% reduction is determined based on the amount for the current monthly payment due.

d. If a borrower fails a TPP, the loan may be evaluated for VASP again in the future. However, if a borrower fails three TPPs during a single default episode, the loan no longer qualifies for VASP.

e. Servicers that fail to properly evaluate the loan as described above may be subject to administrative enforcement action, including, but not limited to, temporary or permanent suspension of property acquisition and claim payments. See 38 C.F.R. § 36.4320. Additionally, under 38 C.F.R. § 36.4336, VA may refuse to either temporarily or permanently guarantee or

insure any loans made by such servicer and may bar such servicer from servicing or acquiring guaranteed loans.

#### 9.06 VA SERVICING PURCHASE (VASP) TRIAL PAYMENT PLAN (TPP)

a. A VASP TPP allows the borrower to demonstrate the ability to repay the loan, under the terms of the VASP. A VASP TPP is only offered when qualifying loan criteria are met and where the VA Home Retention Waterfall indicates the need for a TPP. The servicer provides a written TPP to outline the terms and payment amounts to the borrower not later than 15 calendar days from the date that VA accepts the VASP TPP. VASP TPPs are to meet the following items:

1. All VASP TPPs will have a three-payment duration.
2. Servicers are to complete an escrow analysis prior to establishing a TPP.
3. VASP TPP payments are equal to the anticipated monthly payment that would be due after the VASP loan modification is complete.
4. If the servicer sends the TPP on or before day 15 of the calendar month, the first TPP payment will be due on day 1 of the successive calendar month. If the servicer sends the TPP after day 15 of the calendar month, the first TPP payment will be due on day 1 of the successive month following the next month. The remaining two payments will be due on the same day for the next two consecutive months. For example:

(a) If the TPP is sent on January 5th, the first TPP payment would be due on February 1st. The remaining two TPP payments would be due March 1<sup>st</sup> and April 1<sup>st</sup>.

(b) If the TPP is sent on January 17th, the first TPP payment would be due on March 1st. The remaining two TPP payments would be due April 1<sup>st</sup> and May 1<sup>st</sup>.

5. The borrower makes each of the three scheduled trial payments on or before the last day of the month in which the payment is due or the TPP is considered failed.

b. Upon successful completion of the TPP, the servicer submits a request to VA for VASP payment by submitting the TPP Complete event. Upon failure of the TPP, the servicer proceeds with delinquent loan servicing.

#### 9.07 VA SERVICING PURCHASE (VASP) EVENTS

a. The servicer reports all VASP related events in VALERI using the Event Bulk Upload template, located at [VALERI \(VA Loan Electronic Reporting Interface\) Guides and Templates](#). Servicers are to confirm the VASP terms and payment amount with the borrower before reporting any VASP events.

1. VASP TPP Event. When the loan meets the VASP criteria, but the VASP requires a successful TPP, servicers are to report the VASP TPP event. An accepted event indicates the



loan meets the VASP criteria, contingent upon the successful completion of the TPP, and the servicer offers the VASP TPP to the borrower. An accepted event will have an event status of Accepted or Requires VA Review. If the event is not accepted, the qualifying loan criteria were not met.

(a) Servicers are responsible for notifying the borrower if the VASP was accepted, based on the event status.

(b) Loans are to meet the VASP qualifying criteria at the time of VASP TPP event submission.

(c) Servicers are to report the VASP TPP event not later than 30 calendar days from the date the servicer reviewed the borrower for options under the VA Home Retention Waterfall.

2. TPP Complete Event. After the scheduled completion date of the TPP, servicers are to report the TPP Complete event. Within the event, servicers will indicate if the TPP was successful or unsuccessful. If the TPP was successful and the TPP Complete event is accepted, the VASP Payment Process will launch. If the TPP was not successful, no other events or actions are needed from the servicer. An accepted event will have an event status of Accepted or Requires VA Review.

(a) If the borrower filed a Chapter 13 Bankruptcy during the TPP, the servicer would need to provide evidence of the bankruptcy court's approval or acquiescence to the VASP. If the borrower filed a Chapter 7 Bankruptcy during the TPP, the borrower would not qualify for VASP until the bankruptcy proceedings are closed.

(b) Servicers are to report the VASP TPP Complete event not later than 30 calendar days from the date of receipt of the final TPP payment, if received, or the last day of the month in which the final TPP payment is scheduled.

3. VASP with No TPP Event. If a loan meets the VASP qualifying criteria and does not require a TPP, the servicer reports the VASP with No TPP event. If the event is accepted, this will indicate the loan has met the VASP criteria, and the servicer will offer the borrower the VASP modification. Once the VASP with No TPP event is accepted, the VASP Payment Process will launch. Accepted events will have an event status of Accepted or Requires VA Review. If the event is not accepted, the qualifying loan criteria were not met.

(a) Servicers are responsible for notifying the borrower if the VASP with No TPP event was accepted, based on the event status.

(b) Loans are to meet the VASP qualifying criteria at the time of VASP with No TPP event submission.

(c) Servicers are to report the VASP with no TPP event not later than 30 calendar days from the date the servicer reviewed the borrower for options under the VA Home Retention Waterfall.

9.08 VA SERVICING PURCHASE (VASP) PAYMENT PROCESS AND LOAN MODIFICATION

a. Servicers are responsible for uploading electronic copies of all required documents into VALERI not later than 6 business days after the VASP Payment Process is launched. The VASP Payment Process will not be presented to a VA-assigned technician for review until all documents have been received. The required documents are:

1. Ledgers/payment histories for the current default episode.
2. Tax and insurance escrow information, including the most recent escrow analysis.

3. Payoff statement with payoff date valid through the last day of the month preceding the interest to due date, excluding interest that would be included in the first payment under the VASP loan modification, as outlined in section 9.08(c)(2) of this chapter. For example, if the first payment on the VASP loan modification is due in August, interest would be included through the last day of June on the payoff statement.

(a) Servicers are to pay all pending tax and insurance payments due and include this amount in the payoff statement.

(b) Servicers are to pay any pending HOA payments that threaten the VA-guaranteed loan's first lien position (i.e. HOA super liens) and include this amount in the payoff statement.

(c) Late fees are not to be included in the payoff statement. Servicers are to waive these fees.

(d) If the borrower has funds in their escrow account, the funds are not to be considered or used to reduce the VASP payoff amount.

(e) There will be no appeals or supplemental payment requests allowed after VA has issued the VASP payment. Servicers are only to advance funds for taxes, insurance and assessments that would threaten the VA-guaranteed loan's first lien position. Any other expenses incurred by the servicer will not be reimbursed.

4. Copies of the note, recorded mortgage, recorded deed of trust, and any other documents to support borrowers are on the title.

5. A copy of a title search showing the VA-guaranteed loan is in first lien position and that the property is not encumbered by any liens or judgments that would jeopardize VA's first lien position. Because VA is simply assessing the business risk of whether to purchase the loan and is not determining the legal status of the title to the property, the VA-assigned technician will not send the title search to the NPG. VA is instead accepting the servicer's assertion that VA's first lien position has not been jeopardized. If during the post-audit process or as a result of legal challenge, VA finds that the loan did not remain in the first lien position, VA will not reassign the loan to the servicer but will issue a bill of collection to recoup any losses VA incurs. If a

servicer demonstrates a pattern of failures in this regard, VA may consider taking other administrative action, as described in 9.05 of this chapter.

6. A copy of the TPP offered to the borrower, if applicable.

7. Evidence of bankruptcy court's approval or acquiescence to the VASP loan modification, if the borrower filed a Chapter 13 Bankruptcy during a TPP.

b. VA will review the case after VA receives all the enumerated documentation from the servicer. The VASP payment will be issued for the VASP payoff amount. VA-assigned technicians will confirm the requested payoff amount is appropriate, based on supporting documentation. Servicers can review the payment details on the VA Servicing Purchase Status report.

c. Once VA has certified the VASP payment, servicers are to draft a VASP loan modification with the appropriate terms, as outlined in section 9.05 of this chapter. The VASP loan modification amount should equal the VASP payment. Within 15 calendar days of the VASP payment certification, servicers are to send the VASP loan modification documents to the borrower to execute and return.

1. All monthly payments on the VASP loan modification are due on the first day of the month.

2. Servicers are to consult the table below to set the first monthly payment due date. The table lists the first monthly payment due date based on the month of the VASP with no TPP or TPP Complete event acceptance. For example, if the VASP event is accepted on June 1, the first payment due date under the VASP loan modification would be October 1.

<b>Month VASP Event Accepted</b>	<b>First Payment Due Date</b>
January	1-May
February	1-Jun
March	1-Jul
April	1-Aug
May	1-Sep
June	1-Oct
July	1-Nov
August	1-Dec
September	1-Jan
October	1-Feb
November	1-Mar
December	1-Apr

3. If the borrower has previously discharged the VA-guaranteed loan debt through a Chapter 7 Bankruptcy, servicers are to include the following statement in the VASP loan modification

document: *Notwithstanding the foregoing or any other provisions contained herein, if personal liability with respect to any amounts payable under the VA-guaranteed loan note has been discharged in bankruptcy, Borrower and Note Holder understand and agree that nothing contained herein with respect to any amounts payable under this Note, shall be construed to impose personal liability to repay any such obligation in violation of such discharge. Borrower and Note Holder further understand and agree that to the extent that such personal liability with respect to any amounts payable under the VA-guaranteed loan note has been discharged in bankruptcy, Borrower is entering into this Note voluntarily for the benefits to be obtained thereby and not as an affirmation of the debt evidenced by the VA-guaranteed loan note, and that this Note, or any actions taken by Note Holder in relation to this Note, does not constitute a demand for payment or any attempt to collect any such previously discharged obligation.*

4. If the VASP did not need a TPP, servicers are to complete an escrow analysis before drafting the VASP loan modification agreement.

5. If the borrower does not return the VASP loan modification documents within 45 days from the date of the VASP payment certification, servicers are to notify the VA-assigned technician. VA will attempt to contact the borrower and assist the servicer in obtaining the executed documents.

#### 9.09 VA SERVICING PURCHASE (VASP) POST AUDIT REVIEW

a. The VASP Payment Process will be included in Post Audit selections. The VA-assigned technician will review the reported data elements and document findings with the Post Audit process.

b. Additional information on Post Audit reviews for VASP can be found in chapter 15 of this manual.