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December 8, 2023

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

The Honorable Ur M. Jaddou
Director
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Camp Springs, MD 20746

RE: Immigration Provisions in the Artificial Intelligence Executive Order

Dear Secretary Mayorkas and Director Jaddou:

On behalf of the CEO members of Business Roundtable, I urge you to act expeditiously to modernize immigration programs that can be utilized by experts in Artificial Intelligence (AI) and other critical and emerging technologies as directed in the Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.

We encourage you to explore all actions within your authority that would make it easier for experts in critical technologies to utilize the EB-1 and EB-2 green card categories, O-1A and H-1B nonimmigrant programs, and the International Entrepreneur Rule, while not compromising national security. We also urge you to use the forthcoming adjustment of status rulemaking to enhance the process by which H-1B holders working in these fields as well as their spouses, dependents and children become lawful permanent residents.

We also urge U.S. Citizenship and Immigration Services to issue updated guidance as soon as possible to clarify that a broad range of occupations in AI and other critical and emerging technology fields will qualify a foreign national worker for a national interest waiver. We further ask that you explore ways to minimize the paperwork burdens involved in establishing eligibility. The Executive Order confirmed that granting permanent resident status to experts in AI and other critical technologies is in the national interest, and the Secretary of Homeland Security would be well within the authority granted by Congress to waive the job offer requirement and the corresponding labor market test.

Highly educated immigrants have always been a beneficial addition to the U.S. workforce, and the urgent demand for talent that can develop and harness these new technologies makes them even more critical. Our member companies will continue to commit significant resources to ensuring American workers have the skills required for these in-demand fields, but these efforts alone will not be able to meet the U.S. workforce needs.

We thank you in advance for your quick action on the Executive Order's policy directives. We have also spoken with the Department of Labor (DOL) to address domestic talent shortages by including AI and related fields among Schedule A occupations for expedited visa processing.

Please let us know how we and our member companies can be of assistance. We stand ready to support your efforts on this issue of critical importance to our economy, our workforce and our nation. I can be reached at dlinn@brt.org if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Dane Linn". The signature is fluid and cursive, with the first name "Dane" being more prominent than the last name "Linn".

Dane Linn
Senior Vice President
Business Roundtable



U.S. Citizenship
and Immigration
Services

February 27, 2024

Dane Linn
Senior Vice President
Business Roundtable
1000 Maine Avenue, SW, STE 500
Washington, DC 20024
dlinn@brt.org

Dear Mr. Linn:

Thank you for your December 8, 2023 letter to the Department of Homeland Security (DHS) regarding the Executive Order on Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence (EO 14110).¹ I am responding on behalf of the Department.

As you note, EO 14110 Section 5.1 directs DHS to clarify and modernize immigration pathways for experts in artificial intelligence (AI) and other critical and emerging technologies – including for O-1A and EB-1 noncitizens of extraordinary ability, EB-2 advanced-degree holders and noncitizens of exceptional ability, and H-1B nonimmigrants, among others. DHS recognizes that cultivating and retaining talent in AI and other emerging technologies is critical to U.S. global competitiveness and that immigration pathways have an important role to play in those efforts.

Consistent with EO 14110, DHS is reviewing existing policies and procedures to identify ways to streamline processing for AI experts seeking to study, stay, and work in the United States. As examples of its iterative review and policy work, DHS has taken several recent steps to clarify and modernize immigration pathways for such experts:

- On October 23, 2023, U.S. Citizenship and Immigration Services (USCIS) published a Notice of Proposed Rulemaking to modernize the H-1B specialty occupation worker program and enhance its integrity and usage.² On February 2, 2024, USCIS published a final rule that implements a beneficiary centric selection process for H-1B registration and

¹ Executive Order 14110. Executive Office of the President, “Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence,” 88 Federal Register 75191, October 30, 2023, at <https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence>.

² See <https://www.federalregister.gov/documents/2023/10/23/2023-23381/modernizing-h-1b-requirements-providing-flexibility-in-the-f-1-program-and-program-improvements>.

strengthens integrity measures related to registration. USCIS continues to work on rulemakings to enhance the H-1B program and adjustment of status processes for noncitizens, including experts in AI and other critical and emerging technologies, their spouses, and their dependent children.

- On September 12, 2023, USCIS issued guidance regarding the evaluation of evidence submitted in support of E11 extraordinary ability petitions and E12 outstanding professor or researcher petitions. Among other revisions, this update incorporated more detailed guidance and examples with a focus on the science, technology, engineering, and mathematics (STEM) fields.³
- Previously, USCIS also published new webpages for noncitizen entrepreneurs and STEM professionals with guidance on both nonimmigrant and immigrant options to work in the United States.⁴ In 2022, USCIS issued two policy updates in the USCIS Policy Manual supporting a White House-led initiative on international STEM talent.⁵
 - Our national interest waiver guidance explains how EB-2 STEM degree holders or persons of exceptional ability can qualify for a waiver, which eliminates the job offer and labor market test requirements. It provides guidance for those working in critical and emerging technologies, such as artificial intelligence, and discusses the use of letters from interested government agencies.⁶
 - Our O-1 guidance explains how “extraordinary ability” nonimmigrant visa applicants in STEM fields may meet the relevant evidentiary requirements.⁷

These actions are part of ongoing efforts to ensure the safe and responsible development, deployment, and use of AI and other critical emerging technologies, a top priority for the Department. DHS will continue, under existing authorities, to explore ways to further improve program efficiency for immigration pathways for experts in these areas. Further information regarding our progress towards EO 14110 deliverables will be published at www.dhs.gov/ai as updates become available.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,



Ur M. Jaddou
Director

³ See <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230912-ExtraordinaryAbilityOutstandingProfessor.pdf>.

⁴ See <https://www.uscis.gov/working-in-the-united-states/options-for-noncitizen-entrepreneurs-to-work-in-the-united-states>; <https://www.uscis.gov/working-in-the-united-states/options-for-noncitizen-stem-professionals-to-work-in-the-united-states>.

⁵ See <https://www.whitehouse.gov/briefing-room/statements-releases/2022/01/21/fact-sheet-biden-harris-administration-actions-to-attract-stem-talent-and-strengthen-our-economy-and-competitiveness/>.

⁶ See <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-5>.

⁷ See <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220121-ExtraordinaryAbility.pdf>.