



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

NISHA AGARWAL
COMMISSIONER
OFFICE OF IMMIGRANT AFFAIRS

May 18, 2017

RE: Supplemental Questions for Visa Applicants
Form Number: DS-5535; OMB Control Number: New
Docket Number: DOS-2017-0019

To whom it may concern:

The New York City Mayor's Office of Immigrant Affairs ("MOIA") submits the following in response to the Department of State ("DOS") request for comments on the collection of additional information from certain visa applicants.

MOIA promotes the well-being of immigrant communities by recommending policies and programs that facilitate the successful integration of immigrant New Yorkers into the civic, economic, and cultural life of the City.

New York is a city of immigrants and a global city. Approximately 40% of New Yorkers are foreign born, hailing from all over the world. We also welcome business people, workers, students, and tourists from all over the world. Because we recognize the significant contributions of our immigrant residents and foreign visitors, MOIA has concerns about how the proposed changes to the visa application process will affect New York City's economy and institutions that rely on the contributions of immigrants. We therefore recommend that DOS use heightened screening judiciously and publish additional guidance and explicit instructions to prevent unnecessary disruptions to the economy of New York and other similarly situated cities in the U.S.

The Proposed Rule May Negatively Affect New York City's Economy

Neither the President's memorandum signed March 6, 2017,¹ nor this proposed information collection clearly indicate how visa applicants will be selected for the heightened screening

¹ Memorandum for the Secretary of State, the Attorney General, and the Secretary of Homeland Security, *Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry Into the United States, and Increasing Transparency Among*

proposed. The lack of clear guidance creates a risk of over-broad application, which could negatively affect travelers who pose no security risk by either preventing them from entering or deterring them from entering the country.

New York City's hospitals, universities, and businesses are intimately tied to the immigrant doctors, researchers, and other visitors and immigrants that come to our City. Nearly half of the city's workforce is foreign-born and more than half of the city's business-owners are immigrants. But a perception of unwelcoming policies and intolerance risks discouraging individuals from visiting and staying in New York City.² An overbroad application of the proposed information collection could create such a perception.

We are concerned that a potentially overbroad application of heightened screening will prevent family members, employees, students, business associates, and investors who pose no security risk from accessing visas or discourage such individuals from seeking visas.

The Proposed Rule Should Not Be Implemented As An Alternative Travel Ban

While DOS states that "visas may not be denied on the basis of race, religion, ethnicity, national origin, political views, gender, or sexual orientation," and that failure to provide requested information will not always result in visa denial,³ MOIA notes that the lack of clear guidance on who will undergo heightened screening leaves the door open for discriminatory application of the new information collection.

MOIA has concerns about an implementation of these new processes that would single out individuals on the basis of national origin or religion. The President has previously attempted to ban the travel of immigrants from certain Muslim-majority countries through an executive order.⁴ Because of New York City's global economy and incredibly diverse population, including 26,000 New Yorkers born in Iran, Syria, Somalia, Libya, Yemen, and Syria and nearly 40,000 New Yorkers claiming ancestry from these countries, New York City has opposed the approach taken by the Administration in the so-called "travel ban" executive orders. MOIA would be concerned if DOS chose to implement the proposed screening measures in a similar manner.

Recommendation

MOIA urges DOS to consider the effects this proposal could have on New York City's economy and diverse population of immigrant residents. MOIA recommends that if DOS chooses to

Departments and Agencies of the Federal Government and for the American People, 82 Fed. Reg. 16279 (April 3, 2017) (signed March 6, 2017).

² For example, a recent estimate from NYC & Company notes that its projection for international visitation to New York City has dropped by 300,000 since January, which translates to a loss of \$600 million in visitor spending in New York City for 2017. *Oversight: Preparing for the Impact of Federal Travel Bans on New York City's Economy*, Testimony of Fred Dixon (delivered by Donna Keren), NYC & Company, before the New York City Council Committee on Economic Development, 2 (April 20, 2017), available at <http://legistar.council.nyc.gov/View.ashx?M=F&ID=5139344&GUID=7E4BC66C-C16E-4217-9A15-D953EC1AE3EE>.

³ 82 Fed. Reg. 20956.

⁴ Exec. Order No. 13,780, 82 Fed. Reg. 13209 (Mar. 9, 2017). Federal courts have enjoined key provisions of this executive order nationwide.

implement heightened screening, it do so in a tailored fashion, when necessary for security reasons, recognizing that an overly broad application could lead to negative impacts in New York City and other cities with economies and culture that rest on openness to international visitors and immigrants.

MOIA also urges DOS to publish explicit instructions and additional guidance on when and how the proposed information collection will be implemented.

MOIA appreciates the opportunity to make recommendations related to the proposed collection of additional information from certain visa applicants, and we look forward to a continuing dialogue with DOS on these and other issues.

Sincerely,

A handwritten signature in black ink, appearing to read "n agarwal". The signature is fluid and cursive, with the first name "n" and last name "agarwal" clearly distinguishable.

Nisha Agarwal
Commissioner
NYC Mayor's Office of Immigrant Affairs