Dear Director Mayorkas:

It is our understanding that the USCIS is in the process of drafting new guidance on how the L-1B "specialized knowledge" requirement will be applied to the approval of visa petitions in the future. On behalf of IEEE-USA, I urge you to provide a formal opportunity for public comment on this guidance prior to implementing it.

Our 210,000 U.S. members understand the value of our L-1B colleagues with genuinely specialized knowledge, just as we welcome international transfers of executives and managers, the traditional users of the L-1A visa. Such employees can be essential to maintaining jobs in the U.S. We are troubled, however, by reports that the L-1 visa program continues to be used in ways that exploit L-1B workers and adversely affect employment opportunities, wages and working conditions for U.S. citizen and permanent resident workers.

The Immigration Act of 1990 and the L-1 Visa Reform Act of 2004 were quite clear that the strict enforcement of a strong "specialized knowledge" requirement would exclude from the L-1B visa program outsourcing companies whose business models are based on workers acquiring skills, knowledge and contacts in the United States for the purpose of moving American jobs overseas. We note with concern that companies whose primary business model is the offshore outsourcing of American jobs are among the petitioners asking USCIS to relax its enforcement of the "specialized knowledge" rules.

We also appreciate that questions have arisen regarding inconsistencies in the application of the "specialized knowledge" requirement. Such inconsistencies are a legitimate matter of concern.

It is therefore important that all interested parties have an opportunity through an open and transparent process to review and provide input on any proposed guidance or directives. This is especially important since USCIS is using interpretive memos and not issuing binding regulations pursuant to the Administrative Procedures Act.

Sincerely,

James M. Howard
IEEE-USA President