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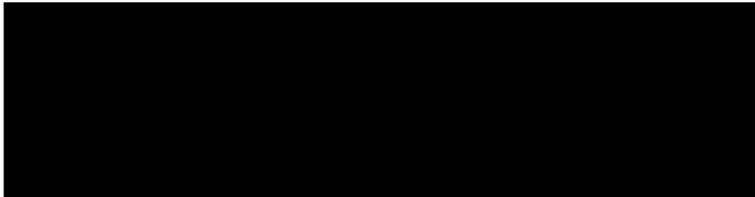
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



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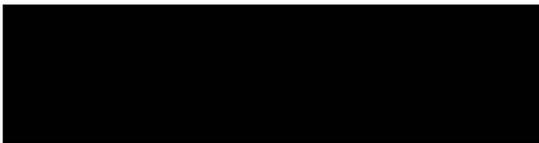
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FILE: EAC 09 021 50984 Office: VERMONT SERVICE CENTER Date:

NOV 25 2009

IN RE: Petitioner:
Beneficiaries:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry J. Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner operates a full-service resort located in Savannah Georgia. 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). It seeks to employ the beneficiaries as front desk agents in the United States for a period of fifteen (15) months.

Referring to the eligibility criteria at 8 C.F.R. § 214.2(q)(3)(iii), the director reviewed the evidence and concluded that the petitioner had not established that the international cultural exchange program has a structured cultural component or that the beneficiaries would be employed primarily to share with the American public the culture of their countries of nationality. The director observed that the beneficiaries will be primarily involved in a hospitality training program involving productive employment which is not related to the cultural component.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner asserts that "our purpose in designing this program is to create the opportunity for our American visitors to have the chance to meet with and learn about other cultures while they visit the nation's historic city." The petitioner states that, "in order to be in compliance with the requirements of the Q program, we have designed the program in the way that the work component will not be independent of the cultural component." The petitioner submits a "revised Q program" 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 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.

The regulation at 8 C.F.R. § 214.2(l)(4)(i)(A) requires the petitioner to submit appropriate documentation to evidence that the employer maintains an established international cultural exchange program in accordance with the requirements set forth above.

The issue to be addressed in this proceeding is whether the petitioner established that its proposed program is eligible for designation by United States Citizenship and Immigration Services (USCIS), under section 101(a)(15)(Q)(i) of the Act, as an international cultural exchange program. The director concluded that the petitioner's program does not meet the regulatory requirements at 8 C.F.R. 214.2(q)(3)(iii) pertaining to the cultural or work components. The director denied the petition, in part, based on the petitioner's failure to submit corroborating evidence in support of its statements that it operates a qualifying international cultural exchange program.

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on October 24, 2008, accompanied by the following supporting documentation:

- General information regarding the petitioning organization.
- A nine-page document describing the cultural and work components of the petitioner's Q-1 cultural exchange program.
- The petitioner's corporate Social Responsibility Report.
- Offer letters for each beneficiary identifying the terms of their proposed employment.
- Copies of the beneficiaries' resumes, educational credentials, letters from prior employers, passports, and evidence of their current J-1 nonimmigrant status.
- Application letters from the beneficiaries expressing their interest in the petitioner's Q-1 program.

The petitioner's international cultural exchange program description includes the following overview:

[The petitioner] is now committed to create and foster cross-cultural community where the benefits of cultural diversity will be promoted to our associates, to our guests and to our community in which we hope to cultivate a new understanding of acceptance, respect and consensus within ourselves. Cultural differences exist among groups of people with different backgrounds, histories and heritages. [The petitioner] is willing to teach the celebration of diversity in order to gain common ground for a common community good. We believe that we do not only need to learn about different cultures, but we also need to know where those cultures began and how they grew. With this purpose, [the petitioner] has developed a Cultural Awareness Program. In this program we hope to welcome international hoteliers who will be acting as cultural ambassadors of their countries they represent. The program is structured to give them the chance to represent their country's heritage and traditions. This will be accomplished through a structured presentation including but not limited to decorations, Food, music, dress, history and customs unique to their country.

The petitioner further described its "15 Months Q-1 Cultural Activities Plan" as follows:

- Cultural exchange visitor(s) are required to bring traditional costumes, flags, maps, pictures and brochures to assist in the implementation of the program.
- Cultural activities designed, will allow the cultural program cultural exchange visitor(s) to interact with younger guests and their families
- Program will target hotel guests and their children giving them the opportunity to learn more about other countries and cultures. We believe that this will broaden their vision, create curiosity about other cultures, be open minded about different cultures and traditions and inspire them to research more about these other cultures and become more culturally aware.

Finally, the petitioner described the "Cultural Components of the Cultural Activities" as the following:

- **Global Lunch Buffet:** Every day of the week the lunch buffet is prepared based on different countries cuisine where traditional dishes are presented to local and hotel guests.
- **Surprise and Delight Program:** Every holiday is a cause to celebrate. In preparation for festivities, we've created a plan to Surprise and Delight our guests with thoughtful touches and original ideas to fill the calendar year. Consider Sweepstakes to win a trip to Berlin, Germany on October Fest week event or visit to St. Nicolaus Cave in Antalya, Turkey during Christmas Season.
- **Country Flag Nametags:** All cultural exchange visitor(s) for the program will be wearing a nametag that identifies them as Cultural Representative of their country and displays their country flag
- **Cultural Costumes:** Cultural Exchange visitor(s) will wear items of traditional, cultural dress during segments of their practical training. This will visually share traditions of their home country and will open lines of communication during guest interaction.
- **Welcome to My Country Board/Presentation:** Cultural exchange visitor(s) will be assigned to a special area where they will be able to present interesting facts on their country such as posters/pictures of important sites, traditional clothes, authentic food, natural resources etc. These designated areas will i.e. Lobby area, pavilion at Race Track, pool side.
- **Cultural Drink of the Day:** Cultural exchange visitor(s) will showcase to guests traditional beverage of their homeland at the poolside
- **Cultural Amenities:** Special amenities such as coloring pages, placements, napkins including cultural exchange visitor(s) country flags/colors cultural trivia or games that will make the meal interesting and learning experience for the children. We believe that adults interested in different cultures will be interested to have these amenities and learn too.
- **International Food Day:** Cultural exchange visitor(s) will be sharing the richness of their culture in the culinary area as well. Cultural exchange visitor(s) will contribute with a recipe to prepare for guests as well as for associates on associates special activities/functions.
- **International Cuisine Classes:** Cultural exchange visitor(s) will allow demonstrating cooking styles and traditional dishes with guests or co-workers.
- **International Music & Dance:** Guests will learn the traditions and meanings of songs and the rhythms of the cultural program cultural exchange visitor(s) through listening the international songs that will be played and traditional dances performed on special occasions like international karaoke night events.
- **International Movie Night:** Cultural exchange visitor(s) will be allowed to organize movie night events for guests or co-workers where they will be able to play movies or documentaries showing highlights of their country and culture

The petitioner stated that it "will give the cultural exchange visitor sample [*sic*] opportunity to participate and attend various [*sic*] events, projects and company or community initiatives," such as local charity events.

The petitioner stated that the cultural program "will also involve components of practical training," allowing the beneficiaries "to practice their technical knowledge and improve their skills in the field of service industry." Specifically, the petitioner stated that the beneficiaries "will be employed and trained" in the

following divisions over the 15-month program: (1) Rooms Division/Front Office/Guest Services; (2) Food and Beverage Division; (3) Events Planning/Banquet Operations; and (4) Financials; Cash Handling and Point of Sale. The petitioner indicated that the beneficiaries will improve their guest service skills, understand the daily procedures and operations in each department, and develop knowledge and familiarity with financial management, cash handling/point of sales operations within different departments.

The petitioner provided a detailed description of the specific tasks the beneficiaries would learn/perform in the Guest Service, Banquet and Event Planning, Restaurant, and Bar areas over the 15-month period. The AAO notes that the duties include tasks that are typical for hotel staff, such as checking guests in and out of the hotel; offering incentives; answering telephone calls; assisting guests with hotel services and responding to guest inquiries; booking rooms; setting up banquets; taking food and beverage orders for the restaurant and room service; serving food and drinks; clearing tables; and cashier duties.

The director issued a request for additional evidence on November 4, 2008. The director noted that all four beneficiaries are J-1 exchange visitors who have been participating in a training program in the hospitality industry at the petitioner's hotel. The director observed that, based on the petitioner's proposed program information, the beneficiaries would spend the majority of their time in a hospitality training program involving productive employment, which is not related to the cultural component of the program. The director found that the record did not adequately address the amount of time the beneficiaries would spend accomplishing the respective duties and responsibilities and the percentage of time they would devote to cultural activities related to the work component. Therefore, the director requested that the petitioner submit evidence that it maintains an international cultural exchange program that satisfies all program requirements set forth at 8 C.F.R. § 214.2(q)(3)(iii), including public accessibility, cultural and work components.

In a response dated November 13, 2008, the petitioner further described its proposed international cultural exchange program as follows:

This program will take place in [the petitioner's] public areas such as atrium, river walk, restaurant, bars, front desk, pre-function areas and banquet rooms. There will be offsite activities as well within the city when the annual city events exist. Also, this program will utilize other Columbia Sussex Hotel locations where applicable in the United States. The international cultural exchange program beneficiaries will use the following methods in order to explain their cultures to American Public.

Beneficiary's main duty will be representing their home countries history, customs and traditions. They will use hotel job codes as a tool of exposure to public. Other tools will include display stands, power point slide shows, seminars and cultural events.

- Beneficiary's countries will be displayed on their nametag while they are working in order to start conversation with the guests. (full time)
- There will be a picture frame at beneficiaries work stations explaining the public where they are from and their background as well as their purpose for them being here. (full time)

- Beneficiaries will be allowed [to] carry jewelry, pins or accessories representing their culture as part of their uniforms. (full time)
- Beneficiaries will have booklets, photo albums and hand out readily available for demonstration or give away purposes. (full time)

The petitioner provided a list of various schools, educational associations and other groups who have reservations at the hotel in the coming year, and noted that "most of the educational group events we have are open to public for attendance as a part or whole." The petitioner stated that the beneficiaries' would have stands available at group events "for the beneficiaries to explain their heritage and history."

The petitioner further stated:

Beneficiaries will have offsite activities like seminars, demonstrations and lectures. Community involvement through local organizations such as Rotary Club of Savannah South, Tourism Leadership Council, Savannah Waterfront Association, Backus Children's Hospital in Memorial Hospital, Woodville/Tomkins High School, Girls Scouts. . . and Boy Scouts.

[REDACTED] of Sales and Marketing for [the petitioner], will be the point of contact for our offsite activities. She is serving on most of the organization boards mentioned above or she has strong connections. Examples of the planned activities are:

- Lecture and presentation to Rotary Club of Savannah South, Tourism Leadership Council, Woodville/Tomkins High School, Girls Scouts and Boy Scouts.
- Visiting Backus Children's Hospital with traditional native clothes of beneficiaries and telling children ferry [sic] tales stories that are part of their heritage.
- There are over 30 annual festivals in city of Savannah. Savannah Waterfront Association is in charge of many of those festivals. Beneficiaries will have close exposure to Association in order to be part of those festivals. Beneficiaries will contribute in selected festivals with their heritage.

In support of the RFE response, the petitioner submitted a copy of the hotel's Guest Rooms Control Log for 2009 showing definite and tentative group reservations and a calendar of 2008 events printed from the web site of the Savannah Waterfront Association.

The director denied the petition on November 28, 2008, concluding that the petitioner failed to established that it has developed an international cultural exchange program that meets the requirements of 8 C.F.R. 214.2(q)(3)(iii). Specifically, the director determined that the petitioner did not establish that it operates a "structured program" of cultural exchange that includes a cultural component that is essential and integral to the alien's employment, or that the work to be performed would be independent of the cultural component of the exchange program. The director determined that the cultural events and activities would be incidental to the beneficiary's actual duties and responsibilities at the hotel, and noted that there was no evidence that the petitioner would serve as sponsor for any of the claimed cultural events in the local community. The director emphasized that the petitioner failed to address how the work component would accomplish the cultural

component of its program. The director concluded that the beneficiaries would be primarily involved in a hospitality training program involving productive employment which is not related to the cultural component.

The director emphasized that the RFE clearly stated that the petitioner must submit persuasive corroborating evidence demonstrating that the organization operates an established international cultural exchange program. The director noted that the record does not indicate how the beneficiaries will accomplish the claimed cultural activities, nor does it adequately address the work component required by regulation. Specifically, the director observed that the petitioner did not establish the amount of time the beneficiaries would spend accomplishing their hotel duties and responsibilities or the percentage of time they would be involved with cultural activities relating to the work component.

On appeal, the petitioner provides the following statement on Form I-290B, Notice of Appeal or Motion:

[The petitioner] is located in the heart of the city, welcoming Americans visiting the nation[']s historic city from different states. Attached you will see the occupancy rate of the hotel throughout the year as well as list of events organized by local community at [the petitioner's hotel] showing that [the hotel] is a site where Americans can be exposed to foreign culture. Our purpose in designing this program is to create the opportunity for our American visitors to have the chance to meet with and learn about other cultures while they visit the nation[']s historic city. In order to be in compliance with the requirements of the Q program, we have designed the program in the way the work component will not be independent from the cultural component. Attached you will also find the revised Q program for your review and approval where we have explained the importance of the participants role in achieving the primary goal of the program which is exposing Americans to foreign cultures while allowing them to improve their professional skills and abilities in the work environment.

In support of the appeal, the petitioner submits a revised Q-1 Cultural Exchange Program plan, in which it states "we have revised the plan considering that the training that the cultural program visitor will have will serve to reach the cultural objectives of the program."

The revised program indicates that the beneficiaries will spend the first eight months of their 15-month stay in "Guest Services" and that "the amount of time spend [*sic*] for the cultural aspects will be equal to the time of the employment hours." The petitioner indicates that during this time, the participants will wear flag nametags and cultural costumes, maintain a "welcome to my country board," provide cultural amenities for young guests, and conduct 20 minute presentations during scheduled events at least once weekly. The petitioner provided a list of events to be held at the hotel during the period between February 2009 and October 2009. The petitioner further indicated that the beneficiaries will learn to assist guests with requests for information, handle guest complaints, assist with check-in and check-out procedures, maintain Guest Folio, operate the Front Office computer program, learn VIP guest procedures, and prepare occupancy and forecast reports.

According to the revised program information, the beneficiaries would spend the last seven months of the program in "Banquets and Event Planning," during which time they would wear country flag nametags, wear cultural dress, maintain a "welcome to my country board," provide cultural amenities for young guests, and conduct 20 minute presentations during scheduled events at least once weekly. In addition, the petitioner indicated that traditional dishes would be presented to hotel guests during the daily lunch buffet, and participants would have opportunities to share international music and dances. During this time, the beneficiaries would learn to read banquet event orders, set up banquet functions, attend pre-meal briefings, maintain constant contact with Banquet Chefs, coordinate pick-up times and give exact guest counts, advise chef of special menu requests, inspect table place settings, and assist with scheduling.

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). Specifically, 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.

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) pertaining to the program's public accessibility, cultural component and work component.

Accessibility to the Public

The petitioner emphasizes that its cultural exchange program takes place in a resort that is open 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. Based on the extremely brief program description in the record, it appears that exposure to the petitioner's claimed cultural activities would be limited to paying resort guests, rather than available to the general public or by a segment of the public sharing a common cultural interest. The petitioner has not adequately documented its own efforts to promote its hotel-based programs to the general public, and it has not been established that anyone other than hotel guests already lodging in the hotel would be aware of such activities.

Overall, there is no basis for the AAO to conclude that the scope of any cultural activities undertaken by program participants would reach beyond paying customers of the petitioner's resort. While the petitioner indicated that it intends to provide opportunities for the beneficiaries to share their culture in outside events such as local festivals and seminars, there is no evidence that the petitioner sponsors such activities. Furthermore, the customers of the petitioner's resort have not been shown to be "a segment of the American public sharing a common cultural interest," as opposed to travelers seeking lodging in the Savannah, Georgia area. 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.

Work and Cultural Components

As a preliminary matter, the AAO acknowledges the "revised" Q-1 program description submitted on appeal. The petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm. 1998). Accordingly, the AAO need not consider the revised program. Regardless, upon review, in addition to making changes in the beneficiary's proposed assignments, the new program description actually contains even fewer proposed cultural activities than the original program.

The AAO concurs with the director that the petitioner has failed to establish that the primary purpose of the beneficiary's employment would be to operate a structured 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). Here, the amount of cultural sharing among the participants and the public would be tangential to the aliens' employment.

Furthermore, the AAO concurs with the director's determination that the duties to be performed in the position of "Front Desk Agent" are independent of the petitioner's proposed 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. 8 C.F.R. § 214.2(q)(3)(ii)(B). The work component must serve as the vehicle to achieve the objectives of the cultural component. 8 C.F.R. § 214.2(q)(3)(ii)(C). 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. Here, the four beneficiaries have already been working at the petitioner's hotel as J-1 exchange visitors and have likely completed the proposed training that comprises the "work component" of the program.

The AAO is not persuaded that such elements as wearing a name tag identifying a person's country of origin, wearing a cultural "costume," displaying a poster, handing out flyers or other "cultural amenities," or organizing an occasional international movie night will result in any meaningful exhibition or explanation of the customs, history, heritage, philosophy, or traditions of the international cultural exchange visitors' home countries. Such interactions must be deemed secondary to the beneficiaries' employment as hotel workers. The petitioner has not established that the daily cultural interactions of the participants would be part of a structured program truly designed to share the history, culture, and traditions of the country of the aliens' nationality.

Furthermore, while the petitioner indicates on appeal that the beneficiaries would spend half of their time while on duty engaging in cultural interactions, the record shows that the beneficiaries are responsible for performing the same duties as other hotel workers working in rooms, food and beverage, banquet and other hotel departments, which would reasonably limit the amount of time they could spend interacting with individual guests. The AAO is not persuaded that the beneficiaries, in their roles as front desk agents, servers, banquet

attendants, etc., would realistically spend less than half of their time actually performing the duties of the position to which they are assigned.

Finally, certain aspects of the petitioner's claimed cultural program simply have not been documented. Although the petitioner claims that the beneficiaries will provide weekly presentations at hotel events, it has not submitted evidence that any of these more formal means of cultural exchange have previously taken place at its property, or that any events have been formally planned. Rather, the petitioner simply submits a list of groups that have booked conferences, meetings or blocks of rooms at the hotel. The petitioner has not submitted credible evidence that the claimed cultural presentations will be held or that the groups booked at the hotel, which include wedding parties, government agencies, churches, associations and private companies, would welcome or have agreed to the proposed cultural "lectures/seminars" in the midst of their events. The petitioner itself has not documented its plans to sponsor any cultural events either on the hotel premises or in the community. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Accordingly, the AAO must conclude that the primary purpose of the petitioner's international exchange program is productive employment in typical hotel positions, 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). The presence of the foreign employees may contribute to some guests' overall experience at the resort. However, the fact remains that the participants will be spending the majority of their time on a daily basis performing the standard duties of front desk agents or food and beverage servers, during which periods their cultural interaction with resort guests will be limited to informal and superficial cultural exchanges.

Based on the foregoing discussion, the petitioner has not established that its cultural exchange program satisfies the cultural and work components set forth at 8 C.F.R. §§ 214.2(q)(3)(ii)(B) and (C). Accordingly, the appeal will be dismissed.

In visa petition proceedings, the burden of proof 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.