

May 24, 2018

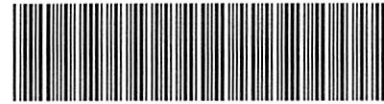
JNIT TECHNOLOGIES INC
c/o NIKESH PATEL
1900 ENCHANTED WAY STE 200
GRAPEVINE, TX 76051

Form I-129, Petition for a Nonimmigrant Worker

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
Laguna Niguel, CA 92607-0590



U.S. Citizenship
and Immigration
Services



WAC1815351331



A118-282-708

REQUEST FOR EVIDENCE

IMPORTANT: THIS NOTICE CONTAINS YOUR UNIQUE NUMBER. THE ORIGINAL NOTICE MUST BE SUBMITTED WITH THE REQUESTED EVIDENCE.

You are receiving this notice because U.S. Citizenship and Immigration Services (USCIS) requires additional evidence to process your form. Please provide the evidence requested below. Include duplicate copies if you are requesting consular notification.

Your response must be received in this office by August 19, 2018.

Please note that you have been allotted the maximum period allowed for responding to a Request for Evidence (RFE). The time period for responding cannot be extended. Title 8, Code of Federal Regulations (8 CFR) § 103.2(b)(8)(iv). Because many immigration benefits are time sensitive, you are encouraged to respond to this request as early as possible, but no later than the deadline provided above. If you do not respond to this notice within the allotted time, your case may be denied. The regulations do not provide for an extension of time to submit the requested evidence.

You must submit all requested evidence at the same time. If you submit only some of the requested evidence, USCIS will consider your response a request for a decision on the record. 8 CFR § 103.2(b)(11).

If you submit a document in any language other than English, the document must be accompanied by a full and **complete** English translation. The translator must certify that the translation is accurate and he or she is competent to translate from that language to English. **If you submit a foreign language translation in response to this request for evidence, you must also include a copy of the foreign language document.**

Processing of your Form I-129 will resume upon receipt of your response. If you have not heard from USCIS within **60 days of responding**, you may contact the USCIS National Customer Service Center (NCSC) at **1-800-375-5283**. If you are hearing impaired, please call the NCSC TDD at **1-800-767-1833**.



On April 12, 2018, your organization, JNIT TECHNOLOGIES INC, filed a Petition for a Nonimmigrant Worker (Form I-129), with U.S. Citizenship and Immigration Services (USCIS), seeking to classify MULLAPATI, LOKESH (beneficiary) as a temporary worker in a specialty occupation (H-1B) under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (INA).

A specialty occupation is one that requires the theoretical and practical application of a body of highly specialized knowledge and that 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.

You seek new employment for the beneficiary and requested that USCIS change the beneficiary's status.

You stated on the Form I-129 that you are in the information technology consulting business with 250 employees. You seek to employ the beneficiary as a Java Developer from October 1, 2018 to September 14, 2021.

To process your petition and determine whether your organization and the beneficiary are eligible, additional information is required. This request provides suggested evidence that you may submit to satisfy each requested item. You may:

- Submit one, some, or all of these items;
- Submit none of the suggested items and instead submit other evidence to satisfy the request;
- Explain how the evidence in the record already establishes eligibility; or
- Request a decision based on the record.

Please note that you are responsible for providing evidence showing that your organization and the beneficiary meet all requirements and are eligible for the requested benefit at the time you filed the Form I-129. Also, note that statements made in cover letters should be supported with additional documentary evidence.

Public Law 114-113 Fee

On December 18, 2015, President Obama signed into law the Consolidated Appropriations Act of 2016 (Public Law 114-113), which contains provisions to increase certain H-1B and L-1 petition fees with immediate effect.

Public Law 114-113, as amended by section 30203(b) of the Bipartisan Budget Act of 2018, requires the submission of an additional fee of \$4,000 for certain H-1B petitions and \$4,500 for certain L-1 petitions postmarked on or after December 18, 2015, and will remain in effect through September 30, 2027. This fee is in addition to the base processing fee, the existing Fraud Prevention and Detection Fee, and any applicable American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) fee needed to file a Form I-129, Petition for a Nonimmigrant Worker, as well as any premium processing fees.

This additional fee applies to a petitioner who employs 50 or more employees in the United States with more than 50% of its employees in the United States in H-1B, L-1A, or L-1B nonimmigrant status. Petitioners meeting these criteria must submit the applicable fee with an H-1B, L-1A or L-1B petition.

Your petition was postmarked on or after December 18, 2015, seeking H-1B nonimmigrant

classification, without the additional Public Law 114-113 fee of \$4,000 for H-1B petitions.

USCIS records indicate that you have obtained 151 H-1B or L-1 Form I-129 approvals in the last three years compared to the 250 U.S. employees you indicated on the Form I-129. Accordingly, it appears that you employ 50 or more employees in the United States and that more than 50% of your employees in the United States are in H-1B, L-1A, or L-1B status. Thus, it appears that you are required to pay the additional Public Law 114-113 fee of \$4,000 for H-1B petitions. Please remit the \$4,000 fee in response to this Request for Evidence.

If you believe that you are not required to pay the additional fee, please provide evidence to establish that you are exempt from the fee. Evidence may include but is not limited to the following:

- A statement stating the total number of employees employed by you in the United States at the time you filed this Form I-129. Also state the number of H-1B and L-1 nonimmigrants employed by you in the United States at the time you filed this Form I-129.
- Copies of your Form 941, Employer's Quarterly Federal Tax Return, for the quarter immediately prior to the filing date of this Form I-129.
- A table as shown below for all employees employed by you at the time you filed this Form I-129. Please arrange the last name in alphabetical order.

Last Name	First Name	Current Status (i.e. United States Citizen, Lawful Permanent Resident, H-1B, L-1, etc.)	USCIS Receipt Number (if applicable)

Employer Information

Please submit additional evidence regarding your organization. Evidence may include but is not limited to the following:

- Copies of your current valid city, county, state and/or federal government business licenses.
- Copies of your state quarterly wage reports for all employees from all states for the 1st Quarter 2018.
- Copies of your Form 941, Employer's Quarterly Federal Tax Return, for all employees for the 1st Quarter 2018.
- Copies of your 2016 and 2017 federal income tax returns. The copies of the tax returns should include all attachments and schedules. Please provide complete copies.
- You provided a lease for your premises commencing on in July 2015 for 39 months. Please provide evidence that you have extended this lease or had leased space at another location. Be sure that the lease is signed and dated by both the lessor and the lessee. If you do not lease your business premises, explain and provide evidence.
- A list of all of your workers who current work and who will work at your location at 1900 Enchanted Way, Suite 200, Grapevine, Texas.
- Evidence of business conducted at the location listed on Form I-129. Evidence may include telephone bills, utility bills, rent receipts, payroll documents, bank statements, or business licenses.

Specialty Occupation

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:

- A certified Labor Condition Application (LCA); and
- Information about your organization's products or services.

You did not provide any description of the duties of the position and the requirements for entry into the position. Without specific and detailed description of the beneficiary's duties, you have not shown that the position 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 it 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, you should 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, you should 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:
 - 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.

Completion of a Bachelor's or Higher Degree in a Specific Specialty

To qualify to perform services in a specialty occupation, the beneficiary must meet at least one of the following criteria:

1. Hold a United States bachelor's or higher degree required by the specialty occupation from an



- accredited college or university;
2. Hold a foreign degree determined to be equivalent to a United States bachelor's or higher degree required by the specialty occupation from an accredited college or university;
 3. Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
 4. Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States bachelor's or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

USCIS interprets the term degree to mean not just any degree, but a degree in a field of study that is related to the position. Accordingly, you must show that the beneficiary has obtained a bachelor's or higher degree or its equivalent that is required by the specialty occupation.

To show that the beneficiary possesses a bachelor's degree or higher or its equivalent that is required by the position, you submitted:

- A copy of the beneficiary's U.S. degree;
- Copies of the beneficiary's U.S. college transcripts;
- A copy of the beneficiary's foreign degree;
- Copies of the beneficiary's foreign school transcripts;
- The beneficiary's résumé; and
- Letter(s) from the beneficiary's former employer(s).

The beneficiary has foreign and U.S. degrees. As stated above, you have not shown that the position you offered to the beneficiary is a specialty occupation. Accordingly, the record does not show how the beneficiary's education qualifies the beneficiary for the position.

You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to, a combination of the following or similar types of evidence:

- Documents to show that the beneficiary's knowledge and education are directly related to and required by the position.
- Evidence that the beneficiary possesses any required state license, registration or certification to practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment.
- An advisory evaluation of the beneficiary's foreign educational credentials by a credentials evaluation service that specializes in evaluating foreign educational credentials. This evaluation should:
 - Address the beneficiary's educational achievements as to equivalent education in the United States including the field of study;
 - Consider formal post-secondary education only and not training or experience;
 - Provide a detailed description of the material evaluated rather than conclusions;
 - Provide a brief description of the qualifications and experience of the evaluator;
 - Include all the documentation provided by the beneficiary for the evaluation; and
 - Cite any reference material used by the evaluator.
- An evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty. The evaluation from an official:
 - Must be accompanied by evidence to establish that the college or university is accredited and



that it has a program for granting college-level credit based on training and/or experience. Stating in a letter that the school has such a program may not be sufficient. Also, training or experience derived from internship programs may not satisfy this requirement unless you establish that the experience or training claimed was gained through enrollment in the particular college or university's internship program; and

- Should be on behalf of the college or university where he or she is employed. The evaluation should describe the material evaluated and establish that the areas of training and/or experience are related to the specialty. The evaluation should be accompanied by evidence that the particular official is authorized to grant college-level credit on behalf of their institution and holds a bachelor's or higher degree in the field of study or a closely related field the official is evaluating. The evaluation should also be accompanied by evidence of the number of credits the evaluator may grant for training and/or experience as part of the program.
- The results of recognized college-level equivalency examinations or special credit programs, such as the College Level Examination Program (CLEP), or Program on Noncollegiate Sponsored Instruction (PONSi).
- Evidence of certification or registration for the beneficiary from a nationally-recognized professional association or society for the specialty that is known to grant certification or registration to persons in the occupational specialty who have achieved a certain level of competence in the specialty.
- Documentary evidence showing six years of specialized training, and/or progressively responsible work experience in the field related to the specialty.
- Copies of affidavits or letters from present or former employers.
- Copies of personnel records.
- Copies of any other documents that reflect promotion or achievement of progressively responsible positions directly related to the specialty that demonstrate that the beneficiary's training and/or work experience included:
- The theoretical and practical application of specialized knowledge required by the specialty occupation;
- That the beneficiary's experience was gained while working with peers, supervisors, or subordinates who have a degree or its equivalent in the specialty occupation; and
- That the experience was progressively responsible.
- If you are claiming that the beneficiary has education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States bachelor's or higher degree in the specialty occupation; you must also show that the beneficiary has recognition of expertise in the specialty, through progressively responsible positions directly related to the specialty. Evidence of recognition of expertise should consist of at least one of the following types of evidence:
- Recognition of expertise in the specialty occupation by at least two recognized authorities in the same specialty occupation;
- Membership in a recognized foreign or United States association or society in the specialty occupation;
- Published material by or about the beneficiary in professional publications, trade journals, books, or major newspapers;
- Licensure or registration to practice the specialty occupation in a foreign country; or
- Achievements that a recognized authority has determined to be significant contributions to the field of the specialty occupation.

A recognized authority means a person or an organization with expertise in a particular field, and the expertise to render the type of opinion requested. Such opinion must state: the writer's



qualifications as an expert; the writer's experience giving such opinions; how the conclusions were reached; and the basis for the conclusions supported by copies or citations of any research material used.

Employer-Employee Relationship

As an employer who seeks to sponsor a temporary worker in an H-1B specialty occupation, you must establish that, among other things:

- The beneficiary will be employed in a specialty occupation. This means that the employer has specific and non-speculative qualifying assignments in a specialty occupation for the beneficiary for the entire time requested in the petition; and
- The employer will maintain an employer-employee relationship with the beneficiary by having the right to control the beneficiary's work, which may include the ability to hire, fire, or supervise the beneficiary, for the duration of the requested validity period.

Also, you should be able to establish that the above elements will continue to exist throughout the duration of the requested H-1B validity period.

USCIS must determine if you satisfy all of the above elements through evidence that describes (with no one factor being decisive or exhaustive):

- the skill required to perform the specialty occupation;
- the source of the instrumentalities and tools required to perform the specialty occupation;
- the location of the work;
- the duration of the relationship between you and the beneficiary;
- whether you have the right to assign additional work to the beneficiary;
- the extent of the beneficiary's discretion over when and how long to work;
- the method of payment of the beneficiary's salary;
- the beneficiary's role in hiring and paying assistants;
- whether the specialty occupation work is part of your regular business;
- whether you are in business;
- the provision of employee benefits;
- the tax treatment of the beneficiary;
- whether you can hire or fire the beneficiary or set rules and regulations on the beneficiary's work;
- whether, and if so, to what extent you supervise the beneficiary's work; and/or
- whether the beneficiary reports to someone higher in your organization.

The following item(s) explain why the submitted evidence is deficient and requests additional evidence to render a final decision.

Right to Control: To qualify as a U.S. employer, you must establish that you have an employer-employee relationship with the beneficiary by having the right to control the beneficiary's work, which may include the ability to hire, fire, or supervise the beneficiary, for the duration of the requested validity period.

The evidence is insufficient to establish that a valid employer-employee relationship will exist for the duration of the requested validity period.

You indicate that the beneficiary will work at 30 Hudson Street, Jersey City, New Jersey. You did not name the end-client at this location or provide copies of any contracts, work orders or statements of

work between your organization and the end-client for the beneficiary to provide services to the end-client to show that you have the right to control when, where, and how the beneficiary performs the job.

You may submit additional evidence to satisfy this requirement. Evidence may include, but is not limited to:

- A complete itinerary of services or engagements that specifies the dates of each service or engagement, the names and addresses of any end-client where the services will be performed for the requested employment period of time requested.
- A copy of a signed Employment Agreement between you and the beneficiary detailing the terms and conditions of employment.
- A copy of relevant portions of valid contracts between your organization and the end-client that establishes that while your employees are placed at the third-party work site, you will continue to have the right to control your employees.
- Copies of signed contractual agreements, statements of work, work orders or service agreements between your organization and the end-client. The documentation should provide information such as:
 - a detailed description of the duties the beneficiary will perform;
 - the qualifications that are required to perform the job duties;
 - salary or wages paid, hours worked, benefits;
 - a brief description of who will supervise the beneficiary; and
 - any other related evidence.
- Evidence of actual work assignments, which may include technical documentation, milestone tables, marketing analysis, cost-benefit analysis, brochures, and funding documents.
- Copies of relevant, signed contractual agreements between your organization and all other companies involved in the beneficiary's placement, if your organization has not directly contracted with the third-party worksite.
- A letter signed by an authorized official of each ultimate end-client company where the beneficiary will actually work. The letter should provide information, such as:
 - a detailed description of the specialized duties the beneficiary will perform;
 - the qualifications required to perform those duties
 - the duration of the job;
 - salary or wages paid, hours worked, benefits; and
 - a detailed description of who will supervise the beneficiary.
- A copy of the end client's position description and/or any other documentation that describes:
 - the skills required to perform the job;
 - the source of the instrumentalities and tools needed to perform the job;
 - the product to be developed or the service to be provided;
 - the location where the beneficiary will perform the duties;
 - the duration of the relationship between you and beneficiary;
 - whether you have the right to assign additional duties;
 - the extent of your discretion over when and how long the beneficiary will work;
 - the method of payment;
 - your role in paying and hiring assistants to be utilized by the beneficiary;
 - whether the work to be performed is part of your regular business;
 - the provision of employee benefits; and/or
 - the tax treatment of the beneficiary in relation to you.
- A description of the performance review process.
- A copy of your organizational chart, demonstrating the beneficiary's supervisory chain.
- Any other evidence you feel will meet the requirement.



Services in a Specialty Occupation at Third Party Off-Site Employment: When a beneficiary will be placed at one or more third-party worksites, a petitioner must demonstrate that it has specific and non-speculative qualifying assignments in a specialty occupation for the beneficiary for the entire time requested on the petition. A petitioner will need to show that:

- It has a specific work assignment in place for the beneficiary;
- The petition is properly supported by a Labor Condition Application (LCA) that corresponds to such work; and
- The actual work to be performed by the H-1B beneficiary will be in a specialty occupation based on the work requirements imposed by the end-client who uses the beneficiary's services.
See Defensor v. Meissner, 201 F.3d 384, 387 (5th Cir. 2000).

You indicate that the beneficiary will work at an end-client. You did not provide copies of any contracts, work orders or statements of work between your organization and the end-client for the beneficiary to provide services to the end-client and that such work requires a bachelor's or higher degree or its equivalent in a specific specialty.

Therefore, provide additional evidence to establish that you will employ the beneficiary in a specialty occupation. Evidence may include, but is not limited to the following types of evidence:

- Copies of signed contractual agreements, statements of work, work orders or service agreements between your organization and the end-client. The documentation should provide information such as:
 - a detailed description of the duties the beneficiary will perform;
 - the qualifications that are required to perform the job duties; and
 - dates of services requested, work schedule.
- Evidence of actual work assignments, which may include technical documentation, milestone tables, marketing analysis, cost-benefit analysis, brochures, and funding documents.
- Copies of relevant, signed contractual agreements between your organization and all other companies involved in the beneficiary's placement, if your organization has not directly contracted with the third-party worksite.
- A letter signed by an authorized official of each ultimate end-client company where the beneficiary will actually work. The letter should provide information, such as
 - a detailed description of the specialized duties the beneficiary will perform;
 - the qualifications required to perform those duties
 - the duration of the job;
 - salary or wages paid, hours worked, benefits; and
 - a detailed description of who will supervise the beneficiary.
- A complete itinerary of services or engagements that specifies:
 - the dates of each service or engagement;
 - the names and addresses of the ultimate employer(s);
 - the names, addresses (including floor, suite, and office) and telephone numbers of the locations where the services will be performed for the period of time requested; and
 - corroborating evidence for all of the above.
- Documentary evidence showing that:
 - the end-client requires the beneficiary's services; and
 - the end-client's requirements (if any) for the position, for all of the client facilities where the beneficiary will be employed.
- Additional information about the end-client's business such as:
 - company brochures;
 - Internet website; and

- any other printed work which outlines, in detail, their services.
- A copy of the end client's position description and/or any other documentation that describes:
 - the skills required to perform the job;
 - the source of the instrumentalities and tools needed to perform the job;
 - the product to be developed or the service to be provided; and
 - the location where the beneficiary will perform the duties.
- Any other evidence you feel will meet the requirement.

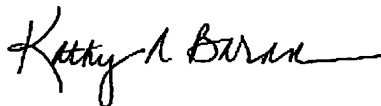
F-1 OPT Unemployment

Students engaging in initial F-1 post-completion Optional Practical Training (OPT) may not accrue an aggregate of more than 90 days of unemployment during the initial post-completion OPT period. Students granted the 17-month OPT extension may not accrue an aggregate of more than 120 days of unemployment during the total OPT period including any initial OPT and the 17-month OPT extension. Students granted the 24-month OPT extension may not accrue an aggregate of more than 150 days of unemployment during the total OPT period including any initial OPT and the 24-month OPT extension. Further, students engaging in F-1 post-completion OPT must engage in at least 20 hours or more per week of employment that is directly related to the student's U.S. major of study. Lastly, unpaid internships may meet the OPT employment requirements if the internship is directly related to the student's U.S. major of study and the internship complies with all labor laws. Please provide evidence that the beneficiary maintained the beneficiary's F-1 status during post-completion OPT. Evidence may include but is not limited to the following:

- A list of all employers the beneficiary has worked for under post-completion OPT and the periods the beneficiary worked for those employers;
- Copies of all pay records / stubs for the beneficiary from the starting date of post-completion OPT to the present time; and
- Evidence that the beneficiary worked at least 20 hours or more per week in a position that is directly related to the beneficiary's U.S. major of study.

PLEASE RETURN THE REQUESTED INFORMATION AND ALL SUPPORTING DOCUMENTS
WITH THIS ORIGINAL REQUEST ON TOP TO:
U.S. CITIZENSHIP AND IMMIGRATION SERVICES
P.O. BOX 10590
LAGUNA NIGUEL, CA. 92607-0590

Sincerely,



Kathy A. Baran
 Director, California Service Center

