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



U.S. Citizenship
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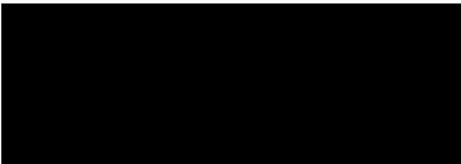


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 19 2010**

IN RE: Petitioner: [REDACTED]
Beneficiaries: [REDACTED]

PETITION: Petition for a 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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California 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 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 operates a French restaurant. It seeks to hire the beneficiaries in the positions of sous chef, chef de partie, chef de rang, hostess, sommelier, and assistant dining room manager for a period of 15 months.

The director denied the petition, concluding that the petitioner failed to establish that its program is eligible for designation by USCIS as an international cultural exchange program under section 101(a)(15)(Q)(i) of the Act. Specifically, the director determined that the petitioner failed to establish that it operates an international cultural exchange program that is accessible to the American public and that has a cultural component that is an essential and integral part of the international cultural exchange visitor's employment. The director further found that "a cook, hostess, assistant manager or sommelier in a restaurant is ineligible for Q-1 classification unless the restaurant is specifically structured and operated as a cultural exchange program."

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 for the petitioner asserts that the director erred in failing to assess all evidence and legal reasoning submitted in support of the petition. Counsel asserts that the petitioner satisfied "its burden of proof to establish how its international cultural exchange program – accessed by the general public, schools, and universities, is a component of the Restaurant's operation and success." Counsel further contends that a "regular business with an international cultural exchange component" is authorized as a Q-1 employer by the statute and regulations.

I. The Law

Section 101(a)(15)(Q)(i) of the 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 sole issue addressed by the director is whether the petitioner established that it maintains an established international cultural exchange program in accordance with the requirements set forth at 8 C.F.R. § 214.2(q)(3)(iii).

The petitioner operates a French restaurant in Denver, Colorado and employs approximately 50 workers. It seeks to hire the beneficiaries, all French citizens, to fill the positions of sous chef, chef de partie, chef de rang, sommelier, hostess, and assistant dining room manager. The petitioner provided separate statements setting forth each beneficiary's qualifications and provided the following job descriptions:

Chef de Partie

To assure, in a forty hours work week, the authenticity of the French experience of the American [restaurant] customers by training American native staff in the French dining habit,

French spelling and pronunciation, and by greeting the customers, to answer questions, and explaining cultural customs and traditions of France [to] the American public. [The beneficiary's] knowledge of cooking and baking make him an ideal person to explain the attitude, customs, history, heritage and traditions of France for the cooking and wine classes (limit 60 students at one time), to the wine dinner (limits 40 guests), to host all the schools. [The petitioner] has served around 50 classes so far in 2009 from 20 kids to 90 from pre[-] school to University.

To represent to the American public [the petitioner] at local malls, schools, non-profit events, concert and fashion show in order to share France cultural heritage.

Chef de rang

To assure the authenticity of the French experience of the American [restaurant] customers by training American native staff in the French dining habit, French spelling and pronunciation, and by greeting the customers, to answer questions, and explaining cultural customs and traditions of France [to] the American public.

To represent to the American Public [the petitioner] at local malls, schools, non profit events, concert and of[f] premises catering in order to share France cultural heritage.

Sommelier

To assure, in a 40 hours work week the authenticity of the French experience and overall guest satisfaction, to develop the native front team in the knowledge of French wines and service to educate [the petitioner's] American native staff, to answer questions, share the history and traditions of France with the American public[.] [The beneficiary's] formal French wines education will be helpful to lead wines dinner and teach the staff and the customers on matching French wines and French food, the history of French wines, wines making and the relation between French food, French wines and French districts.

Assistant Dining Room Manager

To assure the authenticity of the French experience in a 40 hours week and overall guest satisfaction by managing the front team to educate [the petitioner's] American native staff, to answer questions, share the history and traditions of France with the American public, with her catering and classical education [the beneficiary] can assure the liaison with DU business program, Denver chamber of commerce, and the European chamber of commerce to lead class at [the petitioner's restaurant] to teach to the American professional how to act in a restaurant in an alien culture.

Sous chef

To assure the authenticity of the French experience, in a 40 hours work week, at [the petitioner's restaurant], of the American customers by training American native staff in the French dining habit, French cooking and tradition, and by greeting the customers, to answer questions, and explaining cultural customs and traditions of France to the American public[.] [The beneficiary] is a well rounded restaurant person his knowledge of cooking and his

international experience in French speaking countries from Swiss to Quebec in Canada make him an ideal person to explain the attitude, customs, history, heritage and traditions of France for the cooking and wine classes, to the wine dinner, to host all the schools. [The petitioner] has served around 50 classes so far in 2009 from pre-school to university.

To represent to the American public [the petitioner] at local malls, schools, non profit events, concert and fashion show in order to share France cultural heritage.

Hostess

To assure, in a 40 hours work week, the authenticity of the French experience and overall guest satisfaction by greeting the customers in French, assuring the flow of the dining room, answering the phone, to educate [the petitioner's] native staff, to answer questions, share the history and traditions of France with the American public, to expose the American public to the French culture, participate to all [the petitioner's] cultural event.

The petitioner's supporting documentation included information from the company's public website, which indicates that the restaurant "has been serving . . . the 'taste of Provence'" at its Denver, Colorado restaurant since 1981. The petitioner submitted a brochure indicating that the restaurant's food is based on its native French owner's family recipes from Toulon, France and surrounding Provencal villages. The petitioner also provided copies of recent menus indicating that the restaurant serves only French cuisine. The restaurant offers a cooking class dinner and a wine dinner once every month, and develops special menus in honor of French holidays and regional menus in events such as the Tour de France and World Cup.

The petitioner provided copies of its employment applications for kitchen and dining room staff, as well as samples of questions typically used during interviews to screen prospective job applicants. The documentation indicates that the petitioner expects its employees to be knowledgeable about French food and wine, and requires its dining room staff to have the ability to speak French.

In addition, the petitioner submitted evidence that the restaurant frequently books parties comprised of local middle and high school French language classes, French clubs from nearby universities, and other French-focused organizations, and is willing to accommodate requests for its native French staff to speak with students during such lunch and dinner services and to occasionally provide cooking classes or demonstrations for student groups. The petitioner has also catered events held by the Alliance Francaise de Denver and developed a special menu in conjunction with a Denver Art Museum Louvre exhibit.

Finally, the petitioner submitted copies of two prior approval notices for Form I-129, Q-1 classification petitions it filed in 2002 and in 2008.

On December 1, 2009, the director issued a request for additional evidence (RFE), in which she instructed the petitioner to submit additional evidence to establish that it operates a cultural exchange program that meets the requirements set forth at 8 C.F.R. § 214.2(q)(3)(iii), in terms of its accessibility to the public, the existence of a cultural component that is an essential and integral part of the participants' employment, and the existence of a work component that is not independent of the cultural component of the program.

In a letter dated December 4, 2009, counsel for the petitioner cited to section 101(a)(15)(Q) of the Act, and stated that "the statutory language makes clear that ordinary employment is acceptable for a Q-1 visa holder when accomplished in combination with the sharing of history, culture, and traditions of the country of the alien's nationality." Counsel asserted that the evidence submitted at the time of filing demonstrated "[the petitioner's] long-standing connection to educational and cultural institutions in the Rocky Mountain region for students of French." Counsel also emphasized that the petitioner was approved for a Q-1 international cultural exchange program on two prior occasions and as such, the prior approvals are "key evidence that the combined business and cultural activity has been judged by the U.S. immigration agency to be a structured international cultural exchange program." Counsel stated that "renewal of the program should be routine according to regulations at 8 C.F.R. 214.2(q)(3)(ii) and (q)(4)(iii)."

Counsel further stated that "[t]here is no statutory or regulatory requirement that the cultural exchange aspect of the business predominate but only that the public have access and that both a 'cultural component' and a related 'work component' exist." Counsel indicated that the petitioner makes agreements with the Denver Art Museum and "various cooking schools" to collaborate on sharing the art of French cooking, offers its own classes and welcomes a "steady stream of students" who come for presentations about French food and an authentic French dining experience. Counsel asserted that such elements "fully evidence the necessary cultural component" required by regulation and that "interacting with the student groups, the general public, and the members of the public who attend cooking classes and who experience French wine tastings is essential and integral to each Q-1 employee's work responsibilities."

Counsel also emphasizes the petitioner's use of French J-1 exchange visitors as "added evidence of the seriousness with which [the petitioner] takes creating an authentic atmosphere and cultural experience for its guests and especially for groups of students and their teachers." Counsel concludes by stating that the petitioner "is definitely a business which exposes the American public to a foreign culture as part of a well-designed business plan with structured cultural programs."

In support of the RFE response, the petitioner provided a statement from its owner detailing the roles of the current Q-1 program participants. The petitioner described in more detail its once monthly "cooking class/demo/dinner series," explaining that the class participants learn to cook a three-course French meal, with each station manned by a French native who will spend time interacting with guests during the demonstration in order to share his or her French language and culture. The guests are then served by French natives who are "ready to share their culture," and provided with a complimentary recipe booklet that contains additional information regarding the origin or inspiration for the dishes.

The petitioner further described its monthly wine dinner series, held on the last Tuesday of every month, and sometimes by request of university, corporate or other groups. During the event, the class participants learn from a French native how to match five French wines to five French dishes, learn about the food, climate and history of a featured region of France, and have the opportunity to interact with the cultural exchange visitors.

In addition, the petitioner described its "school series" available to all classes, in which the petitioner's goal is to offer an authentic French experience by having French staff take the order solely in French, and serving foods such as snails and mussels which may be unfamiliar to the students.

The petitioner provided a list of all "events" held at the restaurant during the first 11 months of 2009, including the monthly cooking classes and wine dinners, many visits from high schools, middle schools and university groups, a special Bastille Day menu/event, a Beaujolais Nouveau menu/event, and an occasional extra cooking demonstration for specific groups.

The petitioner also submitted statements from several French teachers who have taken their students to the petitioner's restaurant. Erin Moore of Thornton High School, noted that "[t]he Colorado standards of World Language Education are pretty clear about the necessity of teaching culture as part of a world language curriculum." She states that the petitioner's restaurant "provides a valuable resource to us in meeting this standard," noting that Colorado residents have limited ability to communicate with native French speakers and eat authentic French cuisine in a natural environment. Ms. Moore states:

I bring students to [the petitioner's restaurant] as our cumulating event of our unit on food and restaurant/café culture in France. They must speak to the server in French, place their order, ask any questions about the menu, use continental eating style while they are eating, say please and thank you, and ask for the check. They are all not only able to do this, they are more than willing to try out the French that they have acquired thus far with the native French speakers. . . .

In addition, [the petitioner] has provided our school with out-of-restaurant services. Last year, [the petitioner] was kind enough to send their pastry chef and his sous chef to one of our French Club meetings to demonstrate how to make a Buche de Noel, a traditional French cake made at Christmas time. The students were fascinated to see the chef in action and to talk with him about his job, his life in France, and anything else they could think of. . . .

Other teachers express similar sentiments regarding their trips to the petitioner's restaurant with groups of French students, noting the authenticity of the experience, and its culinary, cultural and linguistic value. One teacher states that, to her knowledge, the petitioner "is the only French restaurant which offers the type of cultural experience" valued by teachers, as other restaurants she has contacted have not been willing to accommodate large student groups.

The director denied the petition on December 21, 2009, concluding that the petitioner's program does not satisfy the public accessibility or cultural component requirements set forth at 8 C.F.R. § 214.2(q)(3)(iii). Specifically, the director stated:

According to the information given, it is clear that the majority of the beneficiaries' time will be spent away from the general public with little time to interact and share the culture of France. The beneficiaries will mainly be engaged in teaching the staff at the restaurant and conducting duties inherent at any restaurant. Activities that take place in 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. 8 C.F.R. 214.2(q)(3)(iii)(A).

Additionally, the petitioner asserts that part of the beneficiaries' job functions, such as seating customers and helping customers choose wine, will allow interaction with the public.

However, during this time, their main duties will be to serve the customers, with cultural exchange being ancillary to these duties.

The director acknowledged that any restaurant featuring a specific foreign cuisine has "a modest degree of cultural exchange," but determined that the petitioner is primarily engaged in the business of food service, with any French cultural exchange being peripheral to its primary purpose. Finally the director concluded that restaurant employees are ineligible for Q-1 classification "unless the restaurant is specifically structured and operated as a cultural exchange program."

On appeal, counsel for the petitioner asserts that the director failed to properly review and analyze all of the evidence submitted at the time of filing and in response to the request for evidence, and claims that such evidence was sufficient to establish that it operates an international cultural exchange program that is accessible to the public and includes the required cultural component. Counsel further asserts that, based on the statute and regulations "a regular business with an international cultural exchange component is the exact combination of activities anticipated and authorized by both."

In support of the appeal, the petitioner submits a supplemental letter from its president, who states:

I have looked at the Walt Disney websites for their presentations on French culture and find them very similar – though on a much larger scale – to what [the petitioner] provides for the entire state of Colorado and people who travel from neighboring states for a cultural experience at my restaurant. The Walt Disney interests are known for promoting the addition of the Q-1 "international cultural exchange visitor" visa to the U.S. immigration law.

The petitioner attaches materials from the Disney website in support of its claim that there is a strong similarity between the programs. The petitioner further requests that USCIS consider "all our evidence of a structured international cultural exchange program at the restaurant, including regional meals, cooking classes, wine tasting classes, festival participation, and presentations to school and university students."

Analysis

After careful review of the record, the AAO concurs with the director's conclusion 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 beneficiaries would be engaged in employment 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 through a structured program.

It is stated in the supplementary information to the current regulations at 8 C.F.R. § 214.2(q), published at 57 Fed. Reg. 55056, 55058 (November 24, 1992):

The Q visa provision is designed to foster "cultural exchange." The statute uses precisely this term and requires that a cultural exchange program have the purpose of "providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality." This language suggests that Congress envisioned a sharing of culture more

widespread and accessible than the private cultural exchanges suggested by the commenters. It also suggests that the culture-sharing aspect of the status is the feature distinguishing this from nonimmigrant classifications that are tied solely to employment. Based on this language, the Service has retained in the final rule the requirements that a Q cultural exchange program must have structured public activities with specific culture-sharing goals, and that the cultural exchange visitor's employment or training must serve the cultural objectives of the program. *Where training or employment is the primary reason for an alien's visit to this country, the alien should seek a visa classification that is appropriate for temporary workers, such as H-1B, H-2B, or H-3.*

(Emphasis added.)

Here, the AAO concurs with the director's conclusion that the petitioner does not operate a qualifying international cultural exchange program pursuant to section 101(a)(15)(Q) of the Act. Accordingly, the appeal will be dismissed.

(A) Accessibility to the Public

Pursuant to the regulation at 8 C.F.R. § 214.2(q)(3)(iii)(A), 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.

The regulation uses examples to set the limits of what is acceptable and unacceptable with respect to public access. As an example of sufficient public access, the regulation specifically mentions that the cultural exchange program may take place in a business. As examples of insufficient public access, the regulation cites "[a]ctivities that take place in a private home or an isolated business setting." 8 C.F.R. § 214.2(q)(3)(iii)(A). The petitioner's restaurant was designed to offer an authentic French culinary experience and is marketed to the public as such. Therefore, we find that it surpasses these negative examples, and is not an "isolated business setting."

In order to meet this requirement, the petitioner must also establish that the American public, or a segment of the American public sharing a common cultural interest, is exposed to aspects of a foreign culture *as part of a structured program*. The petitioner formally offers two French cultural classes per month, a cooking class and a wine class, which could be considered planned, structured activities offered to the public. While the petitioner is willing to provide native French staff to converse with parties of students and teachers who make reservations to dine at the restaurant on school field trips, such activities are available only by special request and have not been shown to be offered as part of a structured program.

Similarly, we acknowledge that the petitioner's restaurant has played a part as caterer for cultural events sponsored by the Denver Art Museum and Alliance de Francaise; however, events organized or sponsored by other organizations or entities cannot qualify as an international cultural exchange program of the petitioner.

Therefore, the AAO must conclude that most of the interactions between the restaurant staff and its customers are casual and unstructured. While we do not doubt that the restaurant's native French staff is trained to engage guests, answer questions, and share some aspects of French language or culture in order to ensure the authenticity of the dining experience, we cannot find that the beneficiaries would be sharing their culture with the American public as part of a structured program.

Therefore, based on the evidence of record, the AAO cannot find that the petitioner's program fully complies with the public accessibility requirement set forth at 8 C.F.R. § 214.2(q)(3)(A), due to the lack of structured cultural activities.

(B) Work and Cultural Components

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). The AAO concurs with the director's determination that the duties to be performed by the beneficiaries in various restaurant positions are independent of the petitioner's proposed structured cultural program components.

The petitioner's program is structured in such a way that the only *bona fide* structured cultural activities, i.e., monthly French cooking and wine classes, would account for a very small portion of the participants' time, and would not necessarily involve all of the participants on a monthly basis. The vast majority of the interaction between the beneficiaries and the public would be limited to informal exchanges in the course of taking orders and serving food and wine, and in the case of the chefs, would appear to be even more limited on a day-to-day basis. Furthermore, the petitioner indicates that each beneficiary will be spending an unspecified amount of time training the restaurant's American staff, which would further limit the time they are engaged in direct contact with the public. Although the petitioner indicates that the beneficiaries will travel to local malls, schools, non-profit events and other off-premises locales in order to share their French cultural heritage, the petitioner itself does not administer a cultural program outside of its own restaurant, but rather occasionally caters for cultural organizations or accommodates a request to provide an off-premises cooking demonstration for interested parties.

Moreover, although the petitioner indicates that all of the beneficiaries, including the three chefs, will be responsible for greeting customers, answering questions and explaining cultural customs and traditions of France, the AAO finds it reasonable to believe that the chefs are required to spend the majority of their time in the kitchen. It appears that the petitioner's French chefs staff the monthly cooking class, and the petitioner will make one chef available for school groups that specifically request the presence of a chef. However, it is reasonable to conclude that the chefs would spend the majority of their time in the kitchen performing the duties typical of the profession. The school visits occur with some regularity, but, again, are not part of a structured program, do not involve all of the participants (such as the sommelier), and would not comprise a significant portion of the beneficiaries' time.

Upon review of the totality of the evidence, AAO must conclude that the primary purpose of the petitioner's hiring of the beneficiaries is to prepare and sell food and beverages and add to the authenticity of its French dining experience, rather than to provide 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). The presence of the foreign employees may contribute to customers' overall experience at the restaurant; however, the fact remains that the participants will be spending the vast majority of their time on a daily basis performing the standard duties of their positions as restaurant kitchen and dining room workers, during which periods their cultural interaction with customers will be limited to informal and unstructured cultural exchanges.

The AAO also recognizes that the local school community in and around Denver, Colorado regards the restaurant as an important linguistic and cultural resource for their students. The availability of authentic and affordable French cuisine and native French speakers is clearly valued by the schools that bring groups of students to the petitioner's restaurant, and the petitioner is apparently very accommodating to the requests of such groups, perhaps more so than other French restaurants in the same area. However, it does not elevate the petitioner's French restaurant to an international cultural exchange program. The petitioner is simply an ethnic restaurant engaged in the business of selling its products, not primarily in promoting cultural exchange. The petitioner may be an active participant in the local Francophile community and events sponsored within that community. The petitioner has also demonstrated that the beneficiaries are qualified chefs and restaurant staff from France. However, it cannot be concluded that the petitioner operates an international cultural exchange program within the meaning of § 101(a)(15)(Q) of the Act or that the beneficiaries will be coming to the United States primarily to share the history, culture, and traditions of France.

The AAO acknowledges the petitioner's claims that its program is similar to the "French pavilion" at Disney's Epcot Center theme park. The AAO disagrees. The petitioner operates one French restaurant. It is not a business designed to expose the American public to a foreign culture as part of a structured program. The cultural exhibitions at Epcot Center referred to by counsel are highly structured cultural exhibitions that may operate a restaurant as an integral part of that exhibition. This is clearly distinguished from an ethnic restaurant that holds two monthly cooking and wine classes, caters the occasional French cultural event, and accommodates school field trips. Further, it is worth emphasizing that each petition filing is a separate proceeding with a separate record. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, USCIS is limited to the information contained in the record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). The AAO does not have before it a Q-1 petition filed by Disney and cannot compare that organization's existing Q-1 program to the petitioner's proposed Q-1 program.

The AAO acknowledges that USCIS previously approved two Q-1 nonimmigrant petitions filed by the petitioner. The prior approvals do not preclude USCIS from denying an extension of the original visa petition 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 types of evidence in support of its Q petitions, then it is likely that the prior petitions were also approved without sufficient evidence of eligibility in the record. Such approvals 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.