

Chapter 8  
GUIDELINES FOR THE DEVELOPMENT AND  
ADMINISTRATION OF A SELF-EMPLOYMENT PLAN

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Chapter 8  
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8.01 Introduction

The Department of Veterans Affairs (VA) Vocational Rehabilitation and Employment (VR&E) program uses a variety of rehabilitation plans in an effort to provide individualized services. Veterans who have the skills and interest to start a business may benefit from a self-employment plan. This chapter will outline the services available in a self-employment plan, discuss how to develop and administer a self-employment plan and provide regulatory and procedural guidance on this type of plan.

8.02 References and Resources

Laws:                   Public Law 108-183, Veterans Benefits Act of 2003  
                              Small Business Act of 1953  
                              38 United States Code (U.S.C.) 3101  
                              38 U.S.C. 3104  
                              38 U.S.C. 3107  
                              38 U.S.C. 3111  
                              38 U.S.C. 3117

Regulations:         38 Code of Federal Regulations (CFR) 21.35  
                              38 CFR 21.70  
                              38 CFR 21.78  
                              38 CFR 21.84  
                              38 CFR 21.88  
                              38 CFR 21.98  
                              38 CFR 21.120  
                              38 CFR 21.214  
                              38 CFR 21.250  
                              38 CFR 21.252  
                              38 CFR 21.254  
                              38 CFR 21.257  
                              38 CFR 21.258  
                              38 CFR 21.260  
                              38 CFR 21.268  
                              38 CFR 21.282  
                              38 CFR 21.283  
                              38 CFR 21.362  
                              38 CFR 21.364

VA Forms (VAF): VAF 119, Report of Contact  
VAF 28-0794, Self-Employment Plan Approval Request  
VAF 28-0800, VR&E Program Orientation  
VAF 28-0853, Checklist for Proposed Discontinuance  
VAF 28-0957, Vocational Rehabilitation Guidelines and Debt Prevention  
VAF 28-0962, Checklist for Proposed Self-Employment Rehabilitation  
VAF 28-1902b, Counseling Record - Narrative Report  
VAF 28-1902n, Counseling Record - Narrative Report (Supplemental Sheet)  
VAF 28-1902w, Rehabilitation Needs Inventory  
VAF 28-8872, Rehabilitation Plan  
VAF 28-8872a, Rehabilitation Plan - Continuation Sheet

Websites: [www.sba.gov](http://www.sba.gov)  
[www.vetbiz.gov](http://www.vetbiz.gov)  
[www.askjan.org](http://www.askjan.org)  
[www.vaaccelerator.com](http://www.vaaccelerator.com)  
<http://www.va.gov/osdbu/veteran/vep.asp>

### 8.03 Self-Employment Plan Overview

Self-employment is a viable rehabilitation objective for many Veterans. The conditions under which VR&E can furnish self-employment services are outlined in 38 CFR 21.257. VR&E encourages self-employment as an objective for Veterans who are unlikely to achieve rehabilitation through employment with existing companies, agencies or organizations.

#### a. Definitions

38 U.S.C. 3101 and 38 CFR 21.35 provide definitions to the most commonly used terms in VR&E. The most commonly used terms in a self-employment rehabilitation plan are:

##### 1. Veterans with the Most Severe Service-Connected Disabilities who Require Self-Employment

38 CFR 21.257 states that this term refers to Veterans who have been determined by VA to have limitations affecting employability arising from the effects of the Veteran's service-connected disability(ies), which are so severe as to necessitate selection of self-employment as the only reasonably feasible vocational goal for the Veteran.

2. Rehabilitated To the Point of Employability (RTE)

RTE means that the Veteran is employable in an occupation for which a Vocational Rehabilitation program has been provided by VA's VR&E program.

3. Employable

38 CFR 21.250 defines employable as being able to secure and maintain suitable employment in the competitive labor market, in a sheltered workshop/rehabilitation facility or other special situation at the minimum wage.

4. Vocational Goal

A vocational goal means gainful employment that is consistent with the Veteran's abilities, aptitudes and interests.

5. Suitably Employed

38 CFR 21.283 defines suitably employed as employment in the competitive labor market, sheltered situations or on a no-pay basis which is consistent with the Veteran's abilities, aptitudes and interests.

- b. Purpose

The purpose of the self-employment track is to provide services for Veterans who have the necessary job skills to start a business. Self-employment may also be the right track for Veterans who have limited access to traditional employment or require a more accommodating work environment due to the effects of a disability.

- c. Duration

Per 38 CFR 21.70, Vocational Rehabilitation programs cannot exceed 48 months, or the part-time equivalent, except as indicated in 38 CFR 21.78. Extensions are based on the Veteran's employment handicap (EH) classification and require VR&E Officer (VREO) concurrence. 38 CFR 21.78 provides the following guidance on extensions beyond 48 months based on the classification of:

1. Employment Handicap (EH)

A rehabilitation program for a Veteran with an EH may be extended beyond 48 months when:

- (a) The Veteran previously completed training for a suitable occupation, but the Veteran's service-connected disability has worsened to the point that he/she is unable to perform the duties of the occupation for which training had been provided, and a period of training in the same or different field is required. An extension beyond 48 months under Chapter 31 alone shall be authorized for this purpose.
  - (b) The occupation in which the Veteran previously completed training is found to be unsuitable because of the Veteran's abilities and EH. An extension beyond 48 months under Chapter 31 alone shall be authorized for this purpose.
  - (c) The Veteran previously used education benefit entitlement under other programs administered by VA, and the additional period of assistance to be provided under Chapter 31, which the Veteran needs to become employable, will result in more than 48 months being used under all VA education programs. Under these conditions, the number of months necessary to complete the program may be authorized under Chapter 31 provided that the length of the extension will not result in authorization of more than 48 months under Chapter 31 alone.
  - (d) A Veteran in an approved Chapter 31 program has elected payment at the Chapter 30 educational assistance rate. The 48 month limitation may be exceeded only if one or both of the following occur:
    - To the extent that the entitlement in excess of 48 months does not exceed the entitlement previously used by the Veteran in a course at the secondary school level before December 31, 1989
    - If the Veteran is in a course on a term, quarter or semester basis which began before the 36 month limitation on Chapter 30 entitlement was reached, and completion of the course will be possible by permitting the Veteran to complete the training under Chapter 31
  - (e) The assistance to be provided in excess of 48 months consists solely of employment assistance.
2. Serious Employment Handicap (SEH)

The duration of a rehabilitation program for a Veteran with an SEH may be extended beyond 48 months under Chapter 31 for the number of months necessary to complete a rehabilitation program under the following conditions:

- (a) To enable the Veteran to complete a period of RTE.
- (b) To provide an extended evaluation in cases in which the total period needed for an extended evaluation and for RTE would exceed 48 months.
- (c) To provide a program of Independent Living (IL) services, including cases in which achievement of a vocational goal becomes feasible during or following a program of IL services.
- (d) The assistance provided in excess of 48 months consists solely of employment assistance.
- (e) Following RTE:
  - (1) The Veteran has been unable to secure employment in the occupation for which training was provided despite intensive efforts on the part of the VA and the Veteran, and a period of retraining or additional training is needed.
  - (2) The skills which the Veteran developed in training for an occupation in which he/she was employed are no longer adequate to maintain employment in that field, and a period of retraining is needed.
  - (3) The Veteran's service-connected disability has worsened to the point that he/she is unable to perform the duties of the occupation for which the Veteran has been trained, and a period of training in the same or different field is required.
  - (4) The occupation in which the Veteran previously completed training is found to be unsuitable due to the Veteran's abilities and EH.

d. Services

The services offered by the VR&E program are governed by 38 U.S.C. 3104. In self-employment planning, services are individualized and designed to assist the Veteran in starting a business. A variety of services are available to assist in meeting this goal, to include:

1. Short-term Training or Certificate Completion

The plan can include short-term training to enhance employment skills and/or obtain professional certification if the Vocational Rehabilitation Counselor (VRC) determines that these skills/certifications are necessary for the Veteran to obtain and maintain suitable employment per 38 CFR 21.120. If training is included as part of the plan, the plan can be developed as an Individualized Written Rehabilitation Plan (IWRP) or a combined IWRP/Individualized Employment Assistance Plan (IEAP).

2. Subsistence Allowance

Subsistence allowance is permissible when training is part of the rehabilitation plan, and all criteria outlined in 38 CFR 21.260 are met.

3. Revolving Fund Loan

Advances from the revolving fund are permissible in either an IWRP or a combined IWRP/IEAP. Per 38 CFR 21.254, revolving fund loans are prohibited during a program that consists solely of employment services, i.e., an IEAP.

4. Work-Study Allowance

Participation in the work-study program is appropriate while participating in either an IWRP or a combined IWRP/IEAP. However, if the Veteran is participating in a program of employment services only, then he/she will not meet the eligibility criteria for participation in the work-study program.

5. Career Counseling

The VRC or Employment Coordinator (EC) assigned to provide case management services continually provides career counseling to ensure the Veteran has the skills necessary to make an informed decision regarding his/her vocational goal.

6. Job Accommodations

The case manager will work closely with the Veteran to identify and address any needed job accommodations. The Job Accommodation Network (JAN) is an excellent resource for identifying accommodations that may be beneficial based on the disabling condition. For more information on JAN, go to [www.askjan.org/media/adhd.html](http://www.askjan.org/media/adhd.html).

## 7. Medical and Mental Health Services

The case manager will coordinate medical and mental health services as needed with the Veterans Health Administration (VHA) to ensure the Veteran's health conditions are treated and stabilized to the maximum extent possible.

## 8. Employment Adjustment Allowance (EAA)

The following actions must occur before the Veteran is entitled to receive EAA:

- The Veteran must be within the 12-year eligibility period or extension of that period.
- The Veteran's case must have progressed through RTE status to Job Ready (JR) status following the provision of services under an IWRP or combined IWRP/IEAP.
- There must be a documented declaration of job-readiness by the case manager in the Counseling/Evaluation/Rehabilitation (CER) folder at the time the Veteran's case is placed in JR status.
- An IEAP must be developed either as part of the IWRP or prior to assignment to JR status.
- The Veteran must satisfactorily participate in the services planned in the IEAP for a period of 30 days before a payment of EAA may be authorized.

See 38 CFR 21.268 and M28R.V.B.10 for more information on how to process and pay EAA.

## 9. Post-Employment Consultation and Assistance

The case manager will monitor the Veteran's progress for one year post-employment to ensure that all barriers, issues and questions have been addressed, and the business is stable and viable before proceeding with the closure of the case. 38 U.S.C. 3117 governs the delivery of employment assistance services.

### e. Provision of Service

The provision of service is based on category assignment. See 8.04 of this chapter for information on the assignment of categories.

1. Services Available to Veterans Classified as Category I

VR&E may provide the following level of special services and assistance to Veterans assigned to Category I:

- (a) Comprehensive training in the vocational goal and in the operation of a small business.
- (b) Minimum stocks of materials such as an inventory of salable merchandise or goods.
- (c) Expendable items required for day-to-day operations and items which are consumed on the premises.
- (d) Essential equipment, including machinery, occupational fixtures, accessories and appliances.
- (e) Incidental services such as business license fees.
- (f) If the Veteran incurred costs for training or other rehabilitation services and the VRC determines that the training and/or other rehabilitation services were reasonably needed to achieve the goals of the rehabilitation plan, then these costs can be reimbursed per 38 CFR 21.282(c).

2. Services Available to Veterans Classified as Category II

VR&E may provide the following level of special services and assistance to Veterans assigned to Category II:

- (a) Comprehensive training in the vocational goal.
- (b) Incidental training in the management of a small business.
- (c) License or other fees required for employment.
- (d) Personal tools and supplies that are required of all individuals to begin employment in the approved occupational field.
- (e) If the Veteran incurred costs for training or other rehabilitation services, and the VRC determines that the training and/or other

rehabilitation services are reasonably needed to achieve the goals of the rehabilitation plan, then these costs can be reimbursed per 38 CFR 21.282(c).

3. Services and assistance VA may not authorize

Certain discrete services may not be provided to Veterans participating in the self-employment track. VA must not authorize any of the following:

- (a) Full or partial payment to purchase land or buildings.
- (b) Lease or rental payments.
- (c) Purchase or rentals of cars, trucks or other vehicles.

Note: Tractors and other apparatus that are used for farming or other work activities as part of a Self-Employment plan are considered to be equipment, not vehicles, and can be provided if the need is justified and documented. The use of this equipment cannot be contraindicated by the Veteran's disability condition.

- (d) Stocking either a farm for animal husbandry operations or a fishery.
- (e) Franchise Fees.
- (f) Services designed to prepare or place a Veteran in employment within the medical marijuana industry, including positions in cultivating, distributing, dispensing, or selling medical marijuana.

f. Self-Employment Orientation

The VRC must orient the Veteran to the self-employment process before the self-employment planning process begins. The Self-Employment Fact Sheet should be given to the Veteran at during orientation, along with the link to the "Operation Boots to Business" video. Information on this program can be accessed at <http://www.va.gov/osdbu/veteran/vep.asp> See Appendix BF for access to the Self-Employment Fact Sheet, as well as a Self-Employment Job Aid .

The Veteran must sign VAF 28-0800, VR&E Program Orientation, to verify that the link to the video was provided. The VRC will give the Veteran a copy of the form and file the original on the right side of the Veteran's CER folder.

8.04 Self-Employment Planning Process

Self-employment rehabilitation plans require a number of pre-plan development activities to ensure that the proposed business is viable. The following activities must be completed prior to plan development:

a. Preliminary Self-Employment Evaluation Process

The following questions provide structure for VRCs when gathering information to determine the Veteran's suitability and readiness to start a business:

- What business would the Veteran like to start?
- Will the Veteran's disability pose any barriers to operating the business? If yes, what reasonable accommodations can be developed to address these barriers?
- Will the Veteran's credit history/score impact his/her ability to obtain any necessary alternate funding greater than what the VA can provide? The Veteran must provide a copy of his/her credit report, with score included, for review and verification that this information will not pose a barrier for future alternate funding requests.
- What qualifications does the Veteran possess to ensure he/she has the ability to start and operate a business?
- What skills and/or knowledge will the Veteran need to acquire to operate this business?
- Why does the Veteran want to start this type of business?
- Where will the business be located?
- What hours and days will the business operate?
- Who will use the Veteran's service and/or buy the product(s)?
- Where are the Veteran's business/customers located?
- If you were a potential customer, why would you use this business? What would keep you coming back to this business?
- Is there another business like the one the Veteran proposes operating in the same area? If so, is it successful? Why or why not?

- How will the Veteran advertise his/her business?
- How many customers does the Veteran estimate he/she will have during the first and second year?
- How much money will be required to start the business? What are the likely sources for securing the start-up funds?
- How much money does the Veteran estimate he/she will earn during the first and second year?
- Will the Veteran hire employees? If so, how much will the Veteran pay the employees?
- Who will do the ordering, customer contact and bookkeeping?
- What equipment will be needed? How will the Veteran acquire this equipment?

b. Preliminary Self-Employment Evaluation Findings

The preliminary self-employment evaluation findings will assist the VRC in determining if either of the following applies:

1. Self-employment is warranted. If so, then the VRC will assist the Veteran in the development of a business plan.
2. Self-employment is not warranted at this time. If so, then the VRC will consider alternative rehabilitation services.

The preliminary self-employment evaluation findings must be documented on VAF 28-1902b, Counseling Record-Narrative Report, or in a Corporate WINRS (CWINRS) note.

NOTE: The VRC may use a contract counselor to complete the evaluation process if contractual agreements are in place for the use of for-profit entities.

c. Business Concepts

During the preliminary self-employment evaluation, the VRC must gather information to determine what type of business the Veteran would like to start. The following information on non-profit businesses and franchises

should be given to Veterans who express an interest in one of these types of business concepts:

1. Non-Profit Businesses

Non-profit business concepts may not be approved by VR&E since non-profit businesses are not owned by an individual, but rather by the public. 38 CFR 21.257 states that coordination with the Small Business Administration (SBA) for special consideration of section 8 of the Small Business Act, as amended, must be conducted as part of the viability analysis of the proposed self-employment business plan. Section 8 supports assistance to those businesses owned and controlled at least 51 percent by socially or economically disadvantaged individuals. Further research also indicates that Public Law 108-183, Veterans Benefits Act of 2003, states that Service-disabled Veteran Owned Small Businesses (SDVOSBs) must be at least 51 percent unconditionally and directly owned by 1 or more service disabled Veterans. The SBA does not endorse non-profit businesses as SDVOSBs nor do they provide loans to businesses that do not operate for profit.

2. Franchises

Franchises may be approved if they are endorsed as part of the viability analysis of a proposed self-employment business plan. A franchise is a right granted to an individual or group to market a company's goods or services within a certain territory or location. Some examples of today's popular franchises are McDonald's, Subway, Domino's Pizza, and the UPS Store. An individual who purchases and runs a franchise is called a "franchisee." The franchisee purchases a franchise from the "franchisor." The franchisee must follow certain rules and guidelines already established by the franchisor, and in most cases the franchisee must pay an ongoing franchise royalty fee, as well as an up-front, one-time franchise fee to the franchisor.

It is important to note that franchise fees may not be paid by VR&E since it is beyond the scope of what may be provided under a Category I or Category II assignment. When the Veteran's business requires supplies or fees greater in amount than VA may authorize, the Veteran is responsible for securing alternate funding sources. The source of payment or resources available for such items should be identified in the business plan. Veterans interested in purchasing franchises may be eligible for loans from the SBA except when a franchisor retains power to control operations to such an extent that it appears to be an employment contract; the franchisee must have the right to profit from efforts equivalent to ownership.

d. Category Assignment

The VRC must assign a Veteran to one of two categories of services when the self-employment track is elected. The category assignment is based on information obtained from the initial entitlement orientation and the preliminary evaluation for self-employment services. The provision of services is dependent on the category assignment and governed by 38 CFR 21.214, 21.252 and 21.257.

1. Category I

Given the stringent requirements for a Category I assignment, it is anticipated that only a small number of Veterans will qualify for this level of self-employment services. Effective October 1, 2013, approval from VR&E Service Central Office (CO) must be obtained for all Category I assignments prior to plan development. To obtain approval for a Category I assignment, the following must be submitted by the Regional Office (RO) Director to the VR&E Director via the VR&E Corporate mailbox:

- Memo justifying the approval of Category I assignment
- Rehabilitation Needs Inventory, VAF 28-1902w
- Counseling Record - Narrative Report, VAF 1902b

The memo must include the preliminary self-employment evaluation findings and sufficiently address the conditions a Veteran must meet in order to be designated as Category I, which include:

- (a) Serious Employment Handicap.
- (b) Most-severe service-connected disabilities.
- (c) Employability limitations so severe that self-employment is the only option to achieve the rehabilitation goal.
- (d) All other reasonable employment goals are unsuitable due to the severity of the Veteran's service-connected disability(ies).

2. Category II

Veterans designated as Category II must have one of the following:

(a) Employment Handicap.

(b) SEH, but the service-connected disability(ies) is not considered most severe.

#### 8.05 Fast Track Planning for Self-Employment

At this point in the process of developing a self-employment plan, the VRC and Veteran may opt to use a Fast Track plan for self-employment. Fast Track planning allows for the identification of a specific vocational goal to be deferred by allowing the use of Dictionary of Occupational Titles (DOT) Code 999 in the IWRP. It is called "Fast Track" planning because the movement from Evaluation and Planning (EP) Status to RTE status is accelerated by allowing vocational exploration and planning activities, historically completed during EP status, to be completed in RTE status. As a result, the Veteran can begin services earlier in the rehabilitation process.

Fast Track planning may be used for Veterans when self-employment is the primary focus of further rehabilitation planning. When using Fast Track planning, the development of a viable business plan will be accomplished in RTE status.

##### a. Limitations

It is important to note that the maximum duration for a Fast Track IWRP is 12 months, or 3 consecutive terms, whichever is longer. The VR&E Officer can approve an extension up to 6 months, or 2 consecutive terms of training, whichever is longer, if it is determined that this extended period is needed and will result in the identification of a vocational goal.

##### b. Services

In addition to the services outlined in section 8.03d of this chapter, the following types of services may be provided under a fast track plan:

- Payment for general education courses to support training requirements in the vocational goal.
- Courses designed to provide insight into aspects of running a successful business, such as accounting, business management and/or economics.

##### c. Plan Development

The information below identifies the issues that are specific to the development of Fast Track plans.

1. Objective

A Fast Track IWRP plan for Veterans considering self-employment must include the following objectives:

- A referral to a provider who offers a course to help determine if self-employment is appropriate, such as Startup Bench 1.0 offered by the Sales and Management Institute (SMI) at [www.vaaccelerator.com](http://www.vaaccelerator.com).
- A referral to a professional business consultant, either on a voluntary or contractual basis, to assist in the self-employment.

2. Training

Training objectives may address any needed remedial training and/or general education coursework, as well as accounting, business management and/or economics coursework to provide insight into certain aspects of running a successful business.

3. Case Management Level

Level 2 case management is required for a Fast Track IWRP. Level 2 indicates that face-to-face case management meetings are required at least three times per year. In addition to these meetings, the rehabilitation plan must note that additional meetings may be required to guide the Veteran through the vocational exploration and plan development process.

- d. Outcomes

1. Self-Employment is Viable

If self-employment is viable, the VRC and Veteran will discuss the findings of the business plan analysis in an effort to redevelop the Fast Track IWRP to an IWRP self-employment plan. See section 8.07 of this chapter for information on the development of a self-employment IWRP or combined IWRP/IEAP.

2. Self employment is not Viable

If self-employment does not seem viable upon submission of the business plan, the VRC should give the Veteran the option to redevelop the business plan. The VRC may also consider alternative rehabilitation options, such as traditional employment, if revision will not result in approval. The case should be left in RTE status while developing a suitable goal. Once the final vocational goal is determined, then the VRC

and the Veteran will develop and sign a new IWRP. The DOT code should be converted from 999 to the specific identified DOT code.

If it is determined that self-employment is not viable for a Veteran who has been designated as Category I, then a comprehensive independent living (IL) assessment must be done. This is due to the fact that it has already been determined that all other reasonable employment goals are unsuitable due to the severity of the Veteran's service connected disability(ies). Cases being redeveloped from an IWRP to an IILP must be placed in Interrupted Status during the assessment and plan development period to avoid exceeding statutory limits.

If the Veteran fails to return to planned services after interruption for plan redevelopment (i.e., stops participating in redevelopment activities, becomes medically unable to participate, or disagrees with proposed program), notification of the intent to discontinue and due process is required prior to case closure.

#### 8.06 Develop a Proposed Business Plan

The next step in the process is to develop a proposed business plan, which is a multi-step process as follows:

##### a. Business Plan Development

##### 1. Responsibilities

The VRC coordinates services and assists the Veteran with developing a proposed business plan. For existing businesses, the business plan must address barriers that exist that make the business unsuitable. The Veteran is responsible for developing the written business plan for VR&E's consideration. The VRC will ensure that the Veteran works with a professional business consultant, either on a voluntary or contractual basis, as a guide in this process. The VRC must provide a list of the information needed to conduct a thorough viability analysis of the business plan to the Veteran in advance of his/her meeting with the business consultant (see 8.06b.1). This will ensure that all questions are addressed, thus reducing the likelihood that the Veteran will propose an incomplete business plan. The business consultant may:

- Recommend potential funding resources
- Assist in developing a funding package

- Suggest marketing strategies
- Conduct a feasibility analysis of the business plan
- Recommend actions to increase the viability of the business plan

## 2. Resources

The following resources are available to assist in the development of a business plan:

### (a) U.S. Small Business Administration (SBA)

The SBA is a government agency designed to provide counseling, advice and information on starting a business. SBA has district offices located around the country that provide these services through a variety of programs, including the following:

- (1) Service Corps of Retired Executives (SCORE) is a non-profit association of volunteer business counselors trained to serve as advisors and mentors to people who are attempting to start a business.
- (2) Small Business Development Centers (SBDC) are partnerships primarily between the government and colleges/universities. SBDCs provide education services to people who are attempting to start a business. SBDC services include assisting small businesses with financial, marketing, production, organization, engineering and technical issues and feasibility studies.
- (3) Veterans Business Outreach Centers (VBOCs) are designed to provide entrepreneurial development services, such as business training, counseling and mentoring services. VBOCs provide pre-business plan workshops, concept assessments, business plan preparations and comprehensive feasibility analysis.

These services are free and community based. See [www.sba.gov](http://www.sba.gov) for additional information on programs administered, and services offered, by the SBA.

### (b) Center for Veterans Enterprise (CVE)

CVE assists Veterans who own or want to start a business by providing counseling services to meet their financial, management and technical

needs. CVE also helps VA Contracting Officers identify Veteran-owned small businesses, which have priority in the award process in certain government contracting situations. See [www.vetbiz.gov](http://www.vetbiz.gov) for additional information on CVE.

(c) Other

Public or private small business consulting agencies, such as universities, colleges and business development centers, provide services to assist with the development of business plans.

b. Review and Analysis of Business Plan

1. Addressing Viability and Feasibility

The VRC must review and analyze the Veteran's business plan to ensure that it is viable and the proposed vocational goal is feasible. In the case of an existing business, the VRC must ensure that the barriers that existed to make the business unsuitable have been addressed. All proposed and formal business plans should address the following areas in order for the VRC to conduct a thorough analysis of the plan:

- (a) The location, and if applicable, the cost of the site selected for the business.
- (b) A financial statement describing the availability of non-VA financing, including the Veteran's financial resources.
- (c) A study of the economic viability of the proposed business plan, which must discuss the following issues:
  - Business location in relation to the geographic distribution of the population that the business would serve
  - Population traffic patterns, which would bring business to the Veteran's proposed site of operation
  - Probability that the business could serve as a subcontractor to larger organizations
  - Probability that the business could provide contract goods or services to VA or other federal agencies

- Competition the Veteran would face from similar businesses in the market area
  - Comparison of the operational expenses and projected growth in gross and net income from the business over the first five years of operation
  - The Veteran's ability to absorb losses in the early years of operation until the business develops an adequate market share
- (d) A cost analysis specifying the types, amounts and estimated costs of services, initial stocks and other supplies.
- (e) A working outline for developing a market strategy for the business' services or products.
- (f) A detailed description of the business' operation plan.
- (g) A schedule of the training needed for successful operation of the business.
- (h) Results of contacts with the SBA to secure consideration under Section 8 of the Small Business Act of 1953, as Amended.

The VRC should provide this information to the Veteran in advance of his/her meeting with the agency who will be assisting in the development of the business plan. This will ensure that all questions are addressed initially, reducing the likelihood that the Veteran will propose an incomplete business plan.

## 2. Responsibilities

The VRC must ensure the following events occur:

- (a) Assessment of the economic viability of the proposed business plan is conducted, arranged or contracted.
- (b) Arrangement of professional consultations on either a voluntary or contractual basis to assist with the development and assessment of the business plan.
- (c) Determination that the Veteran's business plan addresses all items in section 8.06.b of this chapter.

### 3. Resources for Business Plan Analysis

To assist with the analysis of the business plan, VRCs may consult with a variety of organizations and entities, including, but not limited to:

- Business associations
- Economic development corporations
- College business programs

#### c. Summation of Business Plan Analysis

VRCs must complete a summation of the business plan analysis. This summation addresses all items listed in 8.06.b.1 of this chapter, as well as any additional supporting documentation relevant to the Veteran's request for self-employment services. The summation should clearly identify the viability of the business plan and rehabilitation services needed. The VRC must:

1. Summarize information from the business plan analysis into a written report, either in a VAF 28-1902b, VAF 28-1902n or in a Corporate WINRS (CWINRS) case note. See Appendix O, VA Forms, for information on how to access these forms.
2. Obtain a written report from the contractor/vendor who assisted in completing the evaluation of feasibility for a proposed business plan, if applicable. A copy of this report is included in the Veteran's CER folder.

## 8.07 Self-Employment Plan Development

The following information outlines the development of a self-employment plan.

#### a. Conduct an Analysis of the Proposed Business Plan

The VRC and Veteran will discuss the findings of the business plan review and feasibility assessment to determine if an IWRP or a combined IWRP/IEAP is needed. The plan must clearly outline the Veteran's goals and objectives and the criteria for measuring the success of these goals and objectives. The VRC must ensure that the objectives of the plan specifically address all identified needs to prepare for, obtain and maintain self-employment as outlined in 38 CFR 21.84 and 38 CFR 21.88, including:

- Allocation of resources

- Purchasing of equipment, inventory and supplies
  - Training needs
  - Required licenses and permits
  - Funding needs
  - For existing businesses, all barriers that make the business unsuitable must be clearly addressed
- b. Develop the Self-Employment Plan

All rehabilitation plans have common elements, but the VRC must individualize the elements to fit the Veteran's identified needs. The elements of an IWRP or combined IWRP/IEAP are:

1. Program Goal

The rehabilitation plan must include a specific occupational goal or occupational cluster and three-digit DOT code.

2. Intermediate Objectives

Intermediate objectives identify secondary goals that contribute directly to the achievement of the program goal. The VRC must ensure that each objective:

- Is clear and easily understood
- Relates to achieving the goal
- Is observable and can be evaluated
- Has a measurable outcome

3. Anticipated Completion Date

An anticipated completion date helps track progress toward the goal and keeps the plan moving forward. It also informs the VRC and the Veteran of the time frame in which services will be provided.

4. Services

There are a number of services that can be provided during an IWRP or combined IWRP/IEAP. See section 8.03 of this chapter for examples of these services.

The description of documented services must be:

- Specific and detailed
- Clear and unmistakable as to its relationship to a particular intermediate objective

#### 5. Duration of Services

Duration of services specifies a start and end date for each intermediate objective.

#### 6. Service Providers

Services can be provided by a variety of sources, to include:

- VR&E
- VHA
- Medical personnel
- Education/training facilities

The rehabilitation plan must list the contact information of the individual(s) providing services and include the following:

- Name
- Address
- Telephone number
- Email address, if available

#### 7. Evaluation Information

This section provides information on how the Veteran's progress will be measured during the rehabilitation process and provides an evaluation

schedule. The following sources may be used to establish evaluation criteria:

- College transcripts
- Training progress reports
- Medical records
- Self-report by the Veteran and/or the Veteran's family
- Other sources as appropriate

This section outlines the terms that will be used to measure satisfactory conduct, as required by 38 U.S.C. 3111. The VRC and the Veteran must collaborate on the development of these terms since the successful development and implementation of a rehabilitation plan requires the full and effective participation of the Veteran in the rehabilitation process. See 38 CFR 21.362 and 21.364 for additional information and guidance on measuring conduct.

#### 8. Progress Notes

Progress notes provide a place to document any additional information related to the plan.

It is important to note that when a court, with proper jurisdiction, has appointed a legal guardian or custodian for the Veteran, VR&E must develop the plan in consultation with the guardian or custodian.

#### c. Determine Case Management Level

There are three levels of case management based on the Veteran's needs. For those Veterans participating in a self-employment plan, either through an IWRP or combined IWRP/IEAP, the case management level must be either:

##### 1. Level 2

If the Veteran is participating in a combined IWRP/IEAP, then Level 2 is appropriate during the delivery of academic services. Level 2 indicates that the Veteran needs guidance and structure, but is able to follow through and stay on track. The Veteran may be recovering from recent setbacks and/or demonstrate the following characteristics:

- Circumstances interfere with the Veteran's progress in completing the rehabilitation plan, such as personal, family, emotional, financial or medical concerns
- Requires remedial instruction to prepare for post-secondary education placement tests

Level 2 requires face-to-face case management meetings at least once per academic term or at least three times per year for non-standard academic terms. For non-academic programs, face-to-face meetings are required once per month for the first three months, then quarterly.

## 2. Level 3

If the Veteran is participating in an IEAP, then Level 3 case management is required. Level 3 generally requires monthly face-to-face case management visits, but it is permissible to utilize monthly contacts in place of face-to-face visits if no special needs or barriers are identified. Contacts may be made by Disabled Veterans Outreach Program (DVOP) specialist/Local Veterans Employment Representative (LVER) when appropriate.

### d. Corporate WINRS (CWINRS) Activity

CWINRS activity requires updates to the claims processing and disposition tabs prior to the development of the rehabilitation plan. This is accomplished through the following steps:

- Ensuring that the Serious Employment Handicap indicator is set to "Yes" or "No" as applicable by using the Update Disposition function on the Claim Processing tab
- Entering the date that Evaluation and Planning status is closed.
- Selecting Entitlement Code from the drop-down list
- Selecting the correct Rehabilitation Claim Disposition from the drop-down list
- Allowing CWINRS default selection of Award Payment System.
- Entering Pre-Rehab Salary using 4 digits, with the maximum entry of 9999.

When the VRC and the Veteran agree upon the services to be provided during the IWRP or combined IWRP/IEAP, the VRC must complete the rehabilitation plan data fields under the REHAB tab of CWINRS, performing the following steps:

1. If using a combined IWRP/IEAP, select Add Plan on the REHAB Tab to enable IWRP/IEAP functionality.
2. Select Self-Employment from the track selection drop-down options.
3. Set Program Cost Limit from the drop-down option.
4. Enter the annual review date.
5. Enter the Plan Modified date.
6. Chose "yes" under self-employment goal.
7. Set case management level, referred to as Supervision Level in CWINRS, from the drop-down option (Level 2 or 3).
8. Enter the DOT code.
9. Enter the program goal.
10. At this point, the VRC must click OK to save the plan, then to add individual objectives using functionality on the Rehabilitation Plan screen.
11. Click OK to save.
12. Click Print Plan to print VAF 28-8872, Rehabilitation Plan, and VAF 28-8872a, Rehabilitation Plan Continuation Sheet (see Appendix O, VA Forms, for information on how to access VA Forms).
13. Prepare High Cost Memo, as needed, based on approval levels for program costs (see M28R.IV.C.1 for information on cost approval levels).
14. Use "Print Letters" to generate VAF 28-0957, Vocational Rehabilitation Guidelines and Debt Prevention.
15. Update CWINRS case status to self-employment (when the VR&E Officer approves the plan). This action will automatically update the Benefits Delivery Network (BDN) with the DOT code.

## e. Self-Employment Plan Concurrence

Per 38 CFR 21.258, the VREO must approve all self-employment plans with an estimated or actual cost of up to \$25,000 for the total cost of the plan. The VR&E Service Director must approve a self-employment plan with an estimated or actual cost of \$25,000 or more. The VRC must submit the self-employment plan and VAF 28-0794, Self-Employment Plan Approval Request, to the VREO for approval before obtaining the Veteran's signature or authorizing any service.

If the VREO does not approve the self-employment plan, then the VRC must perform one of the following tasks:

1. The recommended corrective action(s) for approval of a revised self-employment plan is taken.
2. Alternative rehabilitation options are considered if revision will not result in approval.

If the VREO does not approve the self-employment plan and efforts by the VRC do not meet the Veteran's expectations or request for service, the Veteran can appeal the disagreement over the development of the plan per 38 U.S.C. 3107 and 38 CFR 21.98. In this situation, the Veteran must submit a written statement to the VRC requesting a review of the proposed plan and detailing his/her objections to the terms and conditions of the proposed plan.

## f. Complete the Orientation Process

When the VREO approves the self-employment plan, the VRC must provide an orientation to ensure the Veteran understands the VRC's role and his/her role in the plan and to answer any questions the Veteran may have regarding the rehabilitation process. The rehabilitation plan and VAF 28-0957 are used to guide this orientation. The orientation emphasizes the following:

- Expectations for conduct and cooperation
- Requirement to report changes in dependency, contact information, performance and rate of participation immediately
- Process for obtaining supplies, medical treatment and other services outlined in the plan

Following orientation, the VRC and the Veteran must sign the rehabilitation plan and VAF 28-0957. Place the original on the right side of the CER folder, and provide the Veteran with a copy.

g. Document the Planning and Orientation Process

The VRC must document the planning and orientation process and all decisions made during plan development. The following information must be included on either VAF 28-1902n or in a CWINRS case note:

- Vocational Exploration Activities
- Suitability of Selected Vocational Goal
- Type of Plan
- Planned Services
- Retroactive Induction
- Program Charges and Costs
- Level of Case Management
- Other Considerations

h. Administer the Plan

Once these actions are complete, services identified in the plan are implemented. All case activities are documented in CWINRS notes or on VAF 119, Report of Contact. See Appendix O, VA Forms for information on accessing VAFs.

The VRC provides case management services to ensure that the objectives and goals of the rehabilitation plan are addressed and met. In addition, the VRC will discuss concerns with the Veteran and take appropriate action(s) to address those concerns, ensuring that the Veteran has every opportunity to succeed.

See M28R, Part V, Section A for detailed information on plan implementation.

i. Evaluate and Amend the Plan

If the individual is not progressing through the plan as expected, or it becomes clear that the goals of the plan need to be reassessed, the VRC must redevelop the rehabilitation plan. The plan remains in its current status during the redevelopment period; not placed in Interrupted or Evaluation and Planning Status.

However, if the Veteran does not follow through with services or elects to discontinue participation, the VRC may move the case to Interrupted status utilizing reason code (RC) 16. While in Interrupted status, the VRC must continue to provide counseling services to assist the Veteran in determining appropriate next steps.

j. Develop the Individualized Employment Assistance Plan (IEAP)

Once the Veteran has achieved the objectives of the IWRP and is considered to be job ready, an IEAP is developed, and the case status is changed to Job Ready. The objectives of the IEAP must specifically address all identified needs for self-employment. Following a joint review of the plan, the case manager and Veteran must sign the plan. Provide a copy of the signed plan to the Veteran, and file the original on the right side of the CER folder.

Determine if the Veteran is entitled to an EAA and administer as appropriate. Authorize EAA only if the Veteran has received services under an IWRP and is declared job ready. A total of two months of EAA may be authorized. Each month of EAA is authorized upon the completion of 30 days of documented satisfactory participation in job search or employment activities while in Job Ready/Employment Services status. See M28R.V.B.10 for additional information on the payment and processing of EAA.

## 8.08 Outcomes of Self-Employment Plans

### a. Rehabilitated

The intent of Chapter 31 is to enable Veterans, to the maximum extent possible, to become employable and to obtain and maintain suitable employment to ensure the Veteran is rehabilitated.

#### 1. When VR&E Provided Services Toward Business Development

When VR&E provides services for the development of the business, the VRC may declare that the Veteran has been rehabilitated per 38 CFR 21.283 when the Veteran has:

- Successfully completed all employment program goals, and

- Maintained suitable and successful self-employment, defined as the business being operational, the Veteran is successfully adjusted to his/her vocational goal, and all services have been provided, for at least one year.

## 2. When VR&E did not Provide Services Toward Business Development

In some situations, a Veteran will complete the objectives of an IWRP leading to a traditional employment goal and then decide to pursue self-employment. A preliminary self-employment evaluation, category designation, business plan, or viability analysis are not required in order to rehabilitate the case if VR&E has not provided any services toward development of the business. However, the VRC must follow the Veteran for 12 months after declaring the Veteran job ready to ensure that the business is operational and that the Veteran is successfully adjusted. The extended follow-up services will ensure stability of the Veteran's employment. The business does not need to be providing a profit to rehabilitate the case. However, the VRC must ensure that the Veteran's business is successful and all needs are addressed and met.

To make a determination of rehabilitation in this instance, the VRC must clearly document the following:

- How VR&E services contributed to the Veteran obtaining and maintaining employment.
- The suitability of the current occupation, meaning the occupation is consistent with the Veteran's interests, aptitudes, and abilities.
- That the Veteran has maintained successful self-employment, defined as the business being operational, the Veteran is successfully adjusted to his/her vocational goal, and all services have been provided, for at least one year.

Following approval from the VR&E Officer, the VRC may move the case to rehabilitated status using reason code 22 or 25A, as appropriate.

## 3. VAF 28-0962, Checklist for Proposed Self-Employment Rehabilitation

Prior to rehabilitation of a self-employment case, the case manager must submit VAF 28-0962, along with the Veteran's CER folder, to the VREO or Assistant VREO (AVREO) for review and concurrence. This form documents that the following items have been completed prior to submitting to the VREO/AVREO for concurrence:

- Veteran's file was moved into Job Ready Status in BDN and CWINRS.
- Placement information, etc., have been updated in BDN and CWINRS.
- All financial transactions in the CER folder are captured in the CWINRS financial tab.
- Veteran has maintained self-employment for at least twelve (12) months.
- After successful start of the business, follow-up contacts were conducted for a minimum of twelve (12) months.
- The frequency of case management appointments were adequately conducted based on applicable policy and guidelines.
- There is a rehabilitation closure statement, written in accordance with manual guidelines, filed in the center section of the CER folder.
- Rehabilitated letter has been drafted with due process/appeal rights.
- All award actions have been properly processed.
- VA Form 28-0794, Self-Employment Plan Approval Request, contains appropriate signatures and is filed in the CER folder.

It is the VRC's responsibility to ensure that the items needed for rehabilitation are documented appropriately in accordance with procedures outlined in M28R.VI.A.10. If the VREO/AVREO does not concur with the proposed rehabilitation, he/she must explain the reasoning behind the decision in a CWINRS note. Then the VRC must either take the recommended corrective action or consider alternate options.

b. Discontinued

If the Veteran decides not to pursue services or does not respond to attempts by the VRC to participate in the rehabilitation plan, discontinuation of the case may be necessary. The VRC must complete VAF 28-0853, Checklist for Proposed Discontinuance. Then the VRC presents this form, along with the Veteran's CER folder, to the VREO/AVREO for review and concurrence.

It is the VRC's responsibility to ensure that the items needed for rehabilitation are documented appropriately in accordance with procedures outlined in M28R.VI.A.10. If the VREO/AVREO does not concur with the proposed

discontinuance, he/she must explain the reasoning behind the decision in a CWINRS note. Then the VRC must either take the recommended corrective action or consider alternate options