



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D C. 20224

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MEMORANDUM FOR ALL EMPLOYEE PLANS DETERMINATIONS AREA MANAGERS,
GROUP MANAGERS AND SPECIALISTS

FROM: Karen Truss
Director, Employee Plans, Rulings and Agreements

SUBJECT: Interim Guidance on Processing Determination Letter Applications

This memorandum issues guidance on Processing Determination Letter Applications until IRM 7.11.1 is published. Please ensure that this information is distributed to all affected employees within your organization.

Purpose: The purpose of this memorandum is to inform you that we will be implementing the revised determination letter case processing procedures outlined in Revenue Procedure 2015-6. These are effective for Form 5300 applications beginning with the second "E" remedial amendment cycle and for Form 5310 and 5316 applications with control dates on or after February 1, 2015. Due to the inherent length of time necessary to issue new Internal Revenue Manual (IRM) procedures, this current implementation will require usage of interim procedures and letters. The attached interim guidance supersedes IRM provisions to the extent as indicated in the attached guidance (see the IRM/Desk Guide Crosswalk for affected IRM sections). These interim measures will remain effective until the IRM is officially updated. Additionally, there was related training that occurred prior to assignments of second "E" cycle cases and Form 5310 applications with control dates on or after February 1, 2015. Training held on June 10, 2015 and June 24, 2015 included coverage of the attached interim documents. Additional training may also be held.

Background/Source(s) of Authority: Employee Plans collaborated with IRS Wage & Investment's Lean Six Sigma Organization to develop operational procedures to both standardize and streamline the determinations review process.

Effect on Other Documents: This guidance will be incorporated into IRM 7.11.1, Employee Plans Determination Letter Program by August 31, 2017.

Effective Date: September 1, 2015

Contact: If you have any questions, please contact Jeff Nelson, EP Determinations Group 7532 Manager, at 513-263-3631 or david.j.nelson@irs.gov.
Attachment (the changed procedures)

Distribution:
[IRS.gov \(http://www.irs.gov\)](http://www.irs.gov)

LSS Case Management Desk Guide

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1.1 Introduction

- (1) LSS Case Management Desk Guide (DG) is only intended to address recent changes to EP Determinations case management and processing procedures. This DG supersedes language in the IRM, as authorized in the Field Directive issued by the Director, EP Rulings and Agreements. The IRM will be revised to reflect the changes outlined in the DG. The changes are also provided in the IRM/DG Crosswalk Exhibit I.
- (2) This DG is effective beginning with Cycle E2 Form 5300 applications and Form 5310 and Form 5316 applications with control dates on or after 2/1/15. The DG does NOT apply to Form 5307 applications or Determination applications that were required to be submitted by Revenue Procedure 2013-12, Section 6.05, which discusses when VCP applications must be accompanied by a determination letter (DL) application.

1.2 New and Revised Letters

- (1) The letters listed below are required to be used to contact the applicant when:

- (a) the application is found to be procedurally incomplete;
- (b) responding to information received;
- (c) requesting additional information;
- (d) responding to a request for an extension; or
- (e) an application is closed incomplete
 - I. Letter 5535, *Open RAC letter*
 - II. Letter 5536, *Final Disposition letter*
 - III. Letter 5537, *10 Day Extension letter*
 - IV. Letter 5542, *Area Manager Extension Letter*
 - V. Letter 5543, *Procedurally Incomplete Letter*
 - VI. Letter 5544, *Technically Incomplete Letter*
 - VII. Letter 1196, *Information Request*
 - VIII. Letter 1955, *Additional Information Request*

1.3 On/Off-Cycle Verification

- (1) If a case is not on-cycle or considered on-cycle a Letter 1940, *Suspense Letter – Off-Cycle (5 Year RAC)*, should be prepared and submitted to the group manager with the orange file folder in status 74. A special handling notice should be included with the folder advising that the plan was submitted off cycle and needs to be sent to group 7526. The orange folder should contain the AIS sheet with instructions to the secretary to fax a copy of the signed & dated copy Letter 1940 to the campus to be scanned into TEDS.
- (2) If the case was submitted off-cycle, but is being reviewed during the on-cycle period, the case should be returned with a Letter 1924, *Not Authorized to Rule*.

For example, if a case comes in in Cycle A, but should have come in under Cycle B, and you are currently reviewing the case in Cycle B, the case should be returned with a Letter 1924.

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- (3) Form 5310 applications will continue to qualify for on-cycle treatment, pursuant to Rev. Proc. 2007-44, §14.02(1).
- (4) If the remedial amendment cycle (RAC) is closed and the submission is in response to a Letter 5535, *Open RAC letter*, the postmark date (or if there is no postmark date, then IRS receipt stamp date minus 10 calendar days) must be within 30 calendar days¹ of Letter 5535 for the application to be deemed on-cycle.

1.4 Procedural Completeness Review

These Procedural Completeness Review items are mandatory as required by Revenue Procedure 2015-6 (updated annually), application instructions, and/or the Procedural Requirements Checklist.

Specialists should timely start case reviews to enable either requesting additional information, if necessary, or submitting the case for closure with a favorable DL, within 21 days of case assignment. Otherwise, a valid explanation should be documented on Form 5464-A, *Case Chronology Record (CCR)*.

Note: If the application is a resubmission due to a prior Letter 5535, Open RAC letter, closure, it is to be processed as a new application, requiring a new Procedural Completeness Review be performed (i.e., Specialists should not limit the review to the items on the List of Missing Items included with the Letter 5535, as there is no guarantee an identical application package was received).

- (1) Review the case file for all of the following Procedural Completeness Review items (Section 1.4(2) #1 – #9 below).

Note: Submission of [reference lists](#) is optional for Cycle E applications. Additionally, specialists may not solely rely on reference list information – adoption timeliness and amendment content must be separately verified by specialists.

1. Specialists should not secure information from prior TEDS files, EDS reprints, or elsewhere. Missing documentation should be

¹ If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

requested from the applicant using Letter 5543, *Procedurally Incomplete Letter*.

2. If during the Procedural Completeness Review the specialist becomes aware that the case meets the requirements for a closing agreement, the case cannot be closed as an incomplete submission. Complete both the Procedural and Technical reviews and then follow applicable closing agreement procedures (see IRM 7.11.8).
- (2) Any missing items need to be included on the List of Missing Items attachment to Letter 5543 discussed in section II.B, *Letter 5543*.
1. Is the submitted user fee payment sufficient (or Form 8717 exemption certification properly completed and submitted)?
 - a. If the application is a resubmission due to a prior Letter 5535 closure, a new user fee, if applicable, is required.
 - b. If it is possible that the plan may qualify for a user fee refund and it's the only Procedural Completeness Review issue, proceed to Technical Review and resolve through a Letter 1196 request.
 2. Verify that the appropriate version of Form 53XX used.
 3. Verify that all applicable Form 53XX questions were answered.
 4. For Forms 5300 and 5310: Is the application form signed and dated by an authorized officer/representative of the plan sponsor (stamped signatures are not acceptable; see Rev. Proc. 2015-4 updated annually)?
For Forms 5316: Verify that the application is signed and dated by an authorized officer/representative of the trust sponsor.
 5. For Forms 5300 and 5310: Verify that all amendments listed on the application are included with the submission.
 6. For Forms 5300 and 5310: Is a copy of plan's DL from the prior RAC, if any, attached? If there is no prior RAC DL, are the following documents from the prior RAC submitted:
 - a. **Form 5300**
 1. The plan document or adoption agreement (including any applicable opinion or advisory letters),

2. The trust document,
 3. All amendments adopted or effective during the prior RAC, and
 4. All amendments adopted to comply with the prior RAC's Cumulative List
- b. Form 5310**
1. The plan document or adoption agreement (including any applicable opinion or advisory letters),
 2. The trust document,
 3. All amendments adopted or effective during the prior RAC, and
 4. All amendments adopted to comply with the prior RAC's Cumulative List
7. For Forms 5300 and 5310: Is a copy of the following for the current RAC submitted:
- a. Form 5300**
1. The plan document or adoption agreement updated for the current RAC's Cumulative List (including any applicable opinion or advisory letters),
 2. The trust document,
 3. All amendments adopted or effective during the current RAC, and
 4. All amendments adopted to comply with the current RAC's Cumulative List
- b. Form 5310**
1. The most current plan document or adoption agreement (including any applicable opinion or advisory letters),
 2. The trust document,
 3. All amendments adopted or effective during the current RAC, and
 4. All amendments required to be adopted to reflect qualification requirements that apply as of the date of termination regardless of whether such requirements are included on the most recently published Cumulative List
8. Verify that the Procedural Requirements Checklist, including all applicable attachments on the checklist, is included and completed.

9. Verify that all attachments, schedules, statements, Forms, etc. required by Form 53XX and/or the Instructions, are included and completed.

1.5 **Letter 5543: Procedurally Incomplete Letter**

- (1) If any of the Procedural Completeness Review items listed above were not properly submitted, prepare and send Letter 5543 using the letter template located in the [Forms/Pubs/Products Repository](#).
NOTE: Letter 5543 must be used to request any missing items.
- (2) If a fax number has been provided for the taxpayer or authorized representative, Letter 5543 must be sent to the individual(s) via fax. If faxed, retain a fax confirmation for the case file.
- (3) The attached List of Missing Items page(s) should include ALL deficiencies noted during the Procedural Completeness Review.
- (4) Response date should be 30 calendar days² from the date Letter 5543 is sent.
- (5) The date of Letter 5543 must be the next business day after the date the letter is sent.
- (6) Letter 5543 must be sent within a reasonable amount of time once drafted.
- (7) All correspondence must be sent to the taxpayer and with a copy to the authorized representative(s), if applicable. IRM §7.11.1.11
- (8) If Form 2848 or 8821 is not valid or if the appropriate boxes are not checked on Form 2848 or 8821 for the representative(s) to receive correspondence, do not copy to the representative(s) and inform the taxpayer of the situation in the List of Missing Items page(s).
- (9) If an authorized representative contact is being copied on the correspondence, the letters to all parties must be sent on the same day.
- (10) The due date extensions to Letter 5543 should be allowed only in rare and extenuating circumstances; for example, a declared disaster zone, sudden incapacity of the respondent or similar occurrences. Situations that would NOT qualify for an additional extension would be issues resulting from respondent scheduling, off-site documentation storage or similar occurrences.

² If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

- (11) If an extension is requested, it can **only** be granted with Letter 5542. The extension must be requested by the applicant, in writing, before the due date has expired. See §1.10, *Extensions – Letter 5537 and 5542*.
- (12) Correspondence received from the applicant must be given priority. No new cases should be started until all correspondence have been reviewed and processed). Correspondence should be processed within 7 calendar days or a valid explanation should be documented in the CCR.
- (13) If the response to Letter 5543 was submitted timely and all information requested received, proceed to §1.8, *Technical Review*.

1.6 Verifying Timely Responses

The postmark (or fax) date of the Letter 5543 response is what determines if it was submitted timely.

(1) Determining Fax Dates

(a) For TEDS Submissions

1. The Service center stamps both the postmark date and received date on the Application Identification Sheet (AIS) of all TEDS correspondence received (both faxed and mailed). If the AIS sheet is not included, the date stamp will be on the first page of the submitted correspondence.
2. Generally, the stamped postmark date and received date will be the same for faxed correspondence. Use the stamped postmark date to determine if the response was timely submitted.
3. If it appears the fax was sent before midnight in the time zone of the sender (e.g., sender's fax machine date and time stamped the fax in the fax's header), but that would have occurred after midnight EST where the service center is located, it would be appropriate to use the fax's header date to determine if the response was timely submitted.
4. If there are additional facts and circumstances that warrant further consideration, document the analysis/conclusion in the Form 5621 and if appropriate, discuss with your manager.

(b) For E-Fax Submissions

1. The E-fax email provides a “Fax Reception Report,” which includes a “Receive At” date and time stamp. Use this date to determine if the response was timely submitted.
2. If it appears the fax was sent before midnight in the time zone of the sender (e.g., sender’s fax machine date and time stamped the fax in the fax’s header), but the E-fax email’s “Receive At” date and time indicate a reasonable time (due to time zone differences) the following morning, it would be appropriate to use the fax’s header date to determine if the response was timely submitted.
3. If there are additional facts and circumstances that warrant further consideration, document the analysis/conclusion in the Form 5621 and if appropriate, discuss with your manager.

(c) For POD Office Fax Submissions

1. Unless the specialist can definitively determine when a fax was received in the office (i.e., they were there when received), specialists should determine the likely submission date of the response based on all of the facts and circumstances available (e.g., fax header date stamp, cover letter date, last date agent verified if correspondence received, date correspondence physically received, etc.).
2. Document the analysis/conclusion in the Form 5621 and if appropriate, discuss with your manager.

(2) Determining Mail Postmark Date for TEDS Cases

- (a) The Service center stamps both the postmark date and received date on the Application Identification Sheet (AIS) of all TEDS correspondence received (both faxed and mailed). If the AIS sheet is not included, the date stamp will be on the first page of the submitted correspondence.
- (b) If postmark and received date on the AIS sheet **are the same**, subtract 10 calendar days from that date, to determine the “deemed” postmark date.

Example #1:

1/31/16 = AIS Postmark date

1/31/16 = AIS Received date

1/21/16 = “Deemed” postmark date

(3) Determining Mail Postmark Date for EDS Cases

- (a) Maintain the original or a copy of the envelope containing the postmark date.
- (b) If the postmark date is missing or illegible, subtract 10 calendar days from the group stamped receipt date to determine the “deemed” postmark date.

Example #2:

5/7/15 = Earliest received date stamped

4/27/15 = “Deemed” postmark date

- (4) If a response was postmarked (or faxed) after the Letter 5543 due date, (*even if it was received prior to when the specialist is able to administratively close the case*), the response was not submitted timely and the case should be closed as incomplete.

Example #3:

09/04/15 = Letter 5543 response due date (Fri)

09/05/15 = Applicant faxes Letter 5543 response (Sat)

09/07/15 = Specialist receives fax (Mon)

Result: Since the Letter 5543 response was sent after the deadline, it was not timely submitted. Therefore, the case should be closed incomplete, even though the response was received before the specialist had administratively closed the case.

- (5) If the applicant submits a timely response to Letter 5543 and it is determined to be incomplete **prior** to the response due date, the specialist should immediately contact the applicant by phone and notify him/her of the deficiency(s) and that the case will be closed incomplete if the missing information is not submitted on or before the Letter 5543 due date. See §1.7, *Closing Procedurally Incomplete Cases*.
- (6) If the applicant submits a timely but incomplete response to Letter 5543 and it was not reviewed by the specialist until **after** the response due date, close the case as discussed in §1.7, *Closing Procedurally Incomplete Cases*.
- (7) If a timely submitted and complete response was not received within 10 business days after the Letter 5543 deadline, then close the case as discussed in §1.7, *Closing Procedurally Incomplete Cases*. This 10 business day period will allow for internal mail processing and/or TEDS processing so cases are not closed before the timely response gets to the specialist – it does NOT extend the deadline (i.e., does NOT affect whether a response was timely submitted).

Example: 09/04/15 = Letter 5543 response deadline (Fri)
 09/05/15 = Applicant faxes Letter 5543 response (Sat)
 09/07/15 = Specialist receives fax (Mon)

Result: Since the Letter 5543 response was submitted after the deadline, it was not timely submitted. Therefore, the case should be closed as incomplete, even though the response was received both during the 10-day mail/scanning grace period and before the specialist had administratively closed the case.

1.7 Closing Procedurally Incomplete Cases

Applications determined to be incomplete should be closed as follows:

- (1) If either the Letter 5543 response due date or the postmark date is **prior** to the end of the plan's on-cycle submission period, issue Letter 5535, *Open RAC letter*.
- (2) Otherwise (i.e., if both the Letter 5543 response deadline and, if submitted, the postmark date of the response, occur after the end of the plan's on-cycle submission period), issue Letter 5536, *Final Disposition letter*.

Example #1: Open RAC letter

01/14/16 = Letter 5543 response due date
 01/31/16 = Cycle E2's on-cycle submission period end

Result: Since the Letter 5543 response due date was prior to the end of the plan's on-cycle submission period, the applicant would receive an Open RAC letter if a complete response was not submitted on or before 01/14/16. Even if the specialist was not able to review the response until after the on-cycle submission period ended (e.g., reviewed response on 2/3/16), the applicant still would receive an Open RAC letter.

Example #2: Open RAC letter

01/11/16 = Letter 5543 sent
 01/30/16 = Insufficient response faxed/mailed
 01/31/16 = Cycle E2's on-cycle submission period end
 02/10/16 = Letter 5543 response due date (30-days after date Letter 5543 sent)

Result: Since the applicant's Letter 5543 response (01/30/16) was submitted prior to the end of the plan's on-cycle submission period (01/31/16), the applicant would receive an Open RAC letter. Even though the on-cycle submission period will have ended by the time the specialist reviews the response and ultimately closes the case, the applicant still receives an Open RAC letter since the response was submitted prior to the closing of the on-cycle submission period.

Example #3: Final Disposition letter (same facts as Example #2, except for date of Letter 5543 response)

01/11/16 = Letter 5543 sent

01/31/16 = Cycle E2's on-cycle submission period end

02/05/16 = Response faxed/mailed

02/10/16 = Letter 5543 response deadline (30-days after date Letter 5543 sent)

02/11/16 = Specialist reviewed response and determined insufficient

Result: Since neither the Letter 5543 response deadline (02/10/16) nor the postmark date of the submitted response (02/05/16) occurred prior to the end of the plan's on-cycle submission period (01/31/16), the applicant would receive a Final Disposition letter.

Example #4: Final Disposition letter

01/29/16 = Initial Cycle E2 applications mailed/submitted

01/31/16 = Cycle E2's on-cycle submission period end

02/10/16 = DL application case formally established

Any Later Date = Applicant fails to timely and/or completely respond to a Letter 5543 request.

Result: If a case that was submitted at the end of its remedial amendment cycle is ultimately closed as incomplete, the Letter 5543 response deadline and the postmark date of any submitted response would likewise always occur after the end of the plan's on-cycle submission period (01/31/16). Therefore, in these situations, the applicant would receive a Final Disposition letter.

Example #5: Final Disposition letter

12/30/15 = Initial Cycle E2 applications mailed/submitted

01/04/16 = DL application case formally established

01/31/16 = Cycle E2's on-cycle submission period end

Any Later Date = Specialist begins case review

Any Later Date = Applicant fails to timely and/or completely respond to a Letter 5543 request.

Result: If a case review commences after the end of the plan's remedial amendment cycle and it's ultimately closed as incomplete, the Letter 5543 response deadline and the postmark date of any submitted response would likewise always occur after the end of the plan's on-cycle submission period (01/31/16). Therefore, in these situations, the applicant would receive a Final Disposition letter.

- (3) Attach the list of remaining missing items to the Letter 5535 or Letter 5536.
- (4) For TEDS cases, ensure List of Missing Items attachment to the Letter 5535 or Letter 5536 is clearly titled and uploaded to TEDS.

- (5) EDS/TEDS hard copy case files will NOT be returned to applicants issued a Letter 5535 or Letter 5536.
- (6) Timely submitted user fees will not be refunded – this applies to user fees sent with the initial submission and/or submitted in response to Letter 5543, but only if the user fee was sent ON OR BEFORE the Letter 5543 deadline. Overpayments and/or refunds due to user fee exemption eligibility will be refunded.
- (7) However, if any late user fee payments are submitted (i.e., sent AFTER the Letter 5543 deadline), those user fee payments will be refunded. Thus, specialists should be on the alert for an indication a late user fee was submitted when closing incomplete cases that were missing user fees (e.g., review TEDS user fee status at closing, look for potential user fee reference in any submitted Letter 5543 response, etc.). No additional monitoring of the case after closing is required.
- (8) Incomplete cases (i.e., issued either a Letter 5535 or Letter 5536) should be closed with EDS status code 03.
- (9) Both the Letter 5535 and Letter 5536 state the plan will be ineligible to use the Voluntary Correction Program (VCP) to correct any failures relating to issues identified by the Service in its request(s) for additional information. Therefore, if there are any potential disqualifying defects (e.g., missing interim amendment), send an email to the applicable Area Closing Agreement Coordinator who will alert VCP. The email should contain the following information:
 - Name of sponsor,
 - Plan name,
 - Plan number,
 - EIN and
 - Potential qualifying defect(s) identified by the specialist – needs to be specific (e.g., list each missing interim amendment instead of simply stating “interim amendment”).

Note: This scenario might not always occur. For example, if a plan states on line 3(m) of their Form 5300 that their HEART amendment was submitted and you cannot locate this amendment in the file, you would request it on your Letter 5543. If you do not receive a response to this request, you would prepare the email to the Area Closing Agreement Coordinator. This way, VCP will have notification that the plan would be ineligible for the specific provision(s) identified only. It would not prevent the plan from submitting a VCP application for a different issue.

1.8 Technical Review

- (1) A technical review of the case file should include an analysis of the entire application package including but not limited to the application, plan language, amendments, if any, cover letter and all other supporting documentation.
- (2) Specialists may not solely rely on reference list information, if submitted. Amendments and their specific provision and timeliness compliance must be separately verified by specialists, as there is no guarantee an identical application package was received.
- (3) If no issues are noted during the Technical Review, submit the case for closure with a favorable DL.

1.9 Requests for Additional Information – Letter 1196 and 1955

- (1) Letter 1196:
 - (a) If additional information is necessary, prepare and send Letter 1196, *Information Request*, using the letter template located in the [Forms/Pubs/Products Repository](#).
 - (b) Letter 1196 is the only authorized communication method approved for this use.
 - (c) If a fax number has been provided for the taxpayer or authorized representative, Letter 1196 must be sent to the individual(s) via fax.
 - (d) The response due date should be 21 calendar days³ from the date Letter 1196 is sent.
 - (e) The date of Letter 1196 must also be the date the letter is sent.
 - (f) Once drafted, the Letter 1196 must be sent within a reasonable amount of time to the taxpayer and, if applicable, the authorized representative.
 - (g) If Form 2848 or 8821 is not valid or if the appropriate boxes are not checked on Form 2848 or 8821 for the representative to receive correspondence, do not copy to the representative and inform the taxpayer of the situation in the List of Missing Items page(s).
- (2) Letter 1955:

³ If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

- (a) If additional information is needed after a response to Letter 1196 is received, prepare and send Letter 1955, *Additional Information Request*, using the template provided in the [Forms/Pubs/Products Repository](#).
- (b) Letter 1955 is the only authorized communication method approved for this use.
- (c) If a fax number has been provided for the taxpayer or authorized representative, Letter 1955 must be sent to the individual(s) via fax.
- (d) The response due date should be 14 calendar days⁴ from the date Letter 1955 is sent.
- (e) The date of Letter 1955 must also be the date the letter is sent.
- (f) Once the Letter 1955 is drafted, it should be sent within a reasonable amount of time. The Letter 1955 should be sent to the taxpayer and authorized representative on the same day.
- (g) If Form 2848 or 8821 is not valid or if the appropriate boxes are not checked on Form 2848 or 8821 for the representative to receive correspondence, do not copy to the representative and inform the taxpayer of the situation in the List of Missing Items page(s).

1.10 Extensions – Letters 5537 and 5542

(1) Letter 5537:

- (a) If an extension to a Letter 1196 and/or 1955 response due date is requested, specialists will authorize an automatic 10 calendar day extension for each Letter 1196 and Letter 1955 response. The extension must be requested before the expiration of the response due date. The request can be verbally submitted by the applicant or their authorized representative.

Note: Letter 5537 should not extend the 30-day deadline provided by Letter 5543 or 5544 (only Letter 5542 is eligible to extend a Letter 5543 or 5544 due date).

- (b) Prepare and send Letter 5537, *10 Day Extension letter*, using the template provided in the [Forms/Pubs/Products Repository](#).
- (c) Letter 5537 is the only authorized communication method approved for this use.

⁴ If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

- (d) If a fax number has been provided for the taxpayer or authorized representative, Letter 5537 must be sent to the individual(s) via fax.
 - (e) Response date should be 10 calendar days⁵ from the previous information request's response due date.
 - (f) The date of Letter 5537 must also coincide with the date the letter is sent.
 - (g) Letter 5537 must be sent within a reasonable amount of time once drafted.
 - (h) If a representative is being copied, the letters to all parties must be sent on the same day.
- (2) Letter 5542:
- (a) Only in rare and extenuating circumstances will any extensions beyond the above automatic 10-days be granted. The extension (and length of extension) must be requested by the applicant, in writing, before the deadline has expired. Extensions must first be approved by the specialist before sending to their manager for approval. If the manager approves, they will then send it to their area manager for the final approval determination.
 - (b) Extension requests submitted by an applicant should be processed (either denied by the specialist or approved and sent to their manager) within 2 business days of receipt or a valid explanation should be documented in the CCR.

Note: Examples of rare and exceptional situations that would qualify for an additional extension would be the result of a declared disaster zone, sudden incapacity of the respondent or similar occurrences. Examples of situations that would NOT qualify for an additional extension would be issues resulting from respondent scheduling, off-site documentation storage or similar occurrences.
 - (c) If granted, prepare and send Letter 5542, *Area Manager Extension Letter*, using the template provided in the [Forms/Pubs/Products Repository](#).
 - (d) Letter 5542 is the only authorized communication method approved for this use.

⁵ If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

- (e) If a fax number has been provided for the taxpayer or authorized representative/third party contact, Letter 5542 must be sent to the individual(s) via fax.
- (f) The Letter 5542 should be sent within 2 business days of the specialist being notified of the extension approval or an explanation should be documented in the CCR.
- (g) If a representative is being copied, the letters to all parties must be sent on the same day.
- (h) If the area manager extension request is not granted, specialists must telephone the applicant and document such in the case file.

Note: *If an area manager extension request is denied during the Technical Review phase, the applicant will still be effectively given an additional 30 days to submit the requested items since they will be sent a Letter 5544. See further discussion in section 1.12, Letter 5544.*

- (i) The final approval or denial from the area manager should be retained in the case file's non-disclosable section.

1.11 Follow-Up For Letters 1196, 1955, 5537 and 5542

- (1) Correspondence received from the applicant must be given priority (no new cases should be started until all correspondence has been reviewed and processed). Correspondence should be processed within 7 calendar days or a valid explanation should be documented in the CCR. If the response to Letter 1196, 1955, 5537 or 5542 is complete, but gives rise to a new issue or follow-up question, send Letter 1955 (see section 1.9, *Requests for Additional Information – Letter 1196 and 1955*, for additional discussion).
- (2) If all issues have been satisfactorily resolved in the response(s), submit the case for closure with a favorable DL.
- (3) If the response submitted to Letter 1196, 1955, 5537 or 5542 was complete and received prior to the specialist mailing the Letter 5544 (even if not submitted timely), submit the case for closure with a favorable DL.
- (4) If a complete Letter 1196, 1955, 5537 or 5542 response (i.e., appropriately addresses all requested items) is not received within 10 business days after the deadline (allows for mail lag and/or TEDS processing):
 - (a) If the case meets the requirements for a closing agreement (see IRM 7.11.8, *EP Determinations Closing Agreement Program*, subsections

7.11.8.2.1(1)(b) through 7.11.8.2.1(1)(f)), a closing agreement offer letter should be sent. Follow IRM closing agreement procedures in IRM 7.11.8, *EP Determinations Closing Agreement Program* (requires resolving all other open issues prior to the issuance of the closing agreement or proposing an adverse determination letter detailed at IRM 7.11.11, *Proposed Adverse Cases*).

Note: *Once a case begins a CAP, these LSS Desk Guide procedures effectively no longer apply since the issue will be resolved via the CAP (resulting in a favorable DL), otherwise an adverse DL will be proposed and pursued, or the applicant could request a withdrawal.*

- (b) If the only issue(s) present require an exam/fraud referral but does not affect plan qualification, issue Letter 5544 (see below) and follow IRM exam referral procedures in IRM 7.11.10, *EP Examination and Fraud Referral Procedures*.

Per IRM 7.11.10.2.1, examples of issues requiring an exam referral that don't affect plan qualification include, but are not limited to:

- Prohibited transaction, generally, plan loans,
- Unrelated business income,
- Deemed distributions and
- Minimum funding deficiency.

- (c) If the case does not meet the above requirements for a closing agreement or exam referral, issue Letter 5544 (see section 1.12, *Letter 5544*).

1.12 Letter 5544, *Technically Incomplete Letter*

This letter is issued if an applicant fails to meet a response due date to the 1196, 1955, 5337, or 5542 letters.

- (1) If necessary, prepare and send Letter 5544, *Technically Incomplete Letter*, using the letter template located in the [Forms/Pubs/Products Repository](#).
- (2) Letter 5544 is the only authorized communication method approved for this use.
- (3) If a fax number has been provided for the taxpayer or authorized representative/third party contact, Letter 5544 must be sent to the individual(s) via fax.
- (4) If faxed, retain a fax confirmation for the case file.
- (5) Response date should be 30 calendar days⁶ from the date of Letter 5544.

⁶ If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

- (6) The date of Letter 5544 must also coincide with the date the letter is sent.
- (7) Letter 5544 must be sent within a reasonable amount of time once drafted. If a representative is being copied, the letters to all parties must be sent on the same day.
- (8) Only in rare and extenuating circumstances will any extension be granted to the Letter 5544 due date. If an extension is requested, it can only be granted with Letter 5542 (not eligible for Letter 5537). The extension must be requested by the applicant, in writing, before the deadline has expired. See further discussion of the Letter 5542 procedures above in section 1.10, *Extensions – Letter 5537 and 5542*.
- (9) Correspondence received from the applicant must be treated with priority (do not begin a new case review until all correspondence has been reviewed and processed). Correspondence should be processed within 7 calendar days or a valid explanation should be documented in the CCR.
- (10) If the response submitted to Letter 5544 is both timely submitted (see discussion of timeliness in the below subsection) and all issues have been satisfactorily resolved in the response(s), submit the case for closure with a favorable DL.
- (11) The postmark (or fax) date of the response is what determines if it was submitted timely. If a response was postmarked (or faxed) after the due date, even if it was received prior to when the specialist is able to administratively close the case, the response was not timely and the case should still be closed as incomplete. Responses mailed or faxed on the response deadline date are considered timely.

Example:

10/07/16 = Letter 5544 response deadline (Fri)

10/08/16 = Applicant faxes Letter 5544 response (Sat)

10/10/16 = Specialist receives fax (Mon)

Result: Since the Letter 5544 response was not sent by the deadline, it was not timely submitted. Therefore, the case should be closed as incomplete, even though the response was received before the specialist had administratively closed the case.

- (12) To determine the postmark date for responses that were faxed (whether to the Service Center, E-fax or a POD office), see section 1.6(1), *Verifying Timely Responses, Determining Fax Dates*.

- (13) To determine the postmark date for responses that were mailed to the Service Center, see section 1.6(2), *Verifying Timely Responses, Determining Mail Postmark Date for TEDS Cases*.
- (14) To determine the postmark date for responses that were mailed to the specialist's POD office, see section 1.6(3), *Verifying Timely Responses, Determining Mail Postmark Date for EDS Cases*.
- (15) Reserved.
- (16) If a deficient response to Letter 5544 was timely submitted by the applicant and it was determined to be incomplete by the specialist prior to the response deadline, the specialist should immediately telephone the applicant of the deficiency(s) and indicate that unless the missing information is provided by the Letter 5544 deadline, the case will be closed as an incomplete application (discussed in section 1.13, *Closing Technically Incomplete Cases*).
- (17) If a deficient response to Letter 5544 was timely submitted by the applicant, however it was not reviewed by the specialist until after the response deadline, close the case as discussed in section 1.13, *Closing Technically Incomplete Cases*.
- (19) If a timely submitted and complete response was not received within 10 business days after the Letter 5544 deadline (allows for mail lag and/or TEDS processing), close the case as discussed in section 1.13, *Closing Technically Incomplete Cases*.

Example:

10/07/16 = Letter 5544 response deadline (Fri)

10/08/16 = Applicant faxes Letter 5544 response (Sat)

10/10/16 = Specialist receives fax (Mon)

Result: Since the Letter 5544 response was sent after the deadline, it was not timely submitted. Therefore, the case should be closed as incomplete, even though the response was received both during the 10- day mail/scanning grace period and before the specialist had administratively closed the case.

1.13 Closing Technically Incomplete Cases

Applications determined to be technically incomplete should be closed as follows:

- (1) If either the Letter 5544 response deadline or the postmark date of the submitted response occurs prior to the end of the plan's on-cycle submission period, issue a Letter 5535, *Open RAC letter*.

- (2) Otherwise (i.e., if both the Letter 5544 response deadline and, if submitted, the postmark date of the response, occur after the end of the plan's on-cycle submission period), issue a Letter 5536, *Final Disposition letter*.

Example #1: Open RAC letter

01/14/16 = Letter 5544 response deadline

01/31/16 = Cycle E2's on-cycle submission period end

Result: Since the Letter 5544 response deadline was prior to the end of the plan's on-cycle submission period, the applicant would receive an Open RAC letter if a complete response was not submitted on or before 01/14/16. Even if the specialist was not able to review the response until after the on-cycle submission period ended (e.g., reviewed response on 2/3/16), the applicant still would receive an Open RAC letter.

Example #2: Open RAC letter

01/10/16 = Letter 5544 sent

01/28/16 = Insufficient response faxed/mailed

01/31/16 = Cycle E2's on-cycle submission period end

02/09/16 = Letter 5544 response deadline (30-days after date Letter 5544 sent)

Result: Since the applicant's Letter 5544 response (01/28/16) was submitted prior to the end of the plan's on-cycle submission period (01/31/16), the applicant would receive an Open RAC letter. Even though the on-cycle submission period will have ended by the time the specialist reviews the response and ultimately closes the case, the applicant still receives an Open RAC letter since the response was submitted prior to the closing of the on-cycle submission period.

Example #3: Final Disposition letter (same facts as Example #2, except for date of Letter 5544 response)

01/10/16 = Letter 5544 sent

01/31/16 = Cycle E2's on-cycle submission period end

02/01/16 = Insufficient response faxed/mailed

02/09/16 = Letter 5544 response deadline (30-days after date Letter 5544 sent)

02/11/16 = Specialist reviewed response and determined insufficient

Result: Since neither the Letter 5544 response deadline (02/09/16) nor the postmark date of the submitted response (02/01/16) occurred prior to the end of the plan's on-cycle submission period (01/31/16), the applicant would receive a Final Disposition letter.

Example #4: Final Disposition letter

01/29/16 = Initial Cycle E2 applications mailed/submitted

01/31/16 = Cycle E2's on-cycle submission period end

02/10/16 = DL application case formally established

Any Later Date = Applicant fails to timely and/or completely respond to a Letter 5544 request.

Result: If a case that was submitted at the end of its remedial amendment cycle is ultimately closed as incomplete, the Letter 5544 response deadline and the postmark date of any submitted response would likewise always occur after the end of the plan's on-cycle submission period (01/31/16). Therefore, in these situations, the applicant would receive a Final Disposition letter.

Example #5: Final Disposition letter

12/30/15 = Initial Cycle E2 applications mailed/submitted

01/04/16 = DL application case formally established

01/31/16 = Cycle E2's on-cycle submission period end

Any Later Date = Specialist begins case review

Any Later Date = Applicant fails to timely and/or completely respond to a Letter 5544 request.

Result: If a case review commences after the end of the plan's remedial amendment cycle and it's ultimately closed as incomplete, the Letter 5544 response deadline and the postmark date of any submitted response would likewise always occur after the end of the plan's on-cycle submission period (01/31/16). Therefore, in these situations, the applicant would receive a Final Disposition letter.

- (3) Include all outstanding Technical Review issues in the List of Missing Items attachment to the Letter 5535 or Letter 5536.
- (4) For TEDS cases, ensure List of Missing Items attachment to the Letter 5535 or Letter 5536 is clearly titled and uploaded to TEDS.
- (5) EDS/TEDS hard copy case files and user fees will NOT be returned to applicants issued a Letter 5535 or Letter 5536.
- (6) Incomplete cases (i.e., issued either a Letter 5535 or Letter 5536) should be closed with EDS status code 03.
- (7) Both the Letter 5535 and Letter 5536 state the plan will be ineligible to use VCP to correct any failures relating to issues identified by the Service in their requests for additional information. Therefore, if there are any potential disqualifying defects (e.g., missing interim amendment), send an email to the applicable Area Closing Agreement Coordinator who will alert VCP. The email should contain the following information:
 - Name of sponsor,
 - Plan name,

- Plan number,
- EIN and
- Potential qualification defect(s) identified by the specialist – needs to be specific (e.g., list each missing interim amendment instead of simply stating “interim amendment”).

1.14 Management Duties

- (1) Mandatory manager review for all incomplete case closures issued a Letter 5535, *Open RAC letter*, or Letter 5536, *Final Disposition letter*.
- (2) Managers should return a closed case or forward to the secretary for closure within 7 calendar days of the case being submitted for closure.

1.15 Secretary Duties

- (1) If case assignments are requested Monday-Friday prior to 10:00 a.m. (secretary time zone), the secretary must assign the cases by close of that same day.
- (2) If case assignments are requested Monday-Friday after 10:00 a.m. (secretary time zone), the secretary must assign the cases no later than 10:00 a.m. (secretary time zone) the next business day.
- (3) Secretaries should process closed cases received within 7 calendar days of receiving the manager’s closure approval.
- (4) Secretaries should not be establishing EDS cases (unless approved by the Area Manager).
- (5) Secretaries must mail the Letter 5535, *Open RAC letter*, the same day as the date stamp (due to strict resubmission rules). Once the day’s last mail pickup has occurred, any Letter 5535 processed should be stamped with the next business day’s date and the letter should be placed for out-going mail pickup.

Reminder: *Determination letters should not be mailed until the case is closed on EDS.*

Any comments/questions should be sent to

*TE/GE-EP-Determination Case Procedure Questions tege-ep-determinatio@irs.gov

Crosswalk for LSS Case Management Desk Guide (DG) and Internal Revenue Manual (IRM) Sections 7.11 and 7.12

Note: this Crosswalk document is only intended to address recent changes to EP Determinations case management and processing procedures effective beginning with Cycle E2 Form 5300 applications and Form 5310 (and 5316) applications with control dates on or after 2/1/15. The Crosswalk is designed to identify those sections of the current IRM that have been superseded by the DG (located in the EP Determinations Shared Server) as authorized in the Field Directive issued by the Director, EP Rulings and Agreements. This Crosswalk does not incorporate all DG provisions into the IRM – it only addresses impacted sections of the current IRM. The complete integration of the Desk Guide into the IRM will occur in a future revision of the IRM.

1. IRM section 7.11.1.9, *Determining the Scope/Verifying Prior Law*, (3)b. is replaced by the following:

“b. The following prior RAC documents:

- The plan document or adoption agreement (including any applicable opinion or advisory letters),
- The trust document,
- All amendments adopted or effective during the prior RAC, and
- All amendments adopted to comply with the prior RAC’s Cumulative List.”

2. IRM section 7.11.1.10.3, *Specialist User Fee Responsibilities*, (1) is replaced by the following:

“(1) If determined that the user fee paid was insufficient, notate the deficiency on Form 5621 and continue the Procedural Review detailed in DG section 1.4, *Procedural Completeness Review*.”

3. IRM section 7.11.1.11.1, *Form 2848 – Authorized Representatives*, (4) is replaced by the following:

“(4) Always verify that the Form 2848 is filled out correctly. The name of the person signing Part I of Form 2848 should also be typed or printed on this form. A stamped signature is not permitted. An original, a copy, or a facsimile transmission of the power of attorney is acceptable so long as its authenticity is not reasonably disputed. If the Form 2848 appears improperly completed, notify the taxpayer of the situation within the first correspondence being sent (do not copy the Form 2848 individual(s) since the form was not properly completed).”

4. IRM sections 7.11.1.13, *Additional Information Requests*, (2) – (5) are replaced by the following and adds (6):

“(2) Letters 1196, 1955, 5537 and 5542 as well as their related attachments should be drafted using the letter templates located in the [Forms/Pubs/Products Repository](#).”

Additional Information Letter	When to use
Letter 1196	Request for additional information.
Letter 1955	Subsequent information request(s) after the Letter 1196 has been sent.
Letter 5537	Documents 10-day extension to Letter 1196 or 1955 deadline.
Letter 5542	Documents extension granted by Area Manager Extension Letter.

- (3) Use Letter 1196, *Information Request*, for an initial request. See DG section 1.9, *Request for Additional Information – Letter 1196 and 1955*, for additional Letter 1196 procedures.

Note: The response date for the Letter 1196 request should be 21 calendar days from the date of the letter; however, the specialist should allow 10 additional business days (mail and scanning time) for responses. If a complete response has not been received during this period, send Letter 5544 using the procedures in DG section 1.11, *Follow-Up For Letters 1196, 1955, 5537 and 5542*, and the below revised IRM section 7.11.1.14, *Returning Application for Failure to Respond*.

- (4) Use Letter 1955, *Additional Information Request*, for any additional information request after a Letter 1196 has been sent. See DG section 1.9, *Request for Additional Information – Letter 1196 and 1955*, for additional Letter 1955 procedures.

Note: The response date for Letter 1955 requests should be 14 calendar days from the date of the letter; however, the specialist should allow 10 additional business days (mail and scanning time) for responses. If a complete response has not been received during this period, send Letter 5544 using the procedures in DG section 1.11, *Follow-Up For Letters 1196, 1955, 5537 and 5542*, and the below revised IRM section 7.11.1.14, *Returning Application for Failure to Respond*.

- (5) Use Letter 5537, *10 Day Extension letter*, to document the automatic 10-day extension for a Letter 1196 or 1955 response deadline when requested by the taxpayer or authorized representative. See DG section 1.10, *Extensions – Letters 5537 and 5542*, for additional Letter 5537 procedures.

Note: The response date for Letter 5537 should extend the previous response deadline by 10 calendar days; however, the specialist should allow 10 additional business days (mail and scanning time) for responses. If a complete response has not been received during this period, send Letter 5544 using the procedures in DG section 1.11, *Follow-Up For Letters 1196, 1955, 5537 and 5542*, and the below revised IRM section 7.11.1.14, *Returning Application for Failure to Respond*.

- (6) Use Letter 5542, *Area Manager Extension Letter*, to document an additionally requested extension of a response deadline has been granted by the area manager. See DG section 1.10, *Extensions – Letters 5537 and 5542*, for additional Letter 5542 procedures.

Note: The response date for Letter 5542 should extend the previous response deadline by the period granted by the area manager; however, the specialist should allow 10 additional business days (mail and scanning time) for responses. If a complete response has not been received during this period, send Letter 5544 using the procedures in DG section 1.11, *Follow-Up For Letters 1196, 1955, 5537 and 5542*, and the below revised IRM section 7.11.1.14, *Returning Application for Failure to Respond*.”

5. IRM sections 7.11.1.14, *Returning Application for Failure to Respond*, (1) – (7) are replaced by the following:

“(1) If the response to Letter 1196, 1955, 5537 or 5542 was not complete and timely submitted or if no response was received within 10 business days after the letter deadline:

- a. If the case meets the requirements for a closing agreement (see IRM 7.11.8, *EP Determinations Closing Agreement Program*, subsections 7.11.8.2.1(1)b. through 7.11.8.2.1(1)f.), a closing agreement offer letter

should be sent. Follow IRM closing agreement procedures in IRM 7.11.8, *EP Determinations Closing Agreement Program* (requires resolving all other open issues prior to the issuance of the closing agreement or proposing an adverse determination letter detailed at IRM 7.11.11, *Proposed Adverse Cases*).

- b. If the case does not meet the above section (1)a. requirements for a closing agreement, issue Letter 5544 (see section (2) below).
 - c. If the only issue(s) present requires an exam referral but does not affect plan qualification, issue Letter 5544 (see section (2) below) and refer the case to exam using the procedures in IRM 7.11.10, *EP Examination and Fraud Referral Procedures*.
- (2) Use Letter 5544, *Technically Incomplete Letter*, and attach the List of Missing Items page(s).
- a. Letter 5544 and the List of Missing Items attachment should be drafted using the letter template located in the [Forms/Pubs/Products Repository](#).
 - b. Response date should be 30 calendar days from the date Letter 5544 is sent.
- (3) If a timely submitted and complete response is not received within 10 business days after the Letter 5544 deadline (allows for mail lag and/or TEDS processing), close the case and:
- a. If either the Letter 5544 response deadline or the postmark date of the response is prior to the end of the plan's remedial amendment cycle, issue a Letter 5535, *Open RAC letter*.
 - b. If the Letter 5544 response deadline and, if submitted, the postmark date of the response, are after the end of the plan's remedial amendment cycle, issue a Letter 5536, *Final Disposition letter*.
- (4) EDS/TEDS hard copy case files will not be returned to applicants issued a Letter 5535 or Letter 5536.
- (5) Incomplete cases (i.e., issued either a Letter 5535 or Letter 5536) should be closed with EDS status 03.

(6) If there are any potential disqualifying defects (e.g., missing interim amendment), send an email to the applicable Area Closing Agreement Coordinator who will alert VCP. The email should contain the following information:

- Name of sponsor,
- Plan name,
- Plan number,
- EIN and
- Potential qualifying defect(s) identified by the specialist – needs to be specific (e.g., list each missing interim amendment instead of simply stating “interim amendment”).

(7) Reserved.”

6. IRM sections 7.11.1.15, *Incomplete or Grossly Deficient Application*, (1) – (7) are replaced by the following:

“(1) If any Procedural Completeness Review items were not properly submitted (determined by following DG section 1.4, *Procedural Completeness Review*), Letter 5543, *Procedurally Incomplete Letter*, and the List of Missing Items attachment should be drafted using the letter template located in the [Forms/Pubs/Products Repository](#).

a. Response date should be 30 calendar days from the date Letter 5543 is sent.

(2) If a timely submitted and complete response is not received within 10 business days after the Letter 5543 deadline (allows for mail lag and/or TEDS processing), close the case and:

a. If either the Letter 5543 response deadline or the postmark date of the submitted response occurs prior to the end of the plan’s remedial amendment cycle, issue a Letter 5535, *Open RAC letter*.

b. If the Letter 5543 response deadline and, if submitted, the postmark date of their response, occur after the end of the plan’s remedial amendment cycle, issue a Letter 5536, *Final Disposition letter*.

- (3) EDS/TEDS hard copy case files will not be returned to applicants issued a Letter 5535 or Letter 5536.
 - (4) Incomplete cases (i.e., issued either a Letter 5535 or Letter 5536) should be closed with EDS status 03.
 - (5) If there are any potential disqualifying defects (e.g., missing interim amendment), send an email to the applicable Area Closing Agreement Coordinator who will alert VCP. The email should contain the following information:
 - Name of sponsor,
 - Plan name,
 - Plan number,
 - EIN and
 - Potential qualifying defect(s) identified by the specialist – needs to be specific (e.g., list each missing interim amendment instead of simply stating “interim amendment”).
 - (6) Reserved.
 - (7) Reserved.”
7. IRM section 7.11.8.2.1, *Preparing the Case for the Closing Agreement Process*, (1)a. is replaced by the following:
- “a. Address all other issues to completion *before* preparing the closing agreement, unless directed by IRM section 7.11.1.14(1).”
8. IRM section 7.12.1.2, *Documents Included with Application*, (2) adds the following:
- Trust Document.
 - Procedural Requirements Checklist.
 - All amendments required to be adopted to reflect qualification requirements that apply as of the date of termination regardless of whether such requirements are included on the most recently published Cumulative List.”
9. IRM section 7.12.1.3, *Determining the Scope/Verifying Prior Law*, (3)b. is replaced by the following:

“b. The following prior RAC documents:

- The plan document or adoption agreement (including any applicable opinion or advisory letters),
- The trust document,
- All amendments adopted or effective during the prior RAC, and
- All amendments adopted to comply with the prior RAC’s Cumulative List.”

List/Summary of New/Revised Letters (Rev. Proc. 2015-6)

**Letter 5543, Procedurally Incomplete Letter, and
the List of Missing Items page(s)**

Highlights:

- Required if submission fails the procedural completeness review
- Request includes all missing procedural completeness items
- Provides 30* calendar day response period
- Not eligible for Letter 5537 10-day extension

**Letter 1196, Information Request, and
the Information Needed page(s)**

Highlights:

- Used for first information request during the Technical Review
- Provides 21* calendar day response period
- Eligible for a Letter 5537 10-day extension

**Letter 1955, Additional Information Request, and
the Information Needed page(s)**

Highlights:

- Used for all information requests after a Letter 1196 has been sent
- Provides 14* calendar day response period
- Each Letter 1955 eligible for a Letter 5537 10-day extension

**Letter 5537, 10 Day Extension letter, and
the Information Needed page(s)**

Highlights:

- Used to automatically approve extension for Letter 1196 or 1955
- Extension must be requested by deadline (can be verbally requested)
- Extends prior response due date by 10* calendar days

* If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

Letter 5542, Area Manager Extension Letter, and the Information Needed page(s)

Highlights:

- Used to approve any extension other than Letter 5537 10-day requests
- Must be requested before deadline expired
- Must be written and include explanation of need
- Must be approved by specialist, then manager, then area manager
- Extends prior response due date by period requested, if approved

Letter 5544, Technically Incomplete Letter, and the List of Missing Items page(s)

Highlights:

- Required if applicant fails to meet an above response deadline
- Provides 30* calendar day response period
- Not eligible for Letter 5537 10-day extension

Closing Letters for Incomplete Cases:

Note: below applies regardless whether closed during the Procedural Completeness Review Phase or the Technical Review Phase.

Letter 5535, Open RAC letter, and the List of Missing Items page(s)

Highlights:

- Used if applicant is eligible to submit another on-cycle application
- Determined by end of RAC, Letter 5543 or 5544 deadline and, if submitted, date of that response
- Provides minimum 30 calendar day period to submit

Letter 5536, Final Disposition letter, and the List of Missing Items page(s)

Highlights:

- Used if applicant is not eligible to submit another on-cycle application
- Determined by end of RAC, Letter 5543 or 5544 deadline and, if submitted, date of that response

* If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

Walkthrough of New/Revised Letters - Procedural Completeness Review Phase:

Letter 5543, Procedurally Incomplete Letter, and the List of Missing Items page(s) – New Letter

Highlights:

- Required if submission fails any part of the procedural completeness review
- Request includes all missing procedural completeness items
- Letter provides 30* calendar day response period
- Letter's deadline not eligible for Letter 5537 10-day extension

➤ *If an Area Manager extension is properly requested and approved:*

Letter 5542, Area Manager Extension Letter, and the Information Needed page(s) – New Letter

Highlights:

- Extension must be requested before deadline expired
- Request must be written and include explanation of need
- Request must be approved by specialist, then manager, then area manager
- Letter extends prior response due date by period requested, if approved

➤ *If a complete response to Letter 5543 (or Letter 5542, if applicable) is not timely sent, the case will be closed with one of the following two letters:*

Letter 5535, Open RAC letter, and the List of Missing Items page(s) – New Letter

Highlights:

- Required if applicant is eligible to submit another on-cycle application
- Determined by end of RAC, Letter 5543 deadline and, if submitted, postmark date of the Letter 5543 response
- Letter provides minimum 30 calendar day period to submit another on-cycle application

OR

* If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

**Letter 5536, Final Disposition letter, and
the List of Missing Items page(s) – New Letter**

Highlights:

- Required if applicant is not eligible to submit another on-cycle application
- Determined by end of RAC, Letter 5543 deadline and, if submitted, postmark date of the Letter 5543 response

Walkthrough of New/Revised Letters - Technical Review Phase:

(Occurs only after case is determined Procedurally Complete)

➤ *If additional information is necessary:*

**Letter 1196, Information Request, and
the Information Needed page(s) – Revised Letter**

Highlights:

- Required for first information request during the Technical Review
- Letter provides 21* calendar day response period
- Letter's deadline eligible for a Letter 5537 10-day extension and, if approved, a Letter 5542 extension

➤ *If a 10-day extension is properly requested:*

**Letter 5537, 10 Day Extension letter, and
the Information Needed page(s) – New Letter**

Highlights:

- Required for automatic extension approval for Letter 1196
- Extension must be requested before deadline expired (can be verbally requested)
- Letter extends prior response due date by 10* calendar days

➤ *If a further Area Manager extension is properly requested and approved:*

* If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

Walkthrough of New/Revised Letters - Technical Review Phase
(continued):

**Letter 5542, Area Manager Extension Letter, and
the Information Needed page(s) – New Letter**

Highlights:

- Required for any extension approval other than Letter 5537 10-day requests
- Extension must be requested before deadline expired
- Request must be written and include explanation of need
- Request must be approved by specialist, then manager, then area manager
- Letter extends prior response due date by period requested, if approved

➤ *If additional information is necessary (only after a complete response to Letter 1196 has been timely sent):*

**Letter 1955, Additional Information Request, and
the Information Needed page(s) – Revised Letter**

Highlights:

- Required for all subsequent information requests after a timely Letter 1196 response has been received
 - Examples when necessary:
 - Prior applicant response creates need for new request item
 - Prior applicant response requires follow-up response (e.g., discussing need for proposed amendment based on provided facts and circumstances)
 - New request item necessary that is unrelated to prior applicant response (e.g., new QA guidance requires action)
 - Not used if applicant did not timely respond to prior request letter
 - A response failure requires sending Letter 5544
- Letter provides 14* calendar day response period
- Each Letter 1955 is eligible for a Letter 5537 10-day extension and, if approved, a Letter 5542 extension

➤ *If a 10-day extension is properly requested:*

* If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

Walkthrough of New/Revised Letters - Technical Review Phase
(continued):

**Letter 5537, 10 Day Extension letter, and
the Information Needed page(s) – New Letter**

Highlights:

- Required for automatic extension approval for Letter 1955
- Extension must be requested before deadline expired (can be verbally requested)
- Letter extends prior response due date by 10* calendar days

➤ *If a further Area Manager extension is properly requested and approved:*

**Letter 5542, Area Manager Extension Letter, and
the Information Needed page(s) – New Letter**

Highlights:

- Required for any extension approval other than Letter 5537 10-day requests
- Extension must be requested before deadline expired
- Request must be written and include explanation of need
- Request must be approved by specialist, then manager, then area manager
- Letter extends prior response due date by period requested, if approved

➤ *If additional information is necessary after a complete response to a Letter 1955 has been timely received, send an updated Letter 1955 and follow the above steps.*

OR

➤ *If a complete response to any of the above letters is not timely sent:*

**Letter 5544, Technically Incomplete Letter, and
the List of Missing Items page(s) – New Letter**

Highlights:

- Required if applicant fails to meet an above response deadline
- Letter provides 30* calendar day response period
- Letter's deadline not eligible for Letter 5537 10-day extension

* If the response date falls on a Saturday, Sunday, or legal holiday, change the letter's response date to the next business day.

**Walkthrough of New/Revised Letters - Technical Review Phase
(continued):**

- *If an Area Manager extension is properly requested and approved:*

**Letter 5542, Area Manager Extension Letter, and
the Information Needed page(s) – New Letter**

Highlights:

- Extension must be requested before deadline expired
- Request must be written and include explanation of need
- Request must be approved by specialist, then manager, then area manager
- Letter extends prior response due date by period requested, if approved

- *If a complete response to Letter 5544 (or Letter 5542, if applicable) is not timely sent, the case will be closed with one of the two following letters:*

**Letter 5535, Open RAC letter, and
the List of Missing Items page(s) – New Letter**

Highlights:

- Required if applicant is eligible to submit another on-cycle application
- Determined by end of RAC, Letter 5544 deadline and, if submitted, postmark date of the Letter 5544 response
- Letter provides minimum 30 calendar day period to submit another on-cycle application

OR

**Letter 5536, Final Disposition letter, and
the List of Missing Items page(s) – New Letter**

Highlights:

- Required if applicant is not eligible to submit another on-cycle application
- Determined by end of RAC, Letter 5544 deadline and, if submitted, postmark date of the Letter 5544 response

Case Processing Procedures Flowchart – Cycle E2 Form 5300, Form 5310, and Form 5316 applications with control dates on or after 2/1/15

**TEGE-07-0915-0021
Exhibit IV**

