

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

The petitioner filed the nonimmigrant petition seeking approval 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 states that it is engaged in hotel management, cultural exchange programs, information technology and construction management. The petitioner seeks to employ the beneficiaries temporarily in the United States as cultural exchange coordinators for a period of six (6) months, and indicates that they will be placed at hotels. Both beneficiaries were in the United States in Q-1 status working for a different employer at the time the petition was filed.

The director denied the petition concluding that the petitioner's program is not eligible for designation by United States Citizenship and Immigration Services (USCIS) as an international cultural exchange program under section 101(a)(15)(Q)(i) of the Act. In denying the petition, the director determined 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 petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO. On appeal, counsel asserts that the director erred in holding the petitioner to "an unreasonably and impossibly high burden of proof." Counsel contends that "even the most cursory examination of the evidence reveals that all of the program participant's job functions or training are used as a platform to enhance the public's knowledge of their native culture." Counsel further asserts that the director mischaracterized the petitioning company as a hotel, despite evidence to the contrary. Counsel submits a detailed brief in support of the appeal.

I. The Law

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.

II. The Petitioner's Cultural Exchange Program

The sole issue in this proceeding is whether the petitioner established that its proposed program is eligible for designation by USCIS 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 petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on May 29, 2009, accompanied by the following supporting documentation regarding the petitioner's cultural program: (1) copies of two Form I-797 Approval Notices for Q-1 petitions filed by the petitioner and approved in 2009; (2) evidence of the beneficiaries' current Q-1 status with a different petitioner along with evidence of wages paid by the current employer; (3) a letter from one of the beneficiaries describing his role in an international culinary event, [REDACTED] held at the [REDACTED]; and (4) evidence of recent cultural presentations and events held at various hotels which serve as host properties for the petitioner's program. The evidence consisted of web site advertisements, photographs, copies of flyers, photographs and other documentation related to the following events: [REDACTED]

[REDACTED]; [REDACTED] held during the week of [REDACTED]
[REDACTED]
[REDACTED] a workshop held
in [REDACTED]
[REDACTED]

The director issued a request for additional evidence ("RFE") on July 9, 2009. The director requested, *inter alia*, additional evidence to establish that the petitioner operates an international cultural exchange program that meets the public accessibility, work, and cultural components set forth at 8 C.F.R. § 214.2(q)(3)(iii). The director also instructed the petitioner to provide a detailed description of the work, service or training to be performed by the beneficiaries. Specifically, the director requested specifics regarding the beneficiaries' day-to-day duties and responsibilities, and evidence establishing the amount of time the beneficiary will spend accomplishing the respective duties and responsibilities related to the cultural component of the program. The director advised that the petitioner's evidence "needs to demonstrate the percentage of time the beneficiary will be involved with cultural activities while accomplishing the work component of the program.

In a response dated July 31, 2009, the petitioner explained that its cultural exchange program "holds events, classes, exhibitions and cultural programs in resorts and hotels," and that such events are advertised and open to the public at large. With respect to the cultural component of the program, the petitioner stated:

The cultural component forms the basis of the exchange program with participants spending the majority of their time in the United States assisting in the planning coordination and implementation of various cultural functions, events and activities.

[The petitioner] has developed and implemented a Structured Training Plan which outlines the cultural exchange goals and activates [*sic*] for program participants. Under the guidance and supervision of Cultural Program Specialists, program participants share their culture with the American public on a daily basis by planning and hosting a variety of cultural activities, displays and exhibits.

The petitioner provided examples of previous events, such as [REDACTED] " manager's receptions presentations, [REDACTED] " a Korean cultural show, a Pakistan and India Independence Day celebration, an international food tasting, and an [REDACTED] ' cultural week. The petitioner further stated that "program participants engage in cultural education every day" in the following ways:

- Wearing costumes, uniform or dress that reflects their country of origin.
- Decoration of host hotel to reflect participant's country of origin.
- Wear name tag that specifies country of origin.
- Participants are encouraged to initiate conversation and encourage questions about their country and culture from hotel guests and the general public.
- Participants who are chefs prepare menus and food from their country of origin and provide international recipes to guests free of charge.
- Participants inform public of upcoming events, exhibits and webinars and encourage their participation.
- Distribute educational leaflets and brochures to the public.
- Public celebration of major ethnic holidays.
- Key card inserts are provided to hotel guests at the time of check in with the participant's name, miniature flag and country of origin.
- Participation in cultural trivia nights where guests and customers win prizes for demonstrating their knowledge of world cultures, history and events.

The petitioner also submitted a copy of its Structured Training Plan includes the following program description:

Participants are recruited from around the world to share and represent their culture and home land with the American public through the exciting world of hospitality. Throughout the duration of the program, the [petitioner's] participant[s] will be supervised by [the petitioner's] management and staff at one of [the petitioner's] Affiliated Cultural Partners (ACP). Participants work within various departments of these hotel properties to share their culture with hotel guests, gain work experience and hospitality skills. The program is accessible to the American public solely for the purpose of cultural exchange and the participant's work and position cannot be independent of the commitment to share their respective culture with the hotel guests, fellow staff and all contacts.

According to the program schedule, the beneficiaries spend one week upon arrival in the United States at the petitioner's headquarters undergoing orientation and cultural exchange program training, and begin shadowing current program participants at their assigned property, before beginning to work independently during the fourth week, at which time they will dress in their native costumes, wear nametags, complete a daily checklist, decorate the work environment, and interact with hotel guests. Each month includes one week devoted to planning and implementing a manager's reception. During the second month, the participants are to organize ideas for cultural presentations and develop "cultural exchange nametags" to reflect their home country and flag. During month three, the participants form a committee for an International Food Festival and hold the festival for "property guests and public." During the fourth month, the participants are expected to develop cultural history projects and bulletin boards, and during the sixth month, the participants are expected to deliver a cultural customs presentation for guests and public. In the seventh month, the participants are expected to deliver a "culture in

travel and tourism" power point presentation in the hotel lobby. During the ninth month, the participants would hold a cultural dress and fashion show at the property after planning, marketing and promoting it. In the eleventh month, the participants are expected to create an "International Gesture Dictionary" for use by the property and share it with staff members. During the 12th month, the participants are to hold a "Season's Greetings cultural event." The participants have a "final cultural exchange program presentation" due at the end of the fourteenth month of the program.

With respect to the work component of the program, the petitioner stated that "although it may appear that program participants perform similar duties to regular hotel employees, further examination reveals that all of the program participant's job functions or training are used as a platform to enhance the public's knowledge of their native culture." The petitioner further explained:

A duty may appear to be independent of the cultural program in mind. For example, a program participant may be responsible for greeting guests. This duty appears not to involve any cultural component at first glance however; in reality the cultural program associate is expected to greet a guest wearing national costume and informing the guest of the associate's country of origin. Furthermore, the cultural program associate is trained and expected to engage guests in conversations about their home country.

The petitioner stated that program participants are properly classified as "Cultural Exchange Associates" rather than regular hotel employees, further explaining as follows:

A beneficiary may assist in meal preparation but she is not a kitchen assistant. He will devise ethnic menus reflecting her [*sic*] own culture and heritage, assist in their preparation, create display cards describing the dish and discuss the meal and its origins with guests and customers. A beneficiary may greet guests upon their arrival at the hotel, but she is not a front desk clerk because she will greet guests in traditional Indian/Argentinean fashion, using an Indian/Argentinean greeting, wearing a Indian/Argentinean costume or name tag and perhaps providing the guest with a small Indian/Argentinean favor or gift. He will make a positive effort to engage customers and guests in conversation about her [*sic*] culture and will receive training to help her [*sic*] develop her communication skills. A beneficiary will be responsible for decorating areas of the hotel in a traditional Indian/Argentinean style, organizing mangers [*sic*] receptions, selecting hotel music and preparing exhibits and presentations, participating in various cultural classes as well as the staging of larger cross cultural events.

The petitioner also submitted a chart detailing the differences between the duties performed by its program participants and those performed by a "regular employee."

The petitioner's response to the RFE included an evaluation of its cultural exchange program by [REDACTED] professor of hotel administration and human resources at [REDACTED] who states his opinion that the petitioner's program participants "clearly qualify for a Q-1 visa."

[REDACTED] states:

The cultural interaction, and ultimately cultural education of the guests, is well structured and organized. Guests are not simply staying at the hotels; they are being given a planned and thorough cultural experience. The Cultural Program is extensively marketed, and the American public is encouraged to attend the shows, book expos and seminars, and attend the events specifically planned as part of the program. As such, the duties of those hired for the Cultural Program are inherently and completely connected with the program. Job duties of those hired for this program are fully integrated with the requirements of the program.

For example, while a front desk clerk brought in under the program will have to perform the regular duties associated with this position (answer phones, check in guests, handle guest complaints), the position requires the individual to focus on talking about his or her culture, talking about the decorations at the front desk, promoting the next cultural event, and so forth. All aspects of the job duties are perform [*sic*] with the goals of the cultural exchange program in mind. As another example, the F&B Cultural Exchange Coordinator has very different duties from other F&B Managers. That is, the F&B Cultural Exchange Coordinator focuses on promoting the featured ethnic dishes, inviting people to receptions where the ethnic dishes are displayed, etc. Similar examples can be provided for all positions to be filled under the cultural exchange program: all duties are performed with the purpose of promoting and enhancing the cultural exchange. As such, it is clear that the work component of those to be brought in under the cultural exchange program is not independent of Cultural Exchange and they are both fully integrated with each other.

The petitioner also submitted the requested job descriptions for each beneficiary. The record shows that one beneficiary intends to reside in Louisiana and one beneficiary intends to reside in South Carolina, but the petitioner has not identified the specific hotel or resort property or properties that will host them if the petition is approved. The job descriptions are substantially the same, with one beneficiary assigned to front desk operations and the other assigned to a restaurant. The job duties for the employee who will work in front desk operations are as follows:

1. The Cultural Program Associate works in a hotel and performs all duties with the sole purpose of sharing and exchanging his culture. . .
2. The Cultural Program Associate will follow a cultural activity checklist everyday. These activities will be supervised by the Cultural Specialist. On the contrary a regular employee performs regular tasks assigned by the regular area manager.
3. While working at the front desk as a Cultural Program Associate, he will greet and meet the guest, attend phone calls etc but is not a front desk agent because while at work the Cultural Program Associate will be wearing his traditional Indian outfit, along with a name tag with his name and country of origin. . . . At the front desk the Cultural Program Associate will be promoting the cultural events going on that day, giving guest flyers for the monthly mega cultural event of the month and also handing out flyers of the day about his Country.
4. The Cultural Program Associate will ensure that he introduces himself to the guests and engage them in a conversation that involves his country and its culture. This conversation is not just based on "if and when" and it is not haphazard. . . . During the cultural conversation

the Cultural Program Associate will hand out brochures, music CDS, books etc based on Indian culture. . . .

5. The Cultural Program Associate will also decorate the front desk/concierge desk and other appropriate area in a way that will reflect his culture also known as [REDACTED] " He will post flyers, pictures etc around the front desk area. . . .
6. The Cultural Program Associate will be responsible for conducting various cultural classes for hotel guests, as well as general public. These classes include language camps, art and music lessons, and Indian cooking classes. . . .
7. Besides conducting various cultural classes, the Cultural Program Associate will also hold seminars and presentations. He will be inviting international speakers who will give special presentations on India and its culture. . . .
8. The Cultural Program Associate will be responsible for organizing several international managers' receptions, on a regular basis. These receptions will include [e]thnic food from India, the menu for which will be designed by the Cultural Program Associate and will also help in preparation of food, but he is not a cook or a kitchen associate. The Cultural Program associate will serve ethnic Indian food to the guests but is not a food and beverage server, as he will be serving wearing her [sic] traditional Indian outfit with his nametag. The Cultural Program Associate will assist in the selection of traditional Indian music that will be played at the receptions. These receptions will also involve cultural presentations and interaction with the guests. A regular employee is not implicated toward organizing international manager's receptions.
9. While meeting guests whether at the front desk, at a manager's reception, or even in a cultural class, the Cultural Program Associate will distribute souvenirs like key chains, postcards etc that will represent India. Regular employee does not offer gifts to their guests.
10. The Cultural Program Associate will also present the guests with personalized key cards which would have pictures of India, whereas the regular employee will give them the regular door key cards.
11. The Cultural Program Associate will also be involved in hosting and organizing major cultural shows and events that involves [sic] extensive planning and marketing. . . .

Finally, the petitioner submitted a graph intended to depict how a cultural program associate's time is divided among 11 different tasks, including model village décor, preparing daily recipe sheets, manager's receptions, daily music selection, marketing the "mega event" of the month, planning the mega event of the month, preparing flyers and key inserts, answering phones, greeting guests, preparing a daily lecture on one cultural attribute, and ethnic dish preparation. The petitioner did not provide the actual percentage of time devoted to these tasks, although the graph suggests that the largest portion of time is devoted to the "manager's receptions."

The director denied the petition on September 14, 2009, concluding that the petitioner failed to establish that its program has a structured cultural component that is an essential and integral part of the beneficiary's employment. The director acknowledged the petitioner's evidence regarding various cultural presentations, but found insufficient evidence to establish who, in particular, would be doing the presentations.

On appeal, counsel asserts that "even the most cursory examination of the evidence reveals that all of the program participant's job functions or training are used as a platform to enhance the public's knowledge of their native

culture." Counsel emphasizes that "all job duties or functions result in public education and are a vehicle to achieve the objectives of the cultural program." Counsel further states that it clearly established that the beneficiaries will be carrying out the presentations, and that such presentations are open to hotel guests and the public.

Counsel further claims that the director erred by concluding that the beneficiaries would be performing the regular duties associated with hotel positions, and further explains how the petitioner's work component serves as a vehicle to achieve the objectives of the cultural program, as follows:

Although a program participant may be assigned to work alongside a regular front desk clerk; he or she does not replace that front desk clerk, nor does he or she share the same objectives as a front desk clerk, whose sole goal would be to greet guests, handle check outs and make reservations (and ultimately increase hotel profits.)

A program participant may be responsible for greeting guests however; the cultural program participant is expected to greet a guest wearing national costume and informing the guest of the associate's country of origin. Furthermore, the cultural program participant is trained and expected to engage guests in conversations about their home country, invite guests to cultural events being staged at the hotel and educate the guest about their country of origin.

Counsel asserts that "clearly the cultural heritage of the program participant is expressed if he or she greets a guest in their native tongue while wearing a native costume," and that "each member of the public who is greeted by a cultural program participant will be introduced to the unique culture of the program participant through the participants' performance of the assigned duties." Counsel contends that the director "clearly erred in finding that such tasks were independent of the cultural exchange program and did not further its goals."

Counsel states that, during the "vast majority of their time," program participants are "engaging in tasks that are purely cultural, for example, the staging of cultural exhibits." Counsel asserts that the director erred by requiring that "any and all tasks be purely cultural in nature," noting that the regulations "clearly permit the dual functionality of any task or duty to be performed by the program participant," such that "a task or duty which has a cultural function as well as a work or training function is clearly permissible according to the language of the regulation."

In addition, counsel contends that the director applied a higher standard of proof than the "preponderance of the evidence" standard applicable in immigration proceedings, and "held the petitioner to a much higher standard than any other similarly situated petitioners." Specifically, counsel states that "[t]he denial of Petitioner's petition on the basis of inadequate proof that the work component was an integral part of the cultural exchange program amounts to an abuse of discretion because there is no rational explanation for the finding," in light of the "mountain of evidence" submitted. Finally, counsel asserts that it clearly established that its cultural events are accessible to the public and carried out by the beneficiaries.

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 sharing 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 all of the requirements at 8 C.F.R. § 214.2(q)(3) pertaining to the program's public accessibility, cultural component and work component. The director found that the petitioner failed to establish that its program satisfies the cultural and work component requirements set forth at 8 C.F.R. §§ 214.2(q)(3)(iii)(B) and (C).

As a threshold issue, the AAO notes that the petitioner has failed to identify the location or locations at which the beneficiaries will be placed. The petitioner merely stated that the program takes place at hotels. While the petitioner indicated on Form I-129 that the two beneficiaries intend to reside in Louisiana and South Carolina, the AAO finds it reasonable to expect the petitioner to identify the specific host properties in these states that will receive the beneficiaries, and to submit documentation related to the implementation of its cultural exchange program at these specific properties. 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)).

Furthermore, while the petitioner has provided a lengthy description of each beneficiary's duties, and provided a chart providing a breakdown of how each beneficiary's time would be allocated, the AAO notes that such descriptions are written in very vague and general terms. The position description and position breakdown fail to make any distinction between duties that are performed daily and those that occur with less frequency. For example, the evidence of record does not support a conclusion that each beneficiary is required to decorate the "model village," participate in a manager's reception, prepare a daily lecture, and prepare an ethnic dish on a daily basis, yet these duties account for nearly half of the daily time allocation on the petitioner's chart. Decoration of the beneficiary's work area, whether it is the front desk or a restaurant, would presumably not need to be repeated daily. According to the petitioner's Structured Training Program, a Manager's Reception is planned for the third week of each month during months 3 through 14 of the program, and is not a daily event, nor is there any evidence that every cultural program associate is required to prepare an ethnic food item on a daily basis. The petitioner has not provided evidence, such as restaurant menus, from the relevant host properties, listing daily Indian or Argentinean offerings. Although the petitioner makes frequent reference to the beneficiaries' adherence to a daily cultural checklist, the petitioner has opted not to provide a copy of this document, which would presumably shed additional light on the position's actual daily responsibilities.

For these reasons, the AAO finds the petitioner's claims regarding the beneficiary's daily duties unpersuasive. While the AAO does not doubt that the beneficiaries may be required to perform the listed tasks during the course of the program, the record simply does not support a finding that the beneficiaries consistently perform such duties on a day-to-day basis.

Although the record indicates that the program participants are required to "share their culture" with hotel guests and staff, the record also shows that the petitioner recruits hospitality students and professionals who are already experienced in the hotel industry, and assigns them to traditional hospitality industry roles, such as front desk positions or food and beverage positions. The petitioner claims on appeal that although the petitioner's program

participants may "perform certain duties at the reception desk of the hotel," they are not front desk clerks because they "wear international dress and name tags" and engage guests in conversations about their home countries. However, other evidence in the record confirms that that the petitioner's program participants do in fact perform the same basic job functions as "regular" hotel staff. For example, [REDACTED] states in his evaluation that "a front desk clerk brought in under the program will have to perform the regular duties associated with this position (answer phones, check in guests, handle guest complaints)," duties that do not appear to be incidental. If an employee is working at the front desk beside other front desk clerks, and performing the regular duties of a front desk clerk, then the employee may reasonably be considered a front desk clerk even if he or she is wearing a "culturally proud nametag" or answering questions about his or her culture during the check-in process. The beneficiaries may have additional duties not performed by "regular employees" but it appears that they are expected to fully perform the duties of their hotel positions while on duty.

Overall, the evidence in the record fails to establish that the foreign program participants share their respective cultures with the public on a regular basis as an essential element of their work-related 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 petitioner correctly states that 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 the petitioner's cultural component is wholly designed to exhibit or explain any of these aspects of Indian or Argentinean culture. Daily interactions with hotel guests such as wearing a country-specific nametag or native dress, handing out a recipe or brochure, decorating the hotel's front desk, displaying flags and maps, or playing international music, are merely casual and unstructured cultural exchanges. 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 that the beneficiaries would spend the majority of their time while on duty engaging in cultural interactions, the record shows that the beneficiaries are responsible for performing the same basic job duties as other hotel workers working in the same 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 or servers, for example, would realistically spend less than half of their time actually performing the regular 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 to invite guests and speakers for presentations, book discussions, seminars, courses, lectures, and language and culinary classes, and even claims that the beneficiaries themselves prepare a daily lecture, the petitioner has not submitted evidence that any of these more structured means of cultural exchange have taken place at any of its host properties. The petitioner claims that the participants take part in daily "manager's receptions," at the host properties, however, as noted above, the petitioner's Structured Training Plan indicates that manager's receptions are held only once per month. Regardless, it is unclear how any of these functions would be carried out as a part of the beneficiaries' regular front desk or food and beverage responsibilities.

The evidence shows that the petitioner's program participants do engage in more formal and structured cultural events such as "cultural week" events, and other programs documented in the record. Contrary to the director's observations, the evidence of record does establish that such events are open to the public, and carried out by the petitioner's employees. However, these major events are conducted independently from the participants' assigned hotel positions and occur with much less frequency. The AAO cannot conclude that any beneficiary participating in the program would participate in one of these structured cultural events more than a few times during a 15-month stay in the United States. As noted above, the record is lacking information regarding the specific hotel properties that will receive the beneficiaries, and as such does not contain specific evidence pertaining to the implementation of the petitioner's program at the beneficiaries' worksites.

The AAO acknowledges the expert opinion from [REDACTED], which was submitted in response to the request for evidence. Although [REDACTED] is well-credentialed in the fields of human resources and hotel management, his letter does not speak directly to the critical question in this case – whether the beneficiaries will be primarily engaged in qualifying cultural exchange activities during the course of their regular work day, or whether their work as front desk clerks or food and beverage workers will be independent of the cultural program. Instead, [REDACTED] speaks in general terms regarding the petitioner's program, using language that at times appears to be derived almost verbatim from the petitioner's own letters. Furthermore, his description of the work component of the program undermines the petitioner's claim on appeal that the program participants "are not performing the duties of regular hotel employees." As noted above, [REDACTED] specifically states that "a front desk clerk brought in under the program will have to perform the regular duties associated with this position." Finally, it is unclear on what basis he rendered his opinion, as he has not identified what documentation was provided by the petitioning company, nor has he indicated that he has reviewed the statutory and regulatory requirements pertaining to Q-1 visas.

The AAO may, in its discretion, use as advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, the AAO is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988).

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' countries of nationality. The presence of the foreign employees may contribute to some guests' overall experience at the participating hotels and resorts. However, the fact remains that the participants will be spending the majority of their time on a daily basis performing the standard duties of hotel workers, during which periods their cultural interaction with resort guests will be primarily limited to informal and unstructured 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.

The AAO acknowledges that USCIS has previously approved a Q-1 nonimmigrant petition filed by the petitioner. The prior approval does not preclude USCIS from denying an extension of the original visa based on reassessment of the petitioner's qualifications. *Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004). The mere fact that USCIS, by mistake or oversight, approved a visa petition on one occasion does not create an automatic entitlement to the approval of a subsequent petition for renewal of that visa. *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 148 (1st Cir 2007); *see also Matter of Church Scientology Int'l.*, 19 I&N Dec. 593, 597 (Comm. 1988). For example, if USCIS determines that there was material error, changed circumstances, or new material information that adversely impacts eligibility, USCIS may question the prior approval and decline to give the decision any deference.

Each nonimmigrant petition filing is a separate proceeding with a separate record of proceeding and a separate burden of proof. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, USCIS is limited to the information contained in that individual record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). Despite any number of previously approved petitions, USCIS does not have any authority to confer an immigration benefit when the petitioner fails to meet its burden of proof in a subsequent petition. *See* section 291 of the Act.

If the petitioner routinely submits the same evidence in support of its Q petitions, then it is likely that the prior petition was approved without sufficient evidence of eligibility in the record, and the approval would constitute material and gross error on the part of the director. Neither the director nor the AAO is 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).

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.