

A #		Application/Petition I-129, Petition for A Nonimmigrant Worker
Receipt # EAC1714754281		Applicant/Petitioner I Dream Systems Inc
Notice Date July 29, 2017	Page 1 of 5	Beneficiary Koli, Roshni Jayendra

PARVATHANENI, D CHAND
LO SIM PARVATHANENI AND BROWN
RE: I DREAM SYSTEMS INC
3010 LBJ FREEWAY STE 130
DALLAS, TX 75234

Request for Evidence

Notice also sent to:

RETURN THIS NOTICE ON TOP OF THE REQUESTED INFORMATION LISTED ON THE ATTACHED SHEET.

Note: You are given until **October 21, 2017** in which to submit the requested information to the address at the bottom of this notice.

Please note the required deadline for providing a response to this Request for Evidence. The deadline reflects the maximum period for responding to this RFE. However, since many immigration benefits are time sensitive, you are encouraged to respond to this request as early as possible but no later than the date provided on the request.

Pursuant to 8 C.F.R. 103.2(b)(11) failure to submit ALL evidence requested at one time may result in the denial of your application.

For more information, visit our website at **www.uscis.gov**

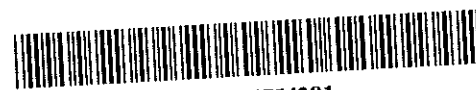
Or call us at **1-800-375-5283**

Telephone service for the hearing impaired: 1-800-767-1833

CSC12673 WS22095 EB2-2 BNN

You will be notified separately about any other applications or petitions you filed. Save this notice. Please enclose a copy of it if you write to us about this case, or if you file another application based on this decision. Our address is:

USCIS - CALIFORNIA SERVICE CENTER
P.O. BOX 10590
LAGUNA NIGUEL, CA 92607-0590
800-375-5283



EAC1714754281

Form I-797E

If you are requesting consulate/embassy notification, provide the following evidence in duplicate. Any document submitted to U.S. Citizenship and Immigration Services (USCIS) containing a foreign language, must be accompanied by a full English language translation that has been certified by the translator as complete and accurate, and that the translator is competent to translate from the foreign language into English.

- **Multiple Beneficiaries on LCA:** The Labor Condition Application submitted indicates that more than one H-1B nonimmigrant has been certified for employment with the petitioner. Title 8 C.F.R. 214.2(h)(4)(i)(B)(3) state that in the situation where more than one individual has been certified for employment with an employer/petitioner it will be necessary to identify all file numbers for beneficiaries who have previously "used" this LCA. Therefore, submit a detailed list of all Service file numbers for beneficiaries who have been approved using this Labor Condition Application.

Evidence Pertaining to the Proffered Position

A specialty occupation is one that requires the theoretical and practical application of a body of highly specialized knowledge and which requires the attainment of a bachelor's or higher degree in a specific specialty, or its equivalent, as a minimum, for entry into the occupation in the United States.

USCIS does not use the job title, by itself, when determining whether a particular position qualifies as a specialty occupation. The specific duties of the proffered position, combined with the nature of the petitioning entity's business operations, are factors that USCIS considers.

To qualify as a specialty occupation, the position must meet at least one of the following criteria:

- 1) Bachelor's or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- 2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- 3) The employer normally requires a degree or its equivalent for the position; or
- 4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a bachelor's or higher degree.

USCIS interprets the term degree in the above criteria to mean not just any degree, but a degree in a specific field of study that is directly related to the proffered position.

To show that the position offered to the beneficiary qualifies as a specialty occupation, you submitted:

- Description of the beneficiary's duties;
- A certified Labor Condition Application (LCA);
- Information about your organization's products or services.

USCIS recognizes the Occupational Outlook Handbook ("OOH"), a publication of the U.S. Department of Labor (DOL), as an authoritative source on the duties and educational requirements of the wide variety of occupations that it addresses. You provided a certified Labor Condition Application (LCA) from the DOL that the proffered position is a Computer Occupations – All Other position. The OOH does not contain descriptions for this

occupation. You did not provide other evidence to show that a bachelor's degree or higher or its equivalent in a specific specialty is normally required for entry into the position.

Further, the LCA you submitted certified that the position was a "Wage Level I" position. Such "Wage Level I" certification does not show that the position is more complex or specialized than similar positions within the occupation. According to U.S. Department of Labor (DOL) guidelines on wage determinations, a level one wage is used for the following:¹

Level I (entry) wage rates are assigned to job offers for beginning level employees who have only a basic understanding of the occupation. These employees perform routine tasks that require limited, if any, exercise of judgment. The tasks provide experience and familiarization with the employer's methods, practices, and programs. The employees may perform higher level work for training and developmental purposes. These employees work under close supervision and receive specific instructions on required tasks and results expected. Their work is closely monitored and reviewed for accuracy. Statements that the job offer is for a research fellow, a worker in training, or an internship are indicators that a Level I wage should be considered.²

The record indicates that you certified to DOL that you were seeking to fill an entry level position, one that has "only a basic understanding of the occupation...performs routine tasks that require limited, if any, exercise of judgment" and pay the person the prevailing wage for an entry level employee. Thus, the LCA does not show that the proffered position is more complex or unique than only an individual with a bachelor's degree or higher in a specific specialty can perform them.

You have not shown that the position offered to the beneficiary is a specialty occupation. You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to:

- A detailed statement to:
 - explain the beneficiary's proposed duties and responsibilities;
 - indicate the percentage of time devoted to each duty; and
 - state the educational requirements for these duties.
- If you claim that the proffered position is not entry level, but is a more specialized or complex position that normally requires the attainment of a bachelor's degree or higher in a specific specialty or its equivalent as a minimum requirement, submit evidence to demonstrate that the record contains a Labor Condition Application (LCA) that corresponds to the proffered position. Please submit a new LCA that was certified prior to filing, with a different wage designation and/or job code and title, that corresponds to the proffered position. If you submit a new LCA, also provide an explanation for the change. Note that eligibility for H-1B employment must be established as of the Form I-129 filing date. Therefore, the LCA must have been certified prior to the Form I-129 filing date.
- A copy of a line-and-block organizational chart showing your hierarchy and staffing levels. The organizational chart should:

¹ http://www.flcdatcenter.com/download/NPWHC_Guidance_Revised_11_2009.pdf
Accessed on July 27, 2017

² In comparison, a level II certification is for "qualified" employees who have "attained, either through education or experience, a good understanding of the occupation. They perform moderately complex tasks that require limited judgment." A level III certification is for "experienced" employees "who have a sound understanding of the occupation and have attained, either through education or experience, special skills or knowledge. They perform tasks that require exercising judgment and may coordinate the activities of other staff." A level IV certification is for "fully competent" employees who "use advanced skills and diversified knowledge to solve unusual and complex problems."

- list all divisions in the organization;
 - identify the proffered position in the chart;
 - show the names and job titles for those persons, if any, whose work will come under the control of the proposed position; and
 - indicate who will direct the beneficiary, by name and job title.
- Job postings or advertisements showing a degree requirement is common to the industry in parallel positions among similar organizations.
- Letters from an industry-related professional association indicating that they have made a bachelor's degree or higher in a specific specialty a requirement for entry into the field.
- Copies of letter or affidavits from firms or individuals in the industry that attest that similar organizations routinely employ and recruit only degreed individuals in a specific specialty. Any letter or affidavit should be supported by the following:
 - The writer's qualifications as an expert;
 - How the conclusions were reached; and
 - The basis for the conclusions supported by copies or citations of any materials used.
- Copies of your present and past job postings or announcements for the proffered position showing that you require applicants to have a minimum of a bachelor's or higher degree in a specific specialty or its equivalent.
- Documentary evidence of your past employment practices for the position, including:
 - Copies of employment or pay records; and
 - Copies of degrees or transcripts to verify the level of education of each individual and the field of study for which the degree was earned.
- An explanation of what differentiates your products and services from other employers in the same industry and why a bachelor's level of education in a specific field of study is a prerequisite for entry into the proffered position. Be specific and provide documentation to support any explanation of complexity.
- Copies of documentary examples of work product created by current or prior employees in similar positions, such as:
 - Reports;
 - Presentations;
 - Evaluations;
 - Designs; or
 - Blueprints.
- Additional information about your organization, such as:
 - Press releases;
 - Business plans;
 - Promotional materials;
 - Advertisements;
 - Patents; or
 - Articles.
- Any evidence you believe will establish that the position qualifies as a specialty occupation.

EVIDENCE PERTAINING TO THE BENEFICIARY'S STATUS

The record indicates that the beneficiary is currently employed in an H-4 nonimmigrant status and is now attempting to change that status to H-1B.

Your petition was filed without sufficient evidence to document that the beneficiary has been maintaining a valid nonimmigrant status at the time the present petition was filed.

- **Marriage certificate:** Submit a copy of the beneficiary's marriage certificate that has been recorded by a civil registrar to establish that the principal I-129 beneficiary and his or her dependent spouse are legally married. The certificate must indicate that the marriage was registered or recorded with the appropriate civil authorities. Provide foreign language document with English translation. Any document submitted to the Service containing a foreign language, must be accompanied by a full English language translation that has been certified by the translator as complete and accurate, and that the translator is competent to translate from the foreign language into English.
- **Approval Notices:** Submit the beneficiary's spouse's copies of all Form I-797A, Notice of Action, approval notices granting the applicant any changes of status and/or extensions of stay in the United States in the H or L nonimmigrant classification (including L-1, L-2, H-1, H-2, & H-3 classifications). If these are not available, list the periods of employment, the name of the employer(s) and the Service file receipt number(s) assigned to the position(s).
- **Status of H1-B Spouse:** As an H-4 nonimmigrant, the beneficiary's status is depending on her H-1B spouse. Please submit copies of the beneficiary's spouse's pay records (leave and earnings statements, pay stubs, etc.) with his employer for the two pay periods prior to the filing of the present petition on April 6, 2016 to establish that the beneficiary was in a valid nonimmigrant status at the time the present petition was filed.