

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

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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 outlines the services available in a self-employment plan, discusses how to develop and administer a self-employment plan and provides regulatory and procedural guidance on this type of plan.

8.02 References and Resources

- Laws: Small Business Act of 1953
 38 United States Code (U.S.C.) 3107
 38 U.S.C. 3117
- Regulations: 38 Code of Federal Regulations (CFR) 21.70
 38 CFR 21.78
 38 CFR 21.84
 38 CFR 21.88
 38 CFR 21.98
 38 CFR 21.214
 38 CFR 21.252
 38 CFR 21.254
 38 CFR 21.257
 38 CFR 21.258
 38 CFR 21.268
- VA Forms (VAF): 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 28-8606, Notes from Counseling and Next Steps
 VAF 28-8872, Rehabilitation Plan

Websites: VAF 28-8872a, Rehabilitation Plan - Continuation Sheet
<https://www.sba.gov/>
<http://www.vetbiz.gov/>
<http://askjan.org/>
<https://centerforbusinessacceleration.com>
<http://www.va.gov/osdbu/veteran/vep.asp>
<http://www.veteransbusinessservices.us/>

8.03 Self-Employment Overview

a. Purpose

The purpose of the self-employment track is to provide services to 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.

b. Definitions

1. Accommodation

An accommodation is any modification or adjustment to employment that will enable the Veteran with a service-connected disability to perform the essential job functions within existing parameters of the VR&E Program. For an existing business, a job accommodation is any modification or adjustment to an existing business that will enable the Veteran with a service-connected disability to perform the essential job functions within existing parameters of the VR&E Program. Vocational Rehabilitation Counselor (VRCs) may authorize the purchase of equipment or payment for an assistive technology specialist to travel to the Veteran's workplace and assess his/her worksite to ensure it is ergonomically correct and meets his/her needs (38 CFR 21.254(a)). For more information on how to provide workplace accommodations visit <http://askjan.org/>, Job Accommodation Network (JAN).

2. Business Structure

Business structure is an organizational framework legally recognized in a particular jurisdiction for conducting commercial activities. The different types of business structures are as follows:

- Sole proprietorships
- Limited Liability Corporations (LLC)

- Partnerships (requires at least 51 percent Veteran-owned)
- Corporations

The business structures have legal and tax implications. Visit <https://www.sba.gov/> for more information on business structure.

3. Economically Viable

The ability to sustain operations as evidenced by one to three years of tax returns to verify generated income.

4. Existing Business

Any business that has been in operation for a year or more and is economically viable as evidenced by one to three years of tax returns or financial statements to verify generated income. The existing business must be assessed when a Veteran expresses an interest in self-employment at any point in the rehabilitation process.

5. Feasibility Analysis of a Business Plan

A comprehensive review and analysis of the feasibility of a proposed business plan, as submitted by the Veteran with the assistance of a business consultant, prior to authorizing a rehabilitation plan leading to self-employment.

6. Feasibility to Achieve a Suitable Vocational Goal

Achievement of a vocational goal is currently reasonably feasible when the following conditions exist:

- The goal is consistent with the Veteran's interests, aptitudes and abilities.
- The Veteran's physical, psychological and cognitive functioning permits training to achieve the chosen vocational goal and to begin within a reasonable time.
- The Veteran either has the educational skills and background to pursue the vocational goal or will receive services through VA to develop these skills as part of his/her rehabilitation program.

7. Feasibility Study of the Business Concept

Study to determine viability of the business concept; lays the groundwork for the business plan.

8. Franchise

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. Franchises may be approved if they are endorsed as part of the feasibility study of a proposed business concept. Franchise fees may not be paid by VR&E since it is beyond the scope of services that may be provided under a Category I or Category II assignment.

9. Income

Money that is earned from work, investments, business, etc.

10. Job Analysis

Process used to identify and determine the particular job duties and requirements, and the relative importance of these duties for a given job in order to determine if modifications or adjustments are needed to enable the Veteran to perform essential job functions.

11. Non-Profit Business

Business that is not owned by an individual, but rather by the public. Non-profit business concepts are not approved under the VR&E program.

12. Operational

To determine if an existing business is operational, the VRC must review tax returns for a reasonable time period (one to three years) to evaluate the business' success. Financial statements, such as an income statement or profit and loss statement may also be used as evidence that the business is operational.

NOTE: The tax returns do not have to show a profit, but must verify generated income.

13. Profit

Money that is made in a business, through investing, etc., after all the costs and expenses are paid; a financial gain.

14. Successfully Adjusted

The business is stable and all of the Veteran's needs are addressed and met.

15. Start-up Costs

Start-up costs only include costs that are necessary to start a business (e.g., minimum stock of materials, essential equipment, and other related assistance, such as business license fees). Marketing fees are limited to the purchase of business cards. Franchise fees and trademark fees cannot be provided under a Category I or Category II assignment.

16. Sustainable

Able to be maintained or to continue for a long time.

c. Resources

The following resources are available to assist in the self-employment process:

1. United States (U.S.) Small Business Administration (SBA)

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

- (a) 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.
- (b) 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.

(c) Veterans Business Outreach Centers (VBOC) are designed to provide entrepreneurial development services such as business training, counseling, and mentoring services. VBOC provide pre-business plan workshops, concept assessments, business plan preparations and comprehensive feasibility analysis.

Refer to <https://www.sba.gov/> for more information on programs administered, and services offered, by the SBA.

2. Veteran Entrepreneur Portal (VEP)

The VEP is designed to save time for Veterans by offering direct access to the resources necessary to guide every step of entrepreneurship through Business USA and Office of Small & Disadvantaged Business Utilization. Refer to <http://www.va.gov/osdbu/entrepreneur/index.asp> for more information on VEP.

3. The Center for Veterans Enterprise (CVE)

The CVE assists Veterans who own or want to start a business by providing counseling services to meet 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. Refer to <http://www.vetbiz.gov/> for more information on CVE.

4. Veterans Business Services (VBS)

VBS is a leader in the Veterans franchise marketplace that promotes franchise incentives and business services for Veterans. Refer to <http://www.veteransbusinessservices.us/> for more information on VBS.

5. The Sales and Management Institute (SMI)

SMI is an online institution of higher education targeted toward those who want to succeed as an entrepreneur. SMI offers a complete portfolio of coursework in the form of tracks that establish and build business skills, such as Startup Bench 1.0. Refer to <https://centerforbusinessacceleration.com> for more information on SMI.

6. Other public or private small business consulting agencies

Other public or private small business consulting agencies may include universities, colleges and business development centers.

8.04 Evaluation and Planning Determinations

Before a Veteran can receive Chapter 31 services, a VRC makes a determination if he/she is entitled to services and if it is currently reasonably feasible for him/her to achieve a vocational goal based on a comprehensive initial evaluation. The purpose of the initial evaluation is to develop information to make accurate entitlement decisions, assist the Veteran to understand his/her assets for vocational and career achievement or independent living needs and to develop realistic and effective rehabilitation plans.

a. Orientation

If the Veteran expresses an interest in self-employment during the initial evaluation, the VRC must orient the Veteran to the self-employment process. During this time, the Self-Employment Fact Sheet must be provided to the Veteran, along with the link to the "Operation Boots to Business" video. This video can be accessed online at the Veterans Entrepreneurship Portal website by using the following link and clicking on Operation Boots to Business found under Training and Employment at <http://www.va.gov/osdbu/veteran/vep.asp>

The Veteran must sign VAF 28-0800, VR&E Program Orientation to verify that the link to the video was provided. The VRC must provide the Veteran a copy of the form and file the original copy on the right side of his/her Counseling/Education/Rehabilitation (CER) folder. See Appendix O, VA Forms, for information on how to access this, as well as all VA forms referenced in this chapter.

NOTE: The Self-Employment Fact Sheet must be given to the Veteran whenever he/she expresses an interest in self-employment at any point in the rehabilitation process.

b. Existing Business

When a Veteran expresses an interest in self-employment during the initial evaluation, the VRC must assess whether or not the Veteran owns an existing business. The VRC must determine if the Veteran has been self-employed for one year or more and if the business is operational, as evidenced by tax returns. If evidence that the Veteran has been self-employed for one year or more is established and the business is operational, the VRC must conduct a job analysis to determine if the business is suitable and if the Veteran has overcome the effects of any identified impairment to employment. The job analysis must be conducted on-site. Refer to M28R.VI.A.4 for more information on job analysis.

If the business is suitable but the Veteran needs accommodations to perform essential job functions, and the VRC determines that the Veteran is entitled to services, the VRC must determine whether it is currently reasonably feasible for the Veteran to obtain and maintain suitable employment. Refer to section 8.07 of this chapter for guidelines related to the existing business process.

If the business is suitable and no accommodations are needed, the VRC must pursue discontinuance since the Veteran is self-employed, and the Veteran has overcome the effects of any identified impairment to employment.

The VRC must document the entitlement determination using VAF 28-1902b, Counseling Record – Narrative Report. For more information on evaluation and planning determinations and guidance on completing VAF 28-1902b, refer to M28R.IV.B.2

8.05 Vocational Exploration

If it is determined that a Veteran is entitled to VR&E services and achievement of a vocational goal is currently reasonably feasible, vocational exploration counseling must be provided, even if the Veteran has already chosen his/her career or owns an existing business. Vocational exploration ensures that the Veteran selects a suitable vocational goal that is consistent with his/her interests, aptitudes and abilities, and does not aggravate his/her disability(ies).

It is the responsibility of the VRC to help the Veteran make an informed decision regarding selection of a suitable vocational goal and document vocational exploration on VAF 28-1902n, Counseling Record-Narrative Report.

a. Suitability of Selected Vocational Goal

Using vocational exploration tools, resources and a systematic method to explore different careers with the Veteran will ensure he/she makes an informed choice when selecting a suitable vocational goal. The vocational goal must be stated and the suitability of the chosen occupation must be justified and documented. This may include, but is not limited to, information pertaining to interests, aptitudes, abilities, employment outlook, sufficient training entitlement, transferable skills, and the potential for gainful employment that will not aggravate the Veteran's disabilities.

For a Veteran interested in self-employment, the VRC must gather information to determine what type of business he/she would like to start and determine if the stated goal is consistent with the his/her interests, aptitudes and abilities.

For a Veteran who owns an existing business, the VRC must discuss the

results of the job analysis as part of the vocational exploration and explain the next steps related to the provision of accommodations needed to perform the essential job functions to help the Veteran maintain suitable employment.

NOTE: VR&E cannot provide services solely to expand or update an existing suitable business. This means that services must not be provided simply to expand the business or make it more profitable.

b. Preliminary Evaluation Self-Employment Checklist

As part of the vocational exploration process, the VRC must utilize the Preliminary Evaluation Self-Employment Checklist, Appendix G, to determine if self-employment is appropriate for the Veteran. The Preliminary Evaluation Self-Employment checklist assesses the Veteran's needs, potential, suitability and readiness to start a business. The checklist also identifies and addresses all issues or barriers to the successful pursuit of a self-employment plan. At this point, the VRC must have a clear understanding of the Veteran's motivation, functional abilities, and interests since self-employment is one of the most demanding tracks to employment.

1. Responsibilities

The VRC must work closely with the Veteran to foster an open line of communication to ensure that this process is successful. The Veteran must have a clear understanding of the self-employment process before the pursuit of this track to employment. An informed Veteran will be better prepared to anticipate and work within the self-employment process. The Veteran must be notified that he/she is responsible to actively participate and cooperate during the self-employment process from the onset of service.

2. Preliminary Evaluation Self-Employment Checklist Findings

The Preliminary Evaluation Self-Employment Checklist, Appendix G, findings will assist the VRC in determining if either of the following applies:

- (a) If self-employment is appropriate, the VRC will proceed to the self-employment process.
- (b) If self-employment is not appropriate at this time, the VRC will consider alternative or further rehabilitation services to assist the Veteran in becoming ready for self-employment.

The VRC must discuss the findings from the checklist with the Veteran and

make recommendations as to whether self-employment is appropriate for the Veteran by indicating the next steps in the plan development process on the VAF 28-8606, Notes from Counseling and Next Steps. The Veteran's signature on VAF 28-8606 must be obtained, the original copy must be provided to him/her, and a copy filed on the right side of his/her CER folder along with the Preliminary Evaluation Self-Employment Checklist.

8.06 Self-Employment Process

a. 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 the information obtained from the initial evaluation and the vocational exploration process. The VRC must inform the Veteran that the provision of services is based on the category assignment and that VR&E must not be considered the sole source in establishing a business. Establishing a business requires the Veteran to rely mainly on his/her own resources if supplies or related assistance is beyond the scope of services that may be provided under a Category I or Category II assignment. This means that the Veteran may need to secure alternate funding sources if his/her business requires services greater than what VA can authorize.

1. Category I

If the VRC suspects a Category I assignment is appropriate, the case must go through extended evaluation under an Individualized Extended Evaluation Plan (IEEP) first to demonstrate that due to the severity of disability, even with accommodations, the only way to achieve a suitable vocational goal is through self-employment. VR&E Officer (VREO) or VR&E Central Office (CO) approval is not required for this IEEP. However, both VREO and CO approval are required for a Category I designation.

Veterans designated as Category I must meet all of the following conditions:

- Serious employment handicap (SEH).
- Most-severe service-connected disabilities.
- Employability limitations are so severe that self-employment is the only option to achieve the rehabilitation goal.
- All other reasonable vocational goals are unsuitable due to the severity

of the Veteran's service connected disability(ies).

NOTE: 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.

2. Category II

Category II assignment is appropriate for Veterans who request assistance to start a business during the rehabilitation process and do not meet Category I criteria. Category II assignments do not require CO approval and do not require an IEEP.

VR&E encourages the use of category II assignment and training as appropriate and if desired by the Veteran.

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

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

Individualized Written Rehabilitation Plan (IWRP)/Individualized Employment Assistance Plan (IEAP) self-employment plan approval is required at the VREO level and appropriate signature levels must be obtained based on cost limits of the plan.

b. Requirement for VR&E Service Director's Approval

1. Category I Assignment – Approval from the Director of VR&E Service must be obtained for Category I assignment prior to plan development. To obtain approval, VR&E staff must adhere to the following steps:
 - (a) The VREO, on behalf of the VRC, must submit specific documentation to the attention of the Director of VR&E Service for approval prior to development of the initial IWRP.
 - (b) The Veteran's CER folder must be sent to VR&E Service. VR&E staff must ensure that the following documentations are included in the CER folder:
 - Memo justifying the approval of the category assignment,
 - Completed Rehabilitation Needs Inventory (VAF 28-1902w),

- Vocational Assessment, and
- Completed VAF 28-1902b.

NOTE: The memo must include the Preliminary Evaluation Self-Employment Checklist findings and must sufficiently address the conditions a Veteran must meet in order to be designated as Category I.

2. Prior to execution of the business plan, the following self-employment cases must be submitted to VR&E Service for approval:
 - (a) Category I, regardless of program cost, and
 - (b) Category II, if the program cost is over \$25,000.

The VREO or designee must mail the approval request documentation with the CER record to the attention of the Director of VR&E Service. The case will be reviewed for appropriateness of the entitlement and feasibility determination as well as the category assignment. For Category I designation, VR&E Service will provide a response electronically to the Regional Office (RO) Director's mailbox and in writing within 20 business days to ensure timely provision of services.

c. Individualized Extended Evaluation Plan (IEEP) Development

Before category assignment, if the VRC suspects a Category I assignment is appropriate, the case must go through extended evaluation under an IEEP first. The IEEP must address the following:

1. The Veteran's functional limitations must be identified.
2. A medical opinion related to functional limitations and capabilities from the Veteran's treating physician must be requested following guidance specified in M28R.V.A.5.
3. A referral to a provider who offers training and education to help determine the Veteran's aptitude for self-employment and must include completion of required classes on starting one's own business, such as Startup Bench 1.0 offered by SMI or classes offered at the local SBDC. When selecting a service provider, the VRC may consider any training facility or provider that offers this type of course.
4. Objective information indicating that self-employment is the only option

based on the Veteran's functional limitations, which result in a substantial part from his/her service connected disability(ies). This information may be obtained by a concentrated formal job search including accommodations, if necessary; a referral for a period of work hardening; letters from employers outlining the Veteran's recent failed attempts at employment; or another source. The determination that the Veteran lacks the ability to work in a traditional setting cannot be based solely on the Veteran's self-report.

The information obtained in the IEEP must be included in the memo to VR&E Service for Category 1 approval.

NOTE: All policy and procedural guidance on the development and administration of an IEEP, as provided in M28R.IV.C.3, apply.

d. Individualized Written Rehabilitation Plan (IWRP) Development

The initial IWRP may be developed after determination of a suitable vocational goal.

- For Category I cases, this will occur after the IEEP is completed and approval for the Category I assignment is received from VR&E Service.
- For Category II cases, this will occur after the category assignment. The IWRP does not require the approval of the VREO or other signature levels unless the annual cost of the plan is over \$25,000. Refer to M28R.V.B.1 for more information on cost approval/concurrence levels.

The IWRP must contain the following objectives:

1. Training and Certifications

The first objective of the IWRP must be related to training and certifications. The Veteran may begin any training necessary to achieve the vocational goal as soon as possible while concurrently working on the other objectives of the IWRP related to the self-employment process.

2. Aptitude for Self-Employment

The second objective of the IWRP must be a referral to a provider who offers training and education to help determine aptitude for self-employment and must include completion of required classes on starting your own business, such as Startup Bench 1.0 offered by SMI or classes offered at a local SBDC. When selecting a service provider, the VRC may consider any training facility or provider that offers this type of course.

For Category I assignments, this objective may be waived if already completed in an IEEP.

3. Feasibility Study of the Business Concept

The third objective of the IWRP must include a feasibility study of the business concept to determine if there is a need for the business, how much of a need there is and the likelihood of success of the business. The feasibility study, along with the required classes to determine aptitude for self-employment, is part of the process in helping the Veteran to write a business plan. In providing the information for the feasibility study, the Veteran is laying the groundwork for the business plan and gaining information regarding the challenges and risks that he/she will encounter in the pursuit of self-employment.

The Veteran must be referred to a business consultant to assist with the feasibility study and may also need to talk to business owners or does some research at the library to complete the feasibility study. The study must substantially justify the existence of a market for the goods or services that will be produced and/or sold by the small business and support the financial solvency, or ability to pay debts, of the Veteran.

(a) Credit History

An important component during this phase will be a referral to assist the Veteran in obtaining a credit score, asset development and anything else needed to ensure that the Veteran is financially ready to pursue self-employment. Since free credit reports provided by credit reporting agencies do not include credit scores, these agencies may charge a fee for providing this information, which may be reimbursed to the Veteran following direct reimbursement guidance located in M28R.V.A.3.

(b) Feasibility Study of the Business Concept Checklist

A copy of Appendix H, Feasibility Study of the Business Concept Checklist, must be given to the Veteran as a guide in the process. The VRC must instruct the Veteran to address each of the 12 items listed in Appendix H in the order listed on the form and return to the VRC.

The VRC must use Appendix H to assess the feasibility of the business concept once submitted by the Veteran and should contact the business consultant who assisted the Veteran with the development of the feasibility concept if any questions arise. The VRC will review the rehabilitation aspects of the feasibility study using Appendix H to

ensure that the feasibility study is consistent with the Veteran's interests, aptitudes and abilities and whether the feasibility study sufficiently addresses the 12 items listed on the form.

The feasibility study must be approved before the Veteran can proceed with the development of the Business Plan. The approval must be clearly documented in Corporate WINRS (CWINRS) notes and clearly communicated to the Veteran. The VRC must document recommendations, question and concerns in the comments section of Appendix H and file in the Veteran's CER folder. If the feasibility study requires corrections or additions, this information must be prepared by the Veteran and resubmitted to the VRC. A copy must also be given to the Veteran.

4. Business Plan Development

The fourth objective of the IWRP must include business plan development. This must only be conducted once the feasibility study of the business concept is approved by the VRC and may take place once training to achieve the vocational goal is completed, although the Veteran may opt to begin the development of the business plan prior to completion of training as long as the feasibility study of the business concept has been approved.

(a) Requirements

The Veteran is responsible for developing the written business plan for VR&E's consideration. The VRC will ensure that the Veteran is referred to a professional business consultant, either on a voluntary or contractual basis, as a guide in this process.

The VRC must instruct the Veteran that the business plan should outline and organize all necessary elements required to start a business since it is the tool presented to lenders to convince them to take a risk on the business to provide financing. The business plan must be extremely thorough, thought provoking and customized for the business.

The completed business plan should "tell the story" of the business to a potential lender and should serve as a stand-alone document in that all business issues are addressed without requiring additional verbal explanation.

NOTE: The majority of funding for small businesses comes from either investors or lenders who will closely scrutinize the financial section of

the business plan.

(b) Business Plan Guide

A copy of Appendix L, Business Plan Guide, must be given to the Veteran at this point. This form contains an outline of the sections and pertinent information that should be included in a business plan. Underlined items on the form are items that are required for the feasibility analysis of the business plan conducted by the VRC per 38 CFR 21.257. The Veteran must be informed that the business plan should clearly document all underlined items even if the outline suggested in Appendix L is not used as a guide in developing the business plan.

5. Services

The services outlined in the plan should address medical, psychological, and related services, as appropriate, to ensure the Veteran's needs are addressed and met.

6. Case Management Level

Level 2 case management is required for the 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 self-employment process.

For more information on IWRP development, refer to M28R.IV.C.7, Guidelines for the Development and Administration of an Employment Through Long-Term Services Plan.

e. Feasibility Analysis of Business Plan

Once the Veteran submits a business plan, the VRC must conduct an analysis to ensure that the business plan is feasible. The analysis must clearly address the feasibility of the business plan and identify the rehabilitation services needed.

1. Requirements

All proposed and formal business plans must address the following areas for the VRC to conduct a thorough analysis of the plan per 38 CFR 21.257:

- (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. The Veteran must project the cost of all items considered essential to the start-up of the business as part of business plan cost projections even if the items are not authorized by the VA.
- (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 (i.e., 8(a) Business Development Program, which offers a broad scope of assistance to firms that are owned and controlled at least 51 percent by socially and economically disadvantaged individuals).

For Category I cases, the VRC must also ensure that the scope of the business plan is consistent with the results of the Veteran's IEEP, as well as his/her functional limitations.

2. Resources for Business Plan Analysis

To assist with the analysis of the business plan, a VRC must consult with a variety of organizations and entities, including, but not limited to the business consultant who assisted the Veteran with the development of the business plan.

3. Summation of Business Plan Feasibility Analysis

The VRC, in conjunction with the business consultant, must complete a summation of the business plan feasibility analysis. This summation must address all required areas listed above, as well as any additional supporting documentation relevant to the self-employment process. The summation should clearly identify the feasibility of the business plan and rehabilitation services needed. The VRC must:

- (a) Summarize information from the business plan analysis into a written report, either on VAF 28-1902n or in CWINRS notes.
- (b) 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 must be included in the Veteran's CER folder.

4. Business Plan is Not Feasible

If the business plan does not seem feasible upon submission, the VRC must 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 must be maintained in Rehabilitation to the point of Employability (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.

If it is determined that self-employment is not feasible for a Veteran who has been designated as Category I, then a comprehensive Independent Living (IL) assessment must be conducted. 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 governing IILPs.

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.

5. Business Plan is Feasible

Prior to developing the IWRP/IEAP self-employment plan, the VRC must conduct the feasibility analysis of the business plan. If the business plan is feasible, the VRC must refer the business plan to the Self-Employment Panel (SEP) for review. The VRC will refer and consult with the SEP on the self-employment plan.

f. Self-Employment Panel (SEP)

The SEP serves as a consultative body for Veterans who are pursuing self-employment at the Regional Office level. The SEP reviews business plans and submits a report with recommendations and information for planning rehabilitation services related to self-employment. A case may be referred to the SEP by a VRC or VREO.

The SEP recommendations and suggestions are considered expert technical assistance to facilitate the planning and decision-making process. Recommendations and suggestions are not binding, but must not be disregarded without thorough consideration. If the SEP recommendation is not considered, the VRC must document clearly the reason for not considering the SEP recommendation on the CWINRS Notes.

1. Members of the SEP

The SEP includes a wide range of professionals to ensure individuals with knowledge of self-employment are available for the review of each referred case. The SEP may include, but is not limited to:

- A VRC or Employment Coordinator (EC), appointed by the VREO,

serves as chairperson for the coordination of meetings, writing of reports, and expert knowledge of VR&E services related to self-employment.

- A VRC, who is usually the referring VRC, for expert knowledge of the specific case.
- An EC from CO.
- A business consultant from the SBA or the SBDC.
- A representative from the local Chamber of Commerce.
- Other business professionals from the community.

2. Roles and Responsibilities of the SEP

The SEP has the following roles and responsibilities:

- Reviews each business plan and the summation of the business plan analysis completed by the VRC, including any written reports from the business consultant who assisted in completing the evaluation of feasibility for a proposed business plan, if applicable.
- Prepares a written report of recommendations on each business plan with a summary of the SEP's deliberations and recommendations. This report must be filed in the Veteran's CER folder.

3. Roles and Responsibilities of the Vocational Rehabilitation Counselor (VRC)

Upon receipt of the written report of recommendations from the SEP, the referring VRC must address any action items in the report, as applicable. If further action is needed from the Veteran who submitted the business plan, the VRC must meet with him/her and go over next steps. Next steps should be documented on VAF 28-8606, Notes from Counseling and Next Steps, filed in the Veteran's CER folder and a copy must be given to the Veteran.

The case does not need to return to the SEP once the VRC approves any updates recommended by the SEP. However, Category I cases must be sent to CO for approval prior to execution of the business plan once revisions have been submitted and received the VRC's approval (refer to Step 2 in section 8.06.a.1 of this chapter). Category II cases do not need to go to CO for approval and may begin IWRP/IEAP self-employment plan development upon VRC approval of any updates. The VRC must consider

alternative rehabilitation options if revision of the business plan will not result in approval.

g. Develop and Implement the Self-Employment Plan

1. IWRP/Individualized Employment Assistance Plan (IEAP) Development

The VRC and Veteran will discuss the findings of the business plan review and analysis in an effort to develop a combined IWRP/IEAP self-employment plan. The plan must clearly outline the Veteran's goal and objectives, as well as criteria for measuring the success of those goal and objectives. The VRC must ensure that the objectives of the IWRP/IEAP self-employment plan specifically address all identified needs to prepare for, obtain and maintain self-employment as outlined in 38 CFR 21.84 and 21.88, including:

- Allocation of resources
- Purchasing of equipment, inventory and supplies
- Required licenses and permits
- Funding needs

2. Service Provision Objectives

The provision of service is based on category assignment. When identifying costs during plan development, the VRC must determine whether the costs are essential or optional. For a Category I assignment, a realistic start-up budget should only include items that are necessary to start a business.

The necessary cost approvals must be obtained for self-employment plans (refer to M28R.V.B.1 for more information on cost approval/concurrence levels). Additionally, assistance of a VBA Contracting Officers/Contracting Specialist (CO/CS) must be used if the costs of the services are over the micro-purchase threshold. Refer to M28R.V.B.4 for more information on contracting activities.

(a) 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:

- Comprehensive training in the vocational goal, and in the operation

of a small business.

- Minimum stocks of materials such as an inventory of salable merchandise or goods.
- Expendable items required for day-to-day operations, and items which are consumed on the premises.
- Essential equipment, including machinery, occupational fixtures, accessories and appliances.
- Incidental services, such as business license fees, Workers' Compensation Insurance and disability insurance.

(b) 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:

- Comprehensive training in the vocational goal.
- Incidental training in the management of a small business.
- License or other fees required for employment (e.g., required business insurance such as Workers' Compensation Insurance and disability insurance).
- Personal tools and supplies that are required of all individuals to begin employment in the approved occupational field.

(c) Limitations

Certain discrete services may not be provided to Veterans participating in the self-employment track. Veterans must be informed that VA will not authorize any of the following items even if considered essential to the startup of the business for Category I assignments:

- Full or partial payment to purchase land or buildings
- Lease or rental payments
- Purchase or rentals of cars, trucks, or other vehicles
- Stocking either a farm for animal husbandry operations or a fishery

- Franchise fees
- Support for non-profit business concepts

3. Case Management Level

At a minimum, Level 2 case management is required for the combined IWRP/IEAP self-employment plan. 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 self-employment process.

4. Corporate WINRS (CWINRS) Activity

When the VRC and the Veteran agree upon the services to be provided during the IWRP/IEAP self-employment plan, the VRC must amend the initial IWRP by completing the rehabilitation plan data fields under the Rehab tab of CWINRS, performing the following steps:

- Close out the objectives of the existing plan by updating the progress status to either "Achieved," or "Closed/Uncompleted" using the Service Detail button.
- After closing out all plan objectives, the VRC will use the "Amend Plan" function on the Rehab tab to overwrite the existing plan.
- Select Self-Employment from the track selection drop-down options.
- Set Program Cost Limit from the drop-down option.
- Enter the annual review date.
- Enter the Plan Modified date.
- Choose "yes" under self-employment goal.
- Set case management level, referred to as Supervision Level in CWINRS, from the drop-down option (Level 2 or 3).
- Enter the DOT code.
- Enter the program goal.
- Click OK to save the plan.

- Add individual objectives using functionality on the Rehabilitation Plan screen.
- Click the Service Detail button and select Service Type, Service Detail Type and Progress Status, and complete as appropriate. See M28R.IV.C.2 and Appendix F, Instructions for Adding and Updating Service Types, Service Details and Progress Status for detailed information on service types.
- Click OK to save.
- Click Print Plan to print VAF 28-8872, Rehabilitation Plan, and VAF 28-8872a, Rehabilitation Plan Continuation Sheet and to generate VAF 28-0957, Vocational Rehabilitation Guidelines and Debt Prevention; the VRC must select the appropriate radio button and click OK to print either the plan or the plan letter.
- Update CWINRS case status to self-employment after the VREO approves the plan. Current procedures established for case status movement during plan redevelopment must be followed. Refer to M28R.III.A.1 and Appendix M, Case Status Procedures Job Aid for additional information.

NOTE: When developing a combined IWRP/IEAP, the Add Plan function on the Employment tab must be completed to ensure this information is captured in VR&E reporting tools. The basic IEAP information includes the type of plan, track selection, program cost limit, DOT code, supervision level, "yes" for self-employment, and the program goal. The intermediate objectives of the plan do not need to be re-entered under the Employment tab in CWINRS, as long as the employment-related objectives appear on the plan developed under the Rehabilitation tab. See M28R.VI.A.3 for further guidance on employment activities necessary for the Veteran to achieve his/her vocational goal.

5. 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 Director of VR&E Service must approve a self-employment plan with an estimated or actual cost of \$25,000 or more for the total cost of the plan. 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. In addition, the VRC must prepare a memorandum describing the program

costs, as needed, based on approval levels for program costs that includes appropriate signature lines.

Once the self-employment plan receives the appropriate approvals, the Veteran and VRC must sign VAF 28-8872, Rehabilitation Plan. The VRC must provide a copy of the signed VAF 28-8872 to the Veteran and place the original form on the right side of the CER folder.

If the self-employment plan does not receive the appropriate approval, then the VRC must perform one of the following tasks:

- (a) Take the recommended corrective action(s) for approval of a revised self-employment plan.
- (b) Consider alternative rehabilitation options if revision does not result in approval.

If the self-employment plan does not receive the appropriate approval, and efforts by the VRC did 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 detail his/her objections to the terms and conditions of the proposed plan.

6. Complete the Orientation Process

When the self-employment plan receives the appropriate approval, the VRC must provide the Veteran an orientation to ensure that he/she understands the VRC's 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, Vocational Rehabilitation Guidelines and Debt Prevention, must be used to provide the 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.

7. 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 note:

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

8. Case Management

Implementation and provision of services may begin after all approvals and signatures are obtained for the self-employment plan. During this time, the VRC provides case management services to ensure that the objectives and goal of the rehabilitation plan are being addressed and met based on case management level, which must be at least Level 2. Level 2 indicates that face-to-face case management meetings are required at least three times per year. Additionally, the VRC must discuss any concerns with the Veteran that may arise and take appropriate action(s) to address those concerns, ensuring that the Veteran has every opportunity to succeed.

(a) Job Ready Determination

The VRC must make a determination of the Veteran's job-readiness after all necessary services have been provided to successfully establish the business and there are no impediments to operating the business. Once the Veteran is declared job-ready, the VRC must change the case status to Job Ready. Refer to Appendix M, Case Status Procedures Job Aid, for more information on case status procedures.

NOTE: A self-employment plan cannot provide employment services only.

(b) Follow-up Activities

The VRC must perform the follow-up activities during Job Ready status listed below:

- (1) The VRC must determine the Veteran's eligibility for Employment Adjustment Allowance (EAA) (refer to M28R.V.A.3) and process the payment as appropriate (refer to M28R.V.B.10). 38 CFR 21.268(c) states that EAA may be paid at the institutional rate of subsistence allowance for Veterans participating in a self-employment program.
- (2) Conduct follow-up contacts after the successful start of a business to ensure that the Veteran's business is operational and all needs are addressed and met. A minimum of 12 months of extended follow-up must be provided while the case is in Job Ready status for self-employment cases. The VRC must ensure that all provided services are sustainable without continued support from VR&E. Follow-up should include a review of financial statements, such as an income statement, profit and loss statement, or tax returns by the VRC or by someone (e.g., a business consultant or a member of the SEP) that can interpret and make judgement on the business progress. These records should be reviewed at least quarterly until case closure. Prior to case closure, a final site visit is required. If the business is virtual, the VRC must visit the business site on-line.

9. Evaluate and Amend the Plan

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

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 and provide the Veteran with notification of the interruption and due process. While in Interrupted status, the VRC must continue to provide counseling services to assist the Veteran in determining appropriate next steps.

NOTE: For more information on the self-employment process, refer to Appendix Y, Existing Business and Self-Employment Overview and Appendix BF, Self-Employment Process Flow Chart.

8.07 Existing Business Process

a. Determining the Existence of a Business

When a Veteran expresses an interest in self-employment before the entitlement determination or informs the VRC that he/she started a business independent of VR&E after the entitlement determination, the VRC must determine if the Veteran owns an existing business by doing the following:

- Determine if the Veteran has been self-employed for one year or more and, if so,
- Determine if the business is operational and economically viable as evidenced by tax returns or financial statements to verify generated income

If both of the above apply, then the VRC has completed the verification process showing that the business exists and a job analysis must be conducted to determine if accommodations are needed to enable the Veteran to perform essential job functions (refer to M28R.VI.A.4 for more information on job analysis). The job analysis must be conducted on-site.

If both do not apply, then the business is not considered to be an existing business and the rehabilitation process must proceed as if a business does not exist.

NOTE: In general, the VRC may accept the Veteran's statement whether or not he/she has been self-employed for a year or more. The only time VA will not accept a Veteran's statement concerning being self-employed for a year or more is when the Veteran's statement raises a question of validity, the statement conflicts with other evidence in the record, or there is a reasonable indication of fraud or misrepresentation. In these instances, VR&E staff should request wage data according to local policy to verify if the Veteran owns an existing business.

b. Scenarios

The following sections explain the different scenarios for the pre-entitlement or post-entitlement determinations needed when the VRC determines that the Veteran owns an existing business:

1. Scenario 1 - Pre-Entitlement Determination

During the initial evaluation, if it is determined that the Veteran owns an existing business, the VRC must conduct a job analysis to determine if

accommodations are needed to enable the Veteran to perform essential job functions prior to making the entitlement determination. Refer to M28R.VI.A.4 for more information on job analysis. The job analysis must be conducted on-site and will help the VRC to determine if the business is suitable.

(a) Business is Suitable

After the job analysis, if it determined that the business is suitable and accommodations are not needed to enable the Veteran to perform essential job functions, the VRC must pursue discontinuance since the Veteran has overcome the effects of the identified impairment to employment and would not be entitled for services.

(b) Business is Not Suitable

If the business is not suitable and accommodations are needed to enable the Veteran to perform essential job functions, the VRC must determine entitlement and whether or not it is currently reasonably feasible for the Veteran to achieve a vocational goal. If the entitlement determination is positive, vocational exploration must be conducted to ensure that the Veteran selects a suitable vocational goal that is consistent with his/her interests, aptitudes and abilities, and does not aggravate his/her disability(ies).

After selection of a suitable vocational goal, if it is determined that it is appropriate for the Veteran to continue pursuit of the existing business, services may be provided under a direct IEAP to enable the Veteran to perform essential job functions. The case will not be considered as a self-employment case for the purposes of vocational rehabilitation, and services must only include accommodations as defined in section 8.03 of this chapter and those needed to overcome disability related barriers (i.e., referral to a VA Medical Center for therapy and other medical treatment options). A business plan or category assignment is not required for these cases. Prior to case closure, the Veteran must receive follow-up services for a minimum of 60 calendar days and a final site visit is required. If the business is virtual, the VRC must visit the site on-line.

NOTE: The only time the VRC can develop an IEAP without first providing services in an IWRP is when either of the following applies:

- The Veteran qualifies for employment assistance to provide accommodations to overcome disability-related barriers of an existing

business, or

- The Veteran is a prior vocational rehabilitation program participant who qualifies for a program of solely employment assistance, as outlined in 38 U.S.C. 3117. See section 8.11 of this chapter for further information on the provisions of 38 U.S.C. 3117.

2. Scenario 2 - Post-Entitlement Determination

If the VRC determines that the Veteran owns or has started an existing business post-entitlement and the Veteran is requesting assistance with the business, the VRC must determine if the business is suitable by conducting a job analysis to determine if accommodations are needed to enable the Veteran to perform essential job functions.

(a) The Business is Suitable and the Veteran Does Not Need Accommodations

If the Veteran has been determined entitled and the VRC discovers and verifies that the Veteran has an existing business that is suitable and accommodations are not needed to enable the Veteran to perform essential job functions, the VRC may pursue discontinuance if Veteran is determined suitably employed with the existing business. Refer to section 8.09 of this chapter for guidance on case closure activities.

If a rehabilitation plan has already been written for the Veteran, he/she may continue to receive services outlined in his/her current plan to achieve suitable employment.

(b) The Business is Not Suitable and the Veteran Needs Accommodations

If the existing business is not suitable because accommodations are needed to enable the Veteran to perform essential job functions, services may be provided under an IEAP to help the Veteran maintain the business. Services must only include accommodations as defined in section 8.03 of this chapter and those needed to overcome disability related barriers (i.e., referral to a VA Medical Center for therapy and other medical treatment options). The case will not be considered to be a self-employment case for the purposes of vocational rehabilitation and a business plan or category assignment is not required. Prior to case closure, the Veteran must receive follow-up services for a minimum of 60 calendar days and a final site visit is required. If the business is virtual, the VRC must visit the site on-line.

3. Alternate Scenario

If the Veteran owns an existing business and the VRC determines that intensive accommodations that could potentially change the business structure are needed to make the business suitable, e.g., hiring employees to perform essential job functions, the VRC must assess the Veteran's rehabilitation needs to determine the next steps. If self-employment is determined to be appropriate for the Veteran after further vocational exploration and the Preliminary Evaluation Checklist have been conducted, then the self-employment process outlined in section 8.06 of this chapter must be followed. Since intensive accommodations that would change the business structure are needed, a new business plan would be required and the Veteran may be assigned to Category I after an extended evaluation, as appropriate. It is also possible that the Veteran may pursue alternative rehabilitation options if self-employment is not determined to be appropriate.

NOTE: All determinations related to the existing business process must be clearly documented using VAF 28-1902b, VAF 28-1902n or in CWINRS notes, as appropriate.

c. Individualized Employment Assistance Plan (IEAP) Development

The IEAP may be completed after determination of a suitable vocational goal to provide services to a Veteran who owns an existing business. The IEAP guides a Veteran who owns an existing business through a program of employment services designed to maintain suitable employment.

A VRC must prepare the IEAP on VAF 28-8872, Rehabilitation Plan. By signing this plan, the case manager and the Veteran mutually agree to complete specific activities intended to result in the Veteran maintaining suitable employment. Services must only include accommodations as defined in section 8.03 of this chapter.

Refer to M28R.VI.A.3 for further guidance on IEAP development. Refer to Appendix M, Case Status Procedures Job Aid for more information on case status procedures.

d. Case Management Level

Level 3 case management is required for those participating in an IEAP. Level 3 indicates that face-to-face case management visits are required once per month; however, Veterans participating in an IEAP may be granted an exception. If no special needs or barriers are identified, monthly contacts in place of face-to-face visits may be conducted. Telephone and email contacts that demonstrate active assistance in accordance with the Veteran's needs

are allowed; however, a final face-to-face site visit is required prior to closing the case for rehabilitation.

e. Case Management

Implementation and provision of accommodations may begin once signatures are obtained on VAF 28-8872, Rehabilitation from the Veteran and VRC. VREO or Director of VR&E Service approval is not required unless the annual cost of the plan is over \$25,000 (refer to M28R.V.B.1 for more information on cost approval/concurrence levels). The case status must be updated from Evaluation and Planning status to Job Ready status. Refer to Appendix M, Case Status Procedures Job Aid, for more information on case status procedures.

NOTE: A Veteran participating in a plan consisting solely of employment services is not eligible to receive EAA payments, since his/her case would not progress through RTE status.

The VRC must perform the following case management tasks during this status:

1. Conduct case management visits or contacts at least monthly to monitor the Veteran's progress and satisfactory conduct and participation.
2. Conduct follow-up contacts for a minimum of 60 calendar days after the provision of accommodations to ensure successful adjustment to the vocational goal.

NOTE: For more information refer to Appendix Y, Existing Business and Self-Employment Overview and Appendix BH, Existing Business Process Flow Chart.

f. Retroactive Induction

Retroactive induction may be considered if the Veteran incurred costs for training, or other rehabilitation services related to training (i.e., required program costs), when it is determined that the training and/or services were reasonably needed to achieve the goals of the rehabilitation plan in accordance with 38 CFR 21.282(c). Retroactive induction for any prior training cannot be approved until each of the following conditions is met:

- A vocational goal is identified.
- An IWRP with a DOT code other than 999 is developed.
- The prior training advances the selected vocational goal.

The following procedures outline the use of retroactive induction for a Veteran with an existing business who has been found entitled under Chapter 31:

Approval for the retroactive induction should be obtained in the same manner as the self-employment plan. The VRC must submit a written narrative using VAF 28-1902n requesting the retroactive induction to the VREO. The written narrative must explain how the training and/or other rehabilitation services related to training were reasonably needed to achieve the goals of the rehabilitation plan and should be attached to VAF 28-0794, Self-Employment Plan Approval Request. Required signature levels must be obtained depending on cost of the plan.

Once approval has been obtained, reimbursement procedures outlined in M28R.IV.C.2 should be followed to reimburse the Veteran for costs incurred for training and/or other rehabilitation services related to training.

8.08 Veteran Requests Assistance to Start a Business During or After Development of IWRP

In some situations, a Veteran will complete the objectives of an IWRP leading to a traditional employment goal and subsequently request VR&E assistance with self-employment. If it is determined that the Veteran does not own an existing business, the Veteran must be given the Self-Employment Fact Sheet and the Preliminary Evaluation Self-Employment Checklist (refer to Appendix G) must be conducted by following guidance in section 8.05 of this chapter prior to beginning the self-employment process. If self-employment is appropriate, then the VRC will proceed to the self-employment process outlined in section 8.06 of this chapter. If self-employment is not appropriate, then the VRC may consider alternative rehabilitation services, such as employment services, or further services to assist the Veteran in becoming ready for self-employment.

8.09 Outcomes

a. Rehabilitated – Self-Employment

The intent of the VR&E Program 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 after 12 months of follow-up if all of the following applies:

- The Veteran has maintained suitable and successful self-employment and the business is operational, as defined in section 8.03 of this chapter.
- The Veteran is successfully adjusted to the vocational goal, as defined in section 8.03 of this chapter.
- All services have been provided.
- A final site visit has been conducted to ensure that all provided services are sustainable without continued support from VR&E. If the business is virtual, the VRC must visit the business site on-line.

NOTE: The business does not need to show a profit to close the case as rehabilitated; however, financial statements should indicate that the business is generating sufficient income to cover required business expenses.

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 without requesting VR&E assistance. If the business is not considered to be an existing business, 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 has successfully adjusted to the vocational goal. The extended follow-up services will ensure stability of the Veteran's employment. The business does not need to show a profit to close the case as rehabilitated; however, financial statements should indicate that the business is generating enough income to cover required business expenses. The VRC must also ensure that all needs are addressed and met.

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

- How VR&E services contributed to the Veteran obtaining and maintaining employment.
- Suitability of the current occupation, meaning the occupation is consistent with the Veteran's interests, aptitudes and abilities.
- 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 12 months.

A final site visit is not required since VR&E did not provide services toward business development. Following approval from the VREO, the case may be moved to Rehabilitated status using reason code 22A or 22B, as appropriate.

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

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

- Veteran's file was moved into Job Ready Status in CWINRS.
- Placement information, etc., have been updated CWINRS.
- All financial transactions in the CER folder are entered in the CWINRS Financial tab.
- Veteran has maintained self-employment for at least 12 months.
- After successful start of the business, monthly follow-up contacts were conducted for a minimum of 12 months.
- The frequency of case management appointments were adequately conducted based on applicable policy and guidelines.
- A rehabilitation closure statement, written in accordance with manual guidelines, is filed in the center section of the CER folder.
- The 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, as appropriate.

It is the VRC's responsibility to ensure that the items needed for rehabilitation are documented appropriately in accordance with

procedures outlined in M28R.V.A.7. If the VREO or designee does not concur with the proposed rehabilitation, he/she must explain the reasoning behind the decision in a CWINRS note. The VRC must either take the recommended corrective action or consider appropriate alternative options.

b. Rehabilitated - Existing Business

When VR&E provides accommodations to help a Veteran perform essential job functions in order to maintain an existing business, the VRC should monitor and move toward rehabilitation after 60 calendar days when all of the following have occurred:

- The planned services are completed.
- The Veteran has successfully adjusted to the vocational goal.
- A final site visit has been conducted to ensure that all provided services are sustainable without continued support from VR&E. If the business is virtual, the VRC must visit the site on-line.

It is the VRC's responsibility to ensure that procedures related to case closures outlined in M28R.V.A.7 are followed.

c. Discontinued

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

For specific guidelines for discontinuance case closures, follow procedures outlined in M28R.V.A.7. If the VREO or designee does not concur with the proposed discontinuance, he/she must explain the reason for the decision in a CWINRS note. Then the VRC must either take the recommended corrective action or consider alternate options.

d. Closing a Case Using Maximum Rehabilitation Gain (MRG)

It may be appropriate to close a case using MRG when a Veteran chooses to pursue self-employment or continue operating an existing business without VR&E support. MRG may be used when services contributed to a Veteran obtaining or maintaining employment that does not meet the criteria for rehabilitation. An MRG closure provides a representation of the positive impact of the rehabilitation services provided to a Veteran who is unable or

unwilling to complete planned services but has achieved a fully successful outcome as defined by VA regulations.

For specific guidelines for closing a case using an MRG, follow procedures outlined in M28R.V.A.7. If the VREO or designee does not concur with the proposed closure using MRG, he/she must explain the reason for the decision in a CWINRS note. The VRC must either take the recommended corrective action or consider appropriate alternative options.

8.10 Limited and Specifically Defined Self-Employment Assistance - 38 U.S.C. 3117

Limited and specifically defined self-employment assistance offered under 38 U.S.C. 3117 is provided only for Veterans who have previously been in a vocational rehabilitation program either under Chapter 31 or in a State Vocational Rehabilitation program and who would not currently qualify for services under Chapter 31. Veterans who do meet entitlement criteria for Chapter 31 services may receive self-employment assistance by following the guidance outlined below.

a. Chapter 31

Veterans who are employable and previously completed a vocational rehabilitation program for self-employment in a small business enterprise under Chapter 31 can receive the following specifically defined self-employment assistance in accordance with 38 U.S.C. 3117:

- Employment services that are limited to the facilitation of services required to secure an SBA-backed loan to buy equipment necessary to establish a business, and
- Assistance to ensure receipt of the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).

To provide this assistance, the VRC must conduct an initial evaluation to determine that the Veteran is employable in an occupation consistent with his/her interests, aptitudes and abilities. Development of an IEAP is required. These limited and specifically defined services are subject to the 18-month employment services entitlement limitation. Determinations of employment handicap, serious employment handicap, and current reasonable feasibility are not applicable, unless the evaluation indicates that the Veteran is not employable. If the Veteran is unemployable, entitlement to other Chapter 31 services and assistance must be determined.

b. State Vocational Rehabilitation Program

Veterans with the most severe service-connected disabilities who are employable and previously trained under a State Vocational Rehabilitation program with the objective of self-employment in a small business enterprise, can receive the following specifically defined self-employment assistance in accordance with 38 U.S.C. 3117, unless the Veteran owns an existing business:

- License fees, and
- Supplementary equipment, and
- Initial stocks and supplies that the VRC determines are necessary to establish a business, if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

The VRC must first determine if the Veteran owns an existing business, which is considered operational and economically viable as defined in section 8.03 of this chapter. If evidence of an existing business is established, procedures related to the existing business process outlined in this chapter must be followed (refer to section 8.07 for the existing business process).

To be eligible for services related to the self-employment process, the Veteran must meet the requirements for self-employment for Veterans with the most severe disabilities in accordance with 38 CFR 21.257(b). This means that the Veteran must be provided initially with extended evaluation under an IEEP to determine if the achievement of a vocational goal is feasible and to demonstrate that due to the severity of disability, even with accommodations, the only way to achieve a suitable vocational goal is through self-employment. Refer to section 8.06 of this chapter for guidance on developing the IEEP. The following conditions must also be met and addressed on the IEEP:

- (a) The Veteran is eligible for VA-sponsored employment assistance.
- (b) An official of the State Vocational Rehabilitation agency with responsibility for administering self-employment programs certifies the following:
 - The Veteran has successfully completed training for a self-employment program.
 - The assistance needed is not available through non-VA sources.

- The state program's training or employment plan describes the VA assistance needed.

(c) The Director of VR&E Service approves the request.

If after the IEEP it is determined that the Veteran does meet entitlement criteria for VR&E services after all, then the Veteran may receive self-employment assistance outlined in section 8.06 of this chapter, as appropriate.

If it is determined that the Veteran does not meet the entitlement criteria for VR&E services but meets the requirements for self-employment for Veterans with the most severe disabilities in accordance with 38 CFR 21.257(b), an IEAP is required to provide limited and specifically defined employment services in accordance with M28R.VI.A.2 and is subject to the 18-month employment services entitlement limitation.