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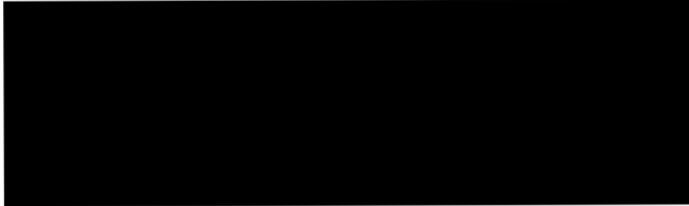
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U.S. Citizenship
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Services

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FILE: WAC 06 800 01644 Office: CALIFORNIA SERVICE CENTER Date: JUL 28 2008

IN RE: Petitioner: [Redacted]
Beneficiaries: [Redacted]

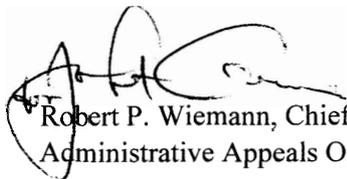
PETITION: Petition for Nonimmigrant Worker Pursuant to Section 101(a)(15)(Q)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(Q)(i)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, initially approved the nonimmigrant visa petition. Upon subsequent review, the director issued a notice of intent to revoke and ultimately revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner in this matter is self-described as a provider of "cultural exchange programs." The petitioner seeks to employ the beneficiaries temporarily in the United States for a period of 15 months by placing program participants at affiliated hotels. The petitioner seeks designation of its program as an international cultural exchange program and classification of the beneficiaries as international cultural exchange visitors pursuant to the provisions of section 101(a)(15)(Q)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(Q)(i).

The petitioner filed the nonimmigrant petition on November 22, 2005 and it was approved on January 30, 2006 for a period of fifteen months. In the Notice of Intent to Revoke issued on October 25, 2006,¹ the director observed "since the filing of the instant petition, and as of this date, the petitioner has not posted scheduled events, programs, seminars, or lectures on its website. Nor is there any evidence of scheduled events for public attendance." The director instructed the petitioner to submit additional evidence or arguments in rebuttal of the issues raised in the notice of intent to revoke. The petitioner submitted rebuttal evidence on November 24, 2006. Upon review, the director found the petitioner's response insufficient to overcome the proposed grounds for revocation, and thus revoked the approval of the petition on December 19, 2006. Referring to the eligibility criteria at 8 C.F.R. § 214.2(q), the director reviewed the evidence and concluded that the petitioner had not established that the international cultural exchange program has a cultural component or that the beneficiaries would be employed primarily to share with the American public the culture of the beneficiaries' country of nationality.

On appeal, the petitioner asserts that the director had no basis to revoke the approval of the petition, particularly on the stated grounds that the petitioner violated the terms and conditions of the approved petition. The petitioner asserts that neither beneficiary has commenced working for the petitioner under the Q-1 cultural exchange program, therefore no violation of the terms of the petition could have occurred. The petitioner further asserts that the company is operating a successful cultural exchange program in compliance with Q-1 regulations and in compliance with the program details submitted to CIS at the time the petition was filed. The petitioner submits a statement and additional documentary evidence in support of the appeal.

Section 101(a)(15)(Q)(i) of the Immigration and Nationality Act defines a nonimmigrant in this classification as:

an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program approved by the Attorney General for the purpose of

¹ In her Notice of Intent to Revoke issued on October 25, 2006, the director incorrectly referenced the regulation at 8 C.F.R. § 214.2(o)(8)(iii), which pertains to the revocation of O-1 classification nonimmigrant petitions. The director cited the correct regulation at 8 C.F.R. § 214.2(q)(9) in her Notice of Revocation. The director's earlier error, though regrettable, is found to be harmless.

providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.

The regulation at 8 C.F.R. § 214.2(q)(3) provides:

International cultural exchange program. -- (i) *General.* A United States employer shall petition the Attorney General on Form I-129, Petition for a Nonimmigrant Worker, for approval of an international cultural exchange program which is designed to provide an opportunity for the American public to learn about foreign cultures. The United States employer must simultaneously petition on the same Form I-129 for the authorization for one or more individually identified nonimmigrant aliens to be admitted in Q-1 status. These aliens are to be admitted to engage in employment or training of which the essential element is the sharing with the American public, or a segment of the public sharing a common cultural interest, of the culture of the alien's country of nationality. The international cultural exchange visitor's eligibility for admission will be considered only if the international cultural exchange program is approved.

* * *

(iii) *Requirements for program approval.* An international cultural exchange program must meet all of the following requirements:

- (A) *Accessibility to the public.* The international cultural exchange program must take place in a school, museum, business or other establishment where the American public, or a segment of the public sharing a common cultural interest, is exposed to aspects of a foreign culture as part of a structured program. Activities that take place in a private home or an isolated business setting to which the American public, or a segment of the public sharing a common cultural interest, does not have direct access do not qualify.
- (B) *Cultural component.* The international cultural exchange program must have a cultural component which is an essential and integral part of the international cultural exchange visitor's employment or training. The cultural component must be designed, on the whole, to exhibit or explain the attitude, customs, history, heritage, philosophy, or traditions of the international cultural exchange visitor's country of nationality. A cultural component may include structured instructional activities such as seminars, courses, lecture series, or language camps.
- (C) *Work component.* The international cultural exchange visitor's employment or training in the United States may not be independent of the cultural component of the international cultural exchange program. The work component must serve as the vehicle to achieve the objectives of the cultural component. The sharing of the

culture of the international cultural exchange visitor's country of nationality must result from his or her employment or training with the qualified employer in the United States.

Under CIS regulations, the approval of an Q-1 petition may be revoked on notice in four specific circumstances. 8 C.F.R. § 214.2(q)(9)(iii). To properly revoke the approval of a petition, the director must issue a notice of intent to revoke that contains a detailed statement of the grounds for the revocation and the time period allowed for rebuttal. 8 C.F.R. § 214.2(q)(9)(iv). In the present matter, the director provided the petitioner with a detailed statement of the grounds for the proposed revocation on the grounds that "[t]he petitioner violated the terms and conditions of the approved petition." 8 C.F.R. § 214.2(q)(9)(iii)(C).

Upon review, and for the reasons discussed below, the approval of the present petition was properly revoked as the director approved the petition in error. *See* 8 C.F.R. § 214.2(q)(9)(iii)(D).

The issue in this proceeding is whether the petitioner established that its proposed program is eligible for designation by Citizenship and Immigration Services (CIS) as an international cultural exchange program under section 101(a)(15)(Q)(i) of the Act. The director determined, in part, that the petitioner failed to establish that its cultural exchange program has a cultural component that is designed, on the whole, to exhibit or explain the attitude, customs, history, heritage, philosophy, or traditions of the international cultural exchange visitor's country of nationality, or that such component is an essential and integral part of the international cultural exchange visitor's employment or training, as required by the regulation at 8 C.F.R. § 214.2(q)(3)(iii)(B).

The petition was initially approved on January 30, 2006 based on the petitioner's submission of a Form I-129 petition and the following supporting documentation:

- A letter from the president of the petitioning organization describing its program.
- A copy of the petitioner's "Daily Cultural Activity Checklist" listing 25 activities to be completed by program participants.
- The petitioner's International Cultural Exchange Visitor Program Structural Training Plan.
- Evidence of events² hosted by the petitioning organization and other organizations including affiliates.

² The evidence consisted of documents pertaining to an African Gala held in August 2003; a "Cultural Showcase" held at Furman University in South Carolina in February 2004; the "Ihunnuko African Heritage Festival" held in September 2005 in North Carolina; a "Unity in Diversity" program held on June 30, 2005 at a Comfort Inn Hotel in South Carolina; a "Brazilian Night" held on February 17, 2005 at the Wingate Inn Marietta in Georgia; a "Multicultural Christmas" program held at the Holiday Inn Oceanfront in South Carolina on December 21, 2004; a "Mexico Spotlight" held at the Country Suites Hotel in Huntersville, North Carolina on November 21, 2004; a South Korean Cultural Show held on September 21, 2004; an "Around the World in Just A Day" event held on August 2, 2003 at the Hilton Head Yacht Club in South Carolina; an "Argentinean Cultural Show," held at the Holiday Inn Atlanta Northlake on February 13, 2003; an "International Food Tasting" held at the same Holiday Inn on February 28, 2003.

- Copies of photographs depicting cultural exchange visitors at work in the petitioner's affiliated hotel properties and attending "managers' receptions" at hotel properties;
- Copies of e-mails regarding the petitioner's cultural exchange webinar.³
Letters from affiliates of the petitioning organization.
- Testimonials from program participants regarding their activities in the United States.
Miscellaneous forms (including End of Training Program Evaluations completed by participants' supervisors, and International Participant Interview Forms completed by program applicants)
Copies of letters mailed to local ethnic and international groups in February 2003.
Sample power point presentations.

In its supporting letter dated November 23, 2005, the petitioner explained that its cultural exchange program takes place at various hotels and resorts operated by its "Affiliate Cultural Partners." The petitioner emphasized that the beneficiaries will be assigned to hotels and resorts in California that are "located near major highways and interstates that are easily accessible to the American public." The petitioner further noted that "[a]ll guests that stay at one of our properties are introduced to various international cultures and presentations in interesting and creative ways that adapt naturally to a hotel or resort." According to the petitioner's plan, it "presents foreign cultures to the American public during the course of a normal business day" by encouraging program participants to wear "culturally proud nametags," and native dress on national holidays, to display maps and souvenirs of their home country and to plan and stage celebrations of their own culture. The petitioner stated that by displaying symbols of their cultural heritage, the program participants evoke questions from the hotel guests, thereby providing an opportunity for cultural exchange.

The record shows that some events were co-sponsored by the petitioner and other entities. For example, the petitioner and the African Lady Shop sponsored two events, a fashion show and an African Cultural Heritage festival. One such event was jointly sponsored by the petitioner and the International Student Association at Furman University. The program included a performance by "Elvis of the East." Program participants made power point presentations on their countries of origin. These evening events typically were held from 6 to 9 pm.

The petition was approved on January 30, 2006 based on this initial evidence. On October 25, 2006, the director issued a Notice of Intent to Revoke the petition approval. The director specifically addressed the petitioner's claims that its participants undertake various cultural projects and activities which are accessible to the public, including the following:

- Participants host community events to educate local American public about their culture
- Participants prepare a calendar of events on [the petitioner's] website throughout the duration of their program
- Participants host various structured instructional activities such as seminars, courses, lecture series and language camps surrounding cultural and ethnic issues and themes.
- American public is provided with brochures and literature with information on participant's home country culture.

³ The term webinar is used for chat room.

- International speakers [are] invited for seminars, lectures or discussion groups in which GHE participants are also given an opportunity to speak
- Participants host various cultural "book discussions" events to discuss various publications by international authors which they provides their first hand impression.

The director advised the petitioner as follows:

Since the filing of the instant petition, and as of this date, the petitioner has not posted scheduled events, programs, seminars, or lectures on its website. Nor is there any evidence of scheduled events for public attendance by posted brochures, or literature distributed to the general public.

It appears the general public is without knowledge of any cultural engagements held by the petitioner, and therefore in order for participation to take place between the beneficiary and the American public a person would have to enter the petitioner's lodging business as a paying guest.

The director requested that the petitioner submit: (1) evidence of public events, seminars, and lectures approved by the City of San Francisco's Chamber of Commerce; and (2) copies of circular flyers, brochures and notices listing places of distribution for the general public to obtain such information.

Finally, the director noted that it appears that the petitioner is in the business of recruiting for such positions as housekeeping, kitchen staff, wait staff, front desk staff and maintenance staff.

The director determined that "the petitioner has violated the terms and conditions of the approved petition," and indicated his intention to revoke the approval of the petition in accordance with 8 C.F.R. § 214.2(q)(9). The director properly advised the petitioner that it would be afforded 30 days to submit additional evidence or arguments for consideration before a final determination would be made.

In response to the Notice of Intent to Revoke, the petitioner submitted a letter dated November 15, 2006. The petitioner preliminarily addressed the director's finding that the petitioner had violated the terms and conditions of the approved petition, noting that neither beneficiary had yet commenced employment in the Cultural Exchange Program in Q-1 status, as one beneficiary was awaiting a change of status and the other was awaiting the issuance of her Q-1 visa abroad. Accordingly, the petitioner argued that it could not have violated the terms of either beneficiary's approved petition.

Second, the petitioner addressed the issue of whether it is operating a successful cultural exchange program in compliance with the Q-1 regulations and the company's own program details submitted to CIS. The petitioner explained that while the instant beneficiaries were not currently participating in the program, it did in fact have six Q-1 program participants as of November 2006, and that such participants "are actively sharing their culture with American Public and have been following the guidelines of [the petitioner's] Q-1 program as per its structure." The petitioner maintained that "there have been numerous events scheduled and information of such events including flyers, mailings, newspaper ads, website solicitation, university notices and chamber of commerce memberships."

The petitioner further addressed the director's finding that the petitioner had not posted any information on its website or sent any information regarding scheduled events to the American public. In this regard, the petitioner stated "we are not sure when and how the USCIS checked our website and how it was concluded that no events were posted or information sent to the Public." The petitioner stated that numerous events had been scheduled by existing Q-1 beneficiaries, and that flyers and on-line postings to the petitioner's website had been made. The petitioner explained that its website "is not compatible with web browsers such as Fire Fox, Netscape or Safari and often times when someone opens [the company's] Website on these browsers, information appear[s] missing."

The petitioner explained that the number and type of cultural events it holds is directly proportional to the number of participants present in its program at any given time. The petitioner noted that its last group of Q-1 participants had returned home in October 2005, and thus it cannot show evidence of cultural activities undertaken between November 2005 and late April 2006, as it did not have any program participants in the United States. The petitioner explained that it had program participants arrive in the United States in April, May, June and August of 2006. The petitioner noted that its next event is scheduled for November 2006, with news of the event advertised in all available media.

With respect to the director's observation that the petitioner is in the business of recruiting, the petitioner provided the following explanation:

Please know that [the petitioner] does have different divisions of the company, which are focused on different fields. [The petitioner's] cultural exchange division is solely focused on Cultural Exchange. However, GHE also offer[s] J1 Training to individuals and also operate and manage many resorts and hotels through the United States.

* * *

The cultural exchange program takes place at various hotels and resorts; [the petitioner] is the Employer of these cultural exchange visitors for the duration of the program and our Affiliate Cultural Partners are providing the worksite locations. [The petitioner] provides the participants their wages, housing, transportation and controls their time, duties, schedules, placement and cultural activities through appropriate supervision and interaction. [The petitioner] monitors and evaluates the performance of all of its cultural exchange participants to ensure that they provide cultural awareness to the American Public.

In support of its rebuttal, the petitioner submitted, in relevant part, the following documentary evidence:

- An excerpt from the website of the San Francisco Chamber of Commerce announcing a "cultural show" highlighting the Philippines, Indonesia, Thailand, Netherlands and Korea, to be held by the petitioner at the West Bay Filipino Multi-Service Center in San Francisco on November 21, 2006.
- An advertisement for the same event published in the *San Francisco Chronicle*.

- Copies of flyers for various events sponsored by the petitioner between 2003 and 2005, the majority of which were previously submitted.
- A flyer for “Globaganza” a “Weekly International Event” held at the Holiday Inn Ocean Front in South Carolina on May 16, 2006. The flyer also references a “Daily Managers Reception” held at the same hotel.

Excerpts from the “Notice Board” on the petitioner’s website, printed on November 16, 2006, which has entries dated November 6, 2006, January 18, 2006, September 30, 2005, and July 4, 2005.

An organizational chart for the petitioner showing that the company’s divisions include separate departments for cultural programs and hotel management.

Photographs of various events that appear to have been held on-site at participating hotels.

Calendars of events for the months of June 2006 through January 2007.

The director revoked the approval of the petition on December 19, 2006, concluding that the petitioner has violated the terms and conditions necessary to qualify as an international cultural exchange visitor program under 8 C.F.R. § 214.2(q)(3)(iii). Specifically, the director found that the petitioner had not provided evidence that it had advertised regularly scheduled events, programs, seminars or lectures on its website, or provided evidence of scheduled events for public attendance by posted brochures or literature distributed to the general public.

The director acknowledged the evidence submitted in response to the Notice of Intent to Revoke. While noting that the petitioner submitted copies of flyers for events held at the company’s lodging sites between 2003 and 2006, the director found that “the distribution and mail list of recipients for the flyers remains inconclusive.” With respect to the photographs submitted, the director found that “the number of people in the photographs seems too diminutive for an event that is mass advertised by an organized sponsorship for a general public gathering.”

The director came to the following conclusion:

The issue for the instant petition is whether the petitioner has met the requirements of a qualified Cultural Exchange Program. The petitioner has not provided an essential and integral cultural component. The petitioner states the cultural plan dictates that the beneficiary spends almost four to seven months preparing for its cultural events. Upon request for evidence, the petitioner provided flyers and a single advertisement posted in the City of San Francisco’s Chamber of Commerce website. Further the petitioner states that there is ongoing cultural activity with the public due to the petitioner’s requirement that each beneficiary is required to dress in his or her native costume, while conducting prescribed daily hotel/motel duties. By dressing in ones native costume, patrons of the petitioner’s hotel/motel accommodations are enticed to inquire about the beneficiaries’ native customs and cultures. [From] [t]he evidence provided by the petitioner of its “programs” cultural components [it] is evident that special events sponsored by the petitioner are on an intermittent, rather than a regular basis. The petitioner’s principal purpose is to staff the hotel/motel industry with personnel. The petitioner’s gatherings held within the petitioners’ hotel property, which has been evidenced by photographs submitted by the petitioner, appear to be spectated [sic] by hotel/motel employees and patrons rather than a noticeable general public

population. These cultural events are too few and infrequent. It appears the beneficiaries' cultural activities are only incidental to their daily hotel/motel duties.

On appeal, the petitioner maintains that it has been conducting an active cultural exchange program since 2003, and that it submitted sufficient evidence to support such ongoing cultural activity. The petitioner asserts that the director has erroneously categorized it as a hotel staffing company where the only objective of the participants is to run a hotel, and emphasizes that "the only objective its participants has is to share their Country's culture and traditions with US Public." The petitioner asserts that all evidence and information requested in the Notice of Intent to Revoke was submitted and suggests that the director overlooked the fact that the petitioner did not have any Q-1 program participants from October 2005 until April 2006, thus there is no evidence of cultural activity for this period of time. The petitioner further emphasized that once a group of Q-1 participants arrive, it normally takes them time to conduct their "first big cultural show."

In a brief dated February 17, 2007, the petitioner further contends that the director failed to properly explain in detail the grounds of the revocation as required by 8 C.F.R. § 214.2(q)(9)(iii). The petitioner again objects to the director's finding in the Notice of Intent to Revoke that the company had violated the terms and conditions of the approved petition, pursuant to 8 C.F.R. § 214.2(q)(9)(iii)(C). The petitioner asserts that the director did not explain what terms were violated, did not explain how USCIS determined that no events were posted to the petitioner's web site, and did not provide evidence of the "authenticity" of such information.

The petitioner once again emphasizes that neither beneficiary of the instant petition has received the Q-1 nonimmigrant status required to commence participation in the cultural exchange program, thus "it is impossible for USCIS to determine that petitioner has violated the terms of the petition." The petitioner states that the petition "was approved based on the information submitted to USCIS at the time of filing the petition and [the petitioner] is [s]till to date adhering by the information provided at the time of filing the petition." The petitioner maintains that "this petition's terms and conditions were not violated simply because both beneficiaries did not start the Q-1 program yet."

The petitioner reiterates its explanation regarding the apparent absence of updates on its website, noting that the website includes both "permanent" and "static" information. The petitioner notes that the "static" information includes a news ticker, notice board and chat and that "it is very much possible that this static part of the dat[a] appeared missing at the time USCIS visited the GHE website and found no updates."

The petitioner insists that it has provided evidence of its mailing and distribution lists, with names and addresses of business and individuals who have been invited to its various cultural events. The petitioner also asserts that the San Francisco Chamber of Commerce website has a live link to the petitioner's website, and explains that "there have been numerous events and cultural activities sponsored and organized by [the petitioner] ever since the approval of its Q-1 program and great number of American Public have attended such events regularly."

Upon review, and for the reasons discussed herein, the AAO concurs with the director's determination that the petitioner failed to establish that its program qualifies for designation as an international cultural exchange program pursuant to the provisions of 8 C.F.R. § 214.2(q)(3) because the petitioner failed to establish that the beneficiary would be engaged in employment or training of which the *essential element* is the sharing with the

American public, or a segment of the public sharing a common cultural interest, of the culture of the alien's country of nationality. The amount of culture sharing among the participants and the public would be tangential and negligible. Accordingly, the AAO finds that "the Service approved the petition in error," and the director had proper grounds for revocation pursuant to 8 C.F.R. § 214.2(q)(9)(iii)(D).

The AAO acknowledges that in the notice of intent to revoke, the director stated that the petition approval was being revoked on the grounds that the petitioner violated the terms and conditions of the approved petition, pursuant to 8 C.F.R. § 214.2(q)(9)(iii)(C). The AAO agrees with the petitioner that this ground for revocation does not apply in light of the fact that the beneficiaries had yet to commence their employment with the company. However, a review of the Notice of Revocation reveals that the director ultimately determined that "the petitioner has not provided an essential and integral cultural component," and that program participants perform cultural activities that are "only incidental to their daily hotel/motel duties." Such deficiencies should have necessarily led to the initial denial of the petition, and thus the regulation at 8 C.F.R. § 214.2(q)(9)(iii)(D) is applicable. As the AAO's review is conducted on a *de novo* basis, the AAO will herein address the petitioner's evidence and eligibility. *See Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

To be eligible for designation as an international cultural exchange program under section 101(a)(15)(Q)(i) of the Act, the petitioner must establish that its proposed program satisfies the requirements at 8 C.F.R. § 214.2(q)(3).

Accessibility to the Public

The petitioner emphasizes that its cultural exchange program takes place primarily in hotels and resorts "located near major highways and interstates that are easily accessible to the American public." However, the petitioner has not established that the American public, or a segment of the public sharing a common cultural interest, would be exposed to aspects of a foreign culture as part of a structured program. The majority of the cultural activities undertaken by the program participants are realistically only available to paying guests of the petitioner's affiliated hotels, not by the general public or by a segment of the public sharing a common cultural interest. As noted by the director, a review of the totality of the evidence reveals that the petitioner's program's cultural component is evident at special events sponsored by the petitioner on an intermittent, rather than a regular, basis, with some participants contributing to only one event attended by the public over a 15-month period in the United States.

A review of the "Daily Cultural Activity Checklist" submitted by the petitioner supports a conclusion that the participants' cultural activities are primarily confined to interactions with individuals or small groups of hotel guests who are primarily present in the hotel because they require temporary lodging for reasons totally unrelated to the petitioner's cultural programs, and who do not represent a segment of the public sharing a common cultural interest. The "End of Training Program Evaluation Forms" submitted also show that program participants are "responsible for sharing [his or her] culture with every guest, management and hotel staff." The petitioner also submitted evidence of a "webinar" it developed for the participation of program participants. The evidence indicates that the petitioner created the webinar as a chat room for program participants. There is no evidence that the program participants would share their culture with the American public using this chat room. Even if the

chat room were accessible to the American public, the potential for cultural exchange is negligible, nor would it be necessary to bring individual aliens to the United States to perform this type of exchange.

Overall, the record shows that the scope of any cultural activities undertaken by program participants only occasionally reaches beyond paying customers and staff of the hotel to which the participants are assigned. Accordingly, the petitioner has not established that its program meets the requirement set forth at 8 C.F.R. § 214.2(q)(3)(A), in general, or with respect to the instant beneficiaries. Specifically, there is no evidence in the record regarding any planned, publicly accessible cultural activities related to the culture of the instant beneficiaries' native country of Kenya.

Work and Cultural Components

The AAO concurs with the director that the primary purpose of the petitioner's international exchange program is to staff hotels with hospitality students and professionals, rather than to provide a cultural exchange program. The cultural component must be designed, on the whole, to exhibit or explain the attitude, customs, history, heritage, philosophy or traditions of the international cultural exchange visitor's country of nationality. 8 C.F.R. § 214.2(q)(3)(iii)(B). In the instant case, the foreign participants share their own cultures with hotel guests and staff, and rarely, with the general public. However, the evidence indicates that the great majority of cultural exchange activity took place outside of work hours and that the total time allocated to such activity would be insignificant in relation to the total amount of time participants spend at their work sites. The statute and the regulations require that the alien be coming to the United States to engage in employment of which the *essential element* is the showing of the alien's country of nationality. The petitioner has failed to establish that the essential element of the beneficiaries' employment would be to share their native Kenyan culture.

Similarly, the beneficiaries' work is largely independent of the cultural component of the international cultural exchange program. According to the petitioner's "GHE International Cultural Exchange Visitor Program Structured Training Program (GSTP)," "participants work within various departments of these hotel properties to share their culture with hotel guests, gain work experience and hospitality skills."

Although the record indicates that the program participants are required to "share their culture" with hotel guests and staff, the petitioner has also indicated that they recruit hospitality students and professionals who are already experienced in the hotel industry, and assign them to traditional hospitality industry roles, such as front desk clerk. Therefore, while the program participants are designated as "cultural coordinators," the "End of Training Program Evaluations" completed for prior participants show that their duties included such tasks as checking customers in and out, taking reservations, making sales calls and performing other duties to ensure customer satisfaction. The evidence on the record is insufficient to establish that the foreign program participants share their respective cultures with the public on a regular basis as an essential element of their responsibilities. Rather, the cultural aspects of the participants' activities appear to be tangential to their tasks as hotel employees responsible for the day-to-day operations of the front desk and other departments. While the statute and regulations do not require the program to be purely cultural, the regulation specifies that the program's cultural component must be wholly designed to exhibit or explain the attitude, customs, history, heritage, philosophy, or traditions of the exchange visitors' country of nationality. 8 C.F.R. § 214.2(q)(3)(iii)(B). The evidence does not demonstrate that petitioner's cultural component is wholly designed to exhibit or explain any of these aspects of Kenyan culture.

Based on the foregoing discussion, it must be concluded that the petitioner failed to establish that its program qualifies for designation as an international cultural exchange program pursuant to the provisions of 8 C.F.R. § 214.2(q)(3) because the petitioner failed to establish that the beneficiary would be engaged in employment or training of which the *essential element* is the sharing with the American public, or a segment of the public sharing a common cultural interest, of the culture of the aliens' country of nationality.

In summary, the director did raise sufficient factual issues to support the revocation. The directors' initial approval was in error based on the lack of evidence that the petitioning organization meets the regulatory requirements for this visa classification. Accordingly, the director's decision to revoke approval of the petition will be affirmed.

The petitioner noted that CIS approved other petitions that the petitioner had previously filed on behalf of other employees. The director's decision does not indicate whether she reviewed the prior approvals of the other nonimmigrant petitions. If the previous nonimmigrant petitions were approved based on the same assertions that are contained in the current record, the approvals would constitute error on the part of the director. The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that CIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Furthermore, the AAO's authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of the beneficiary, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.