



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

BITTA MOSTOFI
ACTING COMMISSIONER
OFFICE OF IMMIGRANT AFFAIRS

October 2, 2017

RE: Supplemental Questions for Visa Applicants
Form Number: DS-5535; OMB Control Number: 1405-0226
Docket Number: DOS-2017-0032

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 previously submitted a comment on this information collection in May 2017, in response to the Notice of Information Collection Under OMB Emergency Review.¹

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 businesspeople, 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 changes to the visa application process will affect and have affected New York City's economy and institutions that rely on immigrants' contributions. We therefore recommend that DOS use its heightened screening and vetting measures judiciously and publish additional guidance to prevent unnecessary disruptions to the economy of New York and other similarly situated U.S. cities.

The Rule May Negatively Affect New York City's Economy

An overbroad application of this rule will hurt New York City's economy. Neither the President's memorandum under which these heightened screening and vetting measures were

¹ 82 Fed. Reg. 20956.

developed,² nor this information collection, clearly indicate how visa applicants will be selected for the heightened screening and vetting.

This uncertainty has contributed to a chilling effect on visitors to New York City. The City's hospitals, universities, and businesses are intimately tied to the immigrant doctors, researchers, and other visitors and immigrants who 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, which in turn will hurt the City's economy. For example, an estimate from NYC & Company that was put together after the issuance of the first travel ban projected a 300,000 drop in international visitors to New York City in 2017 compared to 2016, which translates to a loss of \$600 million in visitor spending in New York City for 2017.³

The Rule Creates Fear About Discriminatory Application

MOIA has concerns that the information collection could be applied in a discriminatory manner to deny visas on the basis of national origin or religion. Because the notice is vague about who will be subject to the information collection, DOS should provide additional guidance about when the information collection will be used, to avoid the perception of discriminatory application.

MOIA notes that this renewed call for comments includes a dramatic expansion of possible respondents. The information collection may now apply to visa applicants who warrant "additional scrutiny" in connection with "terrorism, national security-related, *or other visa ineligibilities*."⁴ This is an expansion from the original information collection, which only applied to those that raised questions related to "terrorism or other national security-related visa ineligibilities,"⁵ and increases the risk that this information collection will be applied over-broadly. This uncertainty about the scope of the process is indicative of the need for clear guidance about the situations in which it will be used.

In the months since these supplemental questions were first implemented, we have heard from community-based organizations in New York City about their clients, clients' relatives, or prospective clients who have simply chosen not to apply for a visa to travel to the United States because of this new information collection. These individuals, many of whom are from countries affected by the "travel ban" and new Presidential proclamation, cited the increased burden of the

² 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 Departments and Agencies of the Federal Government and for the American People*, 82 Fed. Reg. 16279 (April 3, 2017) (signed March 6, 2017).

³ *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>.

⁴ 82 Fed. Reg. 36180, 36181. Emphasis added.

⁵ 82 Fed. Reg. 20956, 20957.

information collection as a reason not to apply for a visa and expressed concerns about being targeted or harassed because of their national origin or religion.

Recommendation

MOIA urges DOS to consider the effects this proposal could have on New York City's economy and diverse foreign-born residents. MOIA recommends that if DOS chooses to continue its heightened screening and vetting, it do so in a tailored fashion, only when necessary for security reasons, recognizing that an overly broad application may already have caused negative effects in New York City and other cities with economies and cultures that rest on openness to international visitors and immigrants.

MOIA also urges DOS to publish guidance on when use of the additional information collection is appropriate, in order to mitigate the negative effects that foreign-born residents have been experiencing.

MOIA appreciates the opportunity to make recommendations related to the 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 'B. Mostofi', with a stylized flourish extending to the right.

Bitta Mostofi
Acting Commissioner
NYC Mayor's Office of Immigrant Affairs