



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 21162273

Date: SEP. 27, 2022

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (International Exchange or Cultural Worker – Q)

The Petitioner seeks to classify the Beneficiaries as international cultural exchange visitors. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(Q), 8 U.S.C. § 1101(a)(15)(Q). Q-1 classification is for individuals who participate in an international cultural exchange program, approved by the Department of Homeland Security (DHS), to provide practical training, employment, and the sharing of the history, culture, and traditions of their country of nationality. The Petitioner seeks to employ the Beneficiaries, Pakistani nationals, as Cultural Program Associates (CPAs) for a period of 12 months.

The Director of the Vermont Service Center denied the petition, concluding that the Petitioner's program is not eligible for designation as an international cultural exchange program under section 101(a)(15)(Q) of the Act, based on the requirements set forth at 8 C.F.R. § 214.2(q)(3)(iii). Specifically, the Director determined that the Petitioner did not establish that its cultural exchange program satisfies the public accessibility, cultural, and work components set forth at 8 C.F.R. § 214.2(q)(3)(iii)(A)-(C), and that it will offer the Beneficiaries wages and working conditions comparable to those accorded local domestic workers similarly employed, as required by 8 C.F.R. § 214.2(q)(4)(i)(D).

In support of the appeal, the Petitioner submits a brief and asserts that the Director erred in determining that the Beneficiary is not eligible for the classification sought.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 101(a)(15)(Q) of the Act authorizes nonimmigrant status for participants in a DHS-approved international cultural exchange program. The implementing regulation at 8 C.F.R. § 214.2(q) establishes the process by which DHS evaluates both the proposed cultural program and the

prospective Q nonimmigrants. Under 8 C.F.R. § 214.2(q)(3)(iii), an international cultural exchange program must meet 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.

In addition, the regulation at 8 C.F.R. § 214.2(q)(4)(i) states:

Documentation by the employer. To establish eligibility as a qualified employer, the petitioner must submit with the completed Form I-129 appropriate evidence that the employer:

- (A) Maintains an established international cultural exchange program in accordance with the requirements set forth in paragraph (q)(3) of this section;
- (B) Has designated a qualified employee as a representative who will be responsible for administering the international exchange program and who will serve as a liaison with the Immigration and Naturalization Service;
- (C) Is actively doing business in the United States;
- (D) Will offer the alien(s) wages and working conditions comparable to those accorded local domestic workers similarly employed; and

(E) Has the financial ability to remunerate the participant(s).

With respect to the wages offered, the regulation at 8 C.F.R. 214.2(q)(4)(ii) states:

(B) The petitioner must report the international cultural exchange visitors' wages and certify that such cultural exchange visitors are offered wages and working conditions comparable to those accorded to local domestic workers similarly employed.

Further, the regulation at 8 C.F.R. § 214.2(q)(11) provides, in pertinent part:

(ii) Wages and working conditions. The wages and working conditions of an international cultural exchange visitor must be comparable to those accorded to domestic workers similarly employed in the geographical areas of the alien's employment. The employer must certify on the petition that such conditions are met as in accordance with paragraph (q)(4)(iii)(B) of this section.

II. ANALYSIS

According to the petition, the Petitioner's initial cover letter, information from its website, and its organizational chart, the Petitioner is engaged in hotel management, cultural exchange programs, information technology and construction management, and training and development for "the American hospitality, IT, and Engineering industry."¹ As explained in the initial cover letter, [REDACTED] is the Petitioner's cultural exchange and training branch. The Petitioner indicates that its cultural exchange program takes place at its office location at [REDACTED] Office Building, [REDACTED] Georgia. The record shows that the Beneficiaries have employment or educational backgrounds related to business and human resources management.

A. Eligibility Claims

The Petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on June 27, 2017, accompanied, *inter alia*, by the following supporting documentation regarding the Petitioner's cultural program:²

- A letter from the Petitioner's Executive Talent and Operational Enhancement Associate, describing the Petitioner's cultural exchange program

¹ The Petitioner's initial letter notes that certain Q-1 petitioners may be exempted from submitting as initial evidence the information and documentation required by 8 C.F.R. § 214.2(q)(4)(i). The regulation at 8 C.F.R. § 214.2(q)(4)(iii) only provides an exemption to those Q-1 petitioners who can show that their international cultural exchange program was approved in the same calendar year. The instant petition was filed in 2017. The Petitioner submitted a copy of prior approval notices dated 2009 for Form I-129, Q-1 classification petitions it filed. Therefore, pursuant to 8 C.F.R. § 214.2(q)(4)(iii), the Petitioner was required to submit all initial evidence required by regulation at the time of filing this petition.

² We note that several exhibits referenced in the Petitioner's initial letter are not in the record before us, such as the Petitioner's Cultural Exchange Program Agreement with the Beneficiaries, an expert opinion from [REDACTED] an email exchange between the Petitioner's Global Board of Advisors and its management executives, and a "few of the employee W-2s."

- Photographs and screenshots from the Petitioner's website of cultural events sponsored or held by it between 2009 and 2011
- Evidence of cultural, corporate, and recruitment events sponsored or held by the Petitioner and its past affiliate, [REDACTED] between 2001 and 2017, including flyers, other advertising materials, and photographs
- Information from the Petitioner's website about its [REDACTED] restaurant
- Photographs of the Petitioner's office location
- The Petitioner's recent *Beyond the Broadcaster* newsletters
- Advertisements for the Petitioner's cultural exchange program, [REDACTED] [REDACTED] including flyers and screenshots from the Petitioner's website
- An organizational chart for the petitioning company.
- The Petitioner's [REDACTED] Structured Training Plan (STP), which includes a monthly list of events and duties for a 15-month program.³
- Affidavits from prior program participants.
- The Petitioner's Cultural Calendar 2017
- Evidence related to recent events held by the Petitioner⁴
- CPA Job Description
- Letters from participating cultural event partners

As noted above, the Petitioner indicated that its cultural exchange program takes place at its office location at [REDACTED] Office Building in [REDACTED] Georgia. In its supporting letter, the Petitioner explained that its cultural program participants are "spending the majority of their time in the United States assisting in the planning, coordination, and implementation of various cultural functions, events, and activities." It states that its [REDACTED] division has developed an STP "which outlines the cultural exchange goals and activities for the program participants." The Petitioner asserts that "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." A flyer advertising the Petitioner's cultural exchange program explains that "[e]vent management acts as a vehicle for [REDACTED] to organize cultural events. Through this service, we solicit big business and organizations to request [REDACTED] to organize events for them which are culturally motivated" for events such as "fashion shows, outdoor events, social meetings, conferences and awards, and bachelor's party."

With respect to the role of CPA, we note that the record does not contain specific job descriptions for each Beneficiary included in the petition. Rather, the Petitioner provided a general overview of the role in a "Cultural Program Associates Job Description," which is divided into the categories, "cultural component," "work component," and "accessibility to the public." In addressing the cultural component

³ Although the STP provides a description of a 15-month program, as noted above, the Petitioner indicates in the petition that it seeks to employ the Beneficiaries in the United States as CPAs for a period of 12 months.

⁴ The evidence consists of web site advertisements, photographs, copies of flyers and documentation related to the following events: [REDACTED] *Tour 2017* featuring classical and modern Pakistani music held [REDACTED] 2017 at the [REDACTED] in [REDACTED] the [REDACTED] Theatre in [REDACTED] and the [REDACTED] in [REDACTED]; [REDACTED] cultural event featuring foods, games, and lectures at the Beneficiaries work location in [REDACTED] in [REDACTED] 2017; [REDACTED] featuring Persian traditional music at the [REDACTED] in [REDACTED] on [REDACTED] 2017; and the [REDACTED] held in [REDACTED] 2017 at the Country Club [REDACTED]

of its cultural exchange program, the Petitioner's job description indicates that participants' duties would include the following: perform traditional/ethnic dance and musical performances; conduct cultural presentations; organize and conduct language camps; organize and conduct native movie nights with subtitles; conduct food and beverage tasting events to introduce guests about ethnic cuisine and cooking classes; conduct daily manager's reception; conduct lectures; meet and greet the guests/audience attending cultural event in their native outfits; prepare a cultural village.

In addition, in referring to the work component of its cultural exchange program, the Petitioner's job description indicates that participants' duties would include the following: organize, plan, coordinate, participate, and implement mega cultural events, cultural activities, shows, and daily managers reception; prepare agenda; prepare menu cards; make marketing and budgetary plan and strategy with the cultural program specialist; contact venue/companies for events, meet venue organizers, negotiate contracts; professional artists (if any) requirements; coordinate with professional performers, chefs, caterers, wait staff; advertise events in newspapers, radio, TV and on company website and social networking sites; collect feedback after the event. Further, regarding the public accessibility component, the job description indicates the cultural events will take place in locations open to the public such as "theaters, auditoriums, hotels, parks, colleges, [and] schools."

As mentioned above, the Petitioner's STP provides a monthly schedule of events and duties for a 15-month program. The STP indicates that all three Beneficiaries will be working on the listed events and duties. It does not indicate that the Beneficiaries undergo any orientation or cultural exchange program training before beginning to work independently beginning in the first month. According to the STP, each month includes planning and implementation of a daily manager's reception at the Petitioner's office location, to include "traditional Pakistani food" presented by the Beneficiaries wearing nametags reflecting their home country and flag. The STP also indicates that monthly events at the Petitioner's office location include organizing and implementing a Pakistani movie screening, art class, language camp and/or cooking class.

The monthly schedule of events provided in the STP is as follow:

- Month 1: plan and implement an Eid celebration; [redacted] Ramadan presentation at the [redacted] Hotel; World Music Festival at the [redacted] Restaurant; and begin to plan the event [redacted]⁵
- Month 2: prepare a history lecture for [redacted] plan a soccer festival; and begin to plan for an upcoming [redacted] to include multicultural games and food
- Month 3: prepare [redacted]; [redacted] celebration; continue to plan for the upcoming [redacted]
- Month 4: implement the [redacted] and organize a Pakistani photography exhibition and author lecture
- Month 5: plan [redacted] celebration and [redacted] event.
- Month 6: organize the [redacted] celebration and [redacted]
[redacted]
- Month 7: organize a presentation on Pakistani history and [redacted] celebration

⁵ As mentioned above, it appears that most performance dates for this event had already passed at the time when the petition was filed on June 27, 2017, and, therefore, that the planning for the event had been completed.

international atmosphere of music, dining, art, exhibitions, and much more . . . at one of our affiliate locations all over the USA . . .” A similar form letter dated January 2017 is signed by [redacted] Talent & Operational Enhancement Associate, whom the record indicates is one of the Petitioner’s cultural program participants. The letter solicits the recipient to “reach out to us with your 2017 cultural calendar so our cultural exchange team can sync up in partnership . . .” The record also contains screenshots from the Petitioner’s website [redacted] stating it is “our international cultural food program, which is part of our prestigious international cultural exchange program” and offers “international cooking at your establishment . . . cooking classes and cooked international food delivered or carried out to your facilities.”

In addition, the Petitioner provided several of [redacted] newsletters dated 2017 containing articles about recent cultural events from two of its cultural program participants, [redacted] and [redacted] who indicate they are from Iran and Russia, respectively. [redacted] notes that many national flags were displayed in the [redacted] event and explains the symbolism of the colors of the American flag. She also states that the [redacted] event provided performances by Iranian vocal and instrumental artists. [redacted] provides that at the [redacted] event participants “played funny games to guess what is West culture and what is East Culture” and “ate different native food from [the] East and enjoyed amazing desserts with tea.” Photographs of the [redacted] [redacted] and [redacted] events show that they took place at the Petitioner’s office location and that the latter event included cultural program participants wearing traditional dress.

Further, the Petitioner submitted evidence of prior cultural events dating back to 2001 in which its former CPAs have participated, accompanied by photographs of many of the listed events. The events included celebrations of aspects of Indian, Pakistani, Polish, Korean, Filipino, and Argentinean culture including music, dance and cuisine. The majority of events were held at hotels, resorts, and educational institutions in Georgia and South Carolina. The Petitioner provided affidavits from several past program participants who worked in the hotel positions of food and beverage worker and front desk assistant, and discussed how they shared their culture while performing the regular duties associated with their positions.⁶ For example, in an undated affidavit, [redacted] states as a cultural exchange ambassador with the petitioner’s program he worked as hotel food service worker and “tried to incorporate Filipino dish[es] as well as Asian Cuisine into Menu Planning in the restaurant.” In an undated affidavit, [redacted] states that she worked as a “Cultural Exchange Co-coordinator in Food & Beverage” where she would “try to prepare different dishes from the Philippines [every day] for our guests” and “give a brief presentation on what these dishes are and how they are prepared.” In an affidavit dated 2010, [redacted] states that “[w]orking at the front desk gave me direct opportunity to meet people, so I elaborated Indian culture with posters, pictures and played Indian classical music in the lobby . . . I am always wearing Indian outfits and have a nametag on with my name, country’s name and flag . . .”

Moreover, the Petitioner submitted letters of appreciation from several organizations with which it co-hosted events and guests who attended its cultural events. The Petitioner also provided evidence that many of its events have been publicized on its own website and Facebook page, on Chamber of Commerce web sites, through flyers, and in local newspapers.

⁶ We note that none of the affidavits state the specific location where the program participants were employed.

The Director issued a request for additional evidence (RFE), advising the Petitioner that USCIS was not persuaded that the work component serves as a vehicle to achieve the objectives of the cultural component of the Petitioner's program, but rather appears to be independent of the cultural component. The Director requested 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). In addition, the Director requested documentation that the Beneficiaries will receive wages and working conditions comparable to those afforded domestic workers similarly employed in the geographical area of their employment.

Within its response to the RFE, the Petitioner further explained how its cultural exchange program satisfies the requirements set forth at 8 C.F.R. § 214.2(q)(3)(iii). The Petitioner stated that its program is not only available to program participants but to the general public. It indicated that it conducts "massive cultural event promotion, advertisements, and planning" of cultural events that take place "in public places, including schools and universities," through advertisements in newspaper, radio, Chamber of Commerce newsletters, and on social media.

With respect to its program's cultural and work components, the Petitioner emphasized that program participants "are primarily involved in duties involving advertisement, sales and marketing related to cultural activities or events that they are participating in." Further, program participants "utilize [redacted] platform to promote local cultural dishes for their countries and conduct food related expos and managers reception." The Petitioner also provided additional documentation from its [redacted] Facebook page which shows it is an Indian restaurant with a "Chinese full menu available." The Petitioner claimed that the Beneficiaries "are not responsible for finding clients, even if they may get involved in the process" The Petitioner acknowledged that the Beneficiaries duties "may require skill sets of Event Planning or Adminstrating" but their "objectives are always cultural to one's country of origin . . . not just in the form of event, but through lectures, exhibits, power point presentations, dance performances, food and book expos, managers receptions, galas and so on."

On appeal, the Petitioner submits a brief, maintaining that the Director erred in determining the Beneficiary is not eligible for the classification sought. The Petitioner contends that, contrary to the Director's finding, its program is accessible to the public, and "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." It asserts that "while program participants may have to perform administrative and event management tasks," the "totality" of the cultural program associates' time is spent engaging in tasks that are "purely cultural, for example, the staging of cultural exhibits" and that the Director "erred by insisting that any and all tasks be purely cultural in nature."

In addition, the Petitioner contends that the Director applied a higher standard of proof than the "preponderance of the evidence" standard applicable in immigration proceedings, "holding the petitioner to a much higher standard than any other similarly situated petitioners." Specifically, the Petitioner 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 evidence submitted. Further, the Petitioner, citing to *Maravilla Maravilla v. Ashcroft*, 381 F.3d 855, 859 (9th Cir. 2004), claims that the Director abused her discretion by holding it a higher standard than any other similarly situated petitioners. Finally, the

Petitioner maintains that it will offer the Beneficiaries wages and working conditions comparable to those accorded local domestic workers similarly employed.

Upon review, and for the reasons discussed herein, we agree with the Director's determination that the Petitioner has not established 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), and has not submitted, as required, "appropriate evidence" that it will offer the Beneficiaries wages and working conditions comparable to those accorded local domestic workers similarly employed, as required by 8 C.F.R. § 214.2(q)(4)(i)(D).

B. Cultural Exchange Program Requirements

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.

1. Accessibility to the Public

The Director concluded that the Petitioner's program is not accessible to the American public because the majority of the activities undertaken by the Beneficiaries would take place at the Petitioner's office location, "which appears to be an isolated business setting." On appeal, the Petitioner maintains regarding its office location that "for well over a decade hundreds of cultural events have taken place there."

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 record indicates that the Petitioner's 2017 events [REDACTED] and [REDACTED] took place at the Petitioner's office location and were advertised to the public. Thus, we find, contrary to the Director's observations, that the documentation submitted shows that the Petitioner's office location involves a level of public access that surpasses these negative examples and is not an "isolated business setting."

In order to meet 8 C.F.R. § 214.2(q)(3)(iii)(A), however, 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's exhibits indicate that it offers annual events including [REDACTED] and multi-cultural

events such as [] and [] which could be considered planned, structured activities offered to the public. While the participants may, at such structured activities, engage guests, answer questions, and share some aspects of Pakistani language or culture, the evidence does not sufficiently establish that the Beneficiaries would be sharing their culture with the American public as part of a structured program. As discussed further below, the record suggests that the scope of any cultural activities undertaken by program participants would only occasionally reach beyond their assigned roles as event planners at the Petitioner's office location, a position that has little or no direct interaction with the public.

Overall, based on the submitted evidence, we 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 a structured program.

2. Cultural Component

The international cultural exchange program must have a cultural component designed to exhibit or explain the culture of the Beneficiaries' country of nationality. 8 C.F.R. § 214.2(q)(3)(iii)(B). The cultural component must be an "essential and integral part" of the employment or training. *Id.* The regulation casts a broad net-- attitude, customs, history, heritage, philosophy, or traditions -- to capture the inherent breadth of "culture." *Id.* We agree with the Director's determination that the Petitioner has not established that its proposed international cultural exchange program meets the requirements for program approval set forth at 8 C.F.R. § 214.2(q)(3)(iii)(B).

As previously noted, the STP indicates that the Beneficiaries will be planning, marketing, organizing and hosting a daily manager's reception open to the public. The Petitioner's Cultural Calendars 2017 do not identify any daily cultural events, therefore, the stated amount of time devoted to such events on a daily basis is not supported by other evidence in the record. It is incumbent upon the Petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

In addition, 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, the petitioner has not submitted evidence that any of these more structured means of cultural exchange have taken place, or that the Beneficiaries even possess the qualifications to deliver these more in-depth cultural presentations.

The evidence shows that the Petitioner's prior program participants have engaged in more formal and structured cultural events documented in the record. The documentation submitted establishes that such events are open to the public and carried out by the Petitioner's employees. However, as discussed previously, these major events appear to have been conducted independently from the participants' assigned hotel food service, hospitality, and Talent & Operational Enhancement Associate positions, and occur with much less frequency. In addition, some of the photographs show large numbers of performers, suggesting that the program participants, while assisting with these programs, were not themselves the performers. Notably, the above article by [] about the

[redacted] does not indicate that she or other cultural program participants were performers at the event, and a letter from [redacted] of [redacted] Relay for Life thanks the Petitioner for providing volunteers to assist with clean up at an event. We cannot conclude that any participants in the program would participate in these structured cultural events more than one to two times per month during a 15-month stay in the United States, much less as the essential component of their day-to-day employment.

A review of the prior participants' statements supports the conclusion that much of their time was spent performing the typical duties associated with their hospitality and restaurant service positions (for example, a front desk clerk greeting guests or a food service worker planning menus). Similarly, it appears that the Beneficiaries will be expected to fully perform the duties of their positions as event-planners while on duty at the Petitioner's business location. Further, while the above hotel restaurant and front desk positions traditionally involve direct service to guests, the "administrative and event management tasks" of the Beneficiaries' assigned positions as event planners appear to involve little if any interaction with the public.

In addition, the Petitioner has not indicated with any specificity how much time the participants devote to their roles as event planners compared to the amount of time they engage in other claimed daily and monthly cultural activities that may be broadly accessible to the public as part of a structured program. Simply stating the "totality" of the participants' time is spent engaging in tasks that are "purely cultural" is insufficient, when the documentation submitted shows that the Beneficiaries may be spending the vast majority of their time on a daily basis performing the standard duties of their positions as event planners, during which period they will have little or no cultural interaction with the public. In addition, the Petitioner indicated the Beneficiaries will be spending an unspecified amount of time utilizing the [redacted] [redacted] platform "to promote local cultural dishes," and finding new clients for the Petitioner's event planning services as shown by the above-mentioned solicitation letters of [redacted] and the Petitioner's Global Strategic Operations Supervisor, duties which would further limit the time they would be engaged in cultural interaction with the public.

Overall, the evidence in the record does not establish that the Beneficiaries will share their respective cultures with the public on a regular basis as an essential element of their work-related responsibilities. 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). Based on the foregoing discussion, the Petitioner has not established that its international cultural exchange program has a cultural component which is an essential and integral part of the international cultural exchange visitor's employment or training, and 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. 8 C.F.R. § 214.2(q)(3)(iii)(B).

3. Work Component

Lastly, the program beneficiary's employment or training in the United States must be tied to the program's cultural component. The beneficiary's work may not be independent of the cultural component of the international cultural exchange program but 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. 8 C.F.R. § 214.2(q)(3)(iii)(C). The Director determined that, based on the Petitioner's representations, the Beneficiaries will devote the majority of their time in event planning and promoting the Petitioner's event planning services rather than in explaining the attitude, customs, history, heritage, philosophy, or traditions of their shared country of nationality. We agree with the Director's determination that the Petitioner has not shown that the majority of the Beneficiaries' work serves as a "vehicle" to achieve the program's cultural objectives and that such objectives will "result from" their work.

As mentioned above, the Petitioner has not clearly set forth the Beneficiaries' duties and indicated the amount of time they will devote to each area of responsibility. The record reflects that Petitioner's program is organized in such a way that its structured cultural activities, i.e., [REDACTED] and multi-cultural events such as the [REDACTED] and the [REDACTED], occurring no more than one to two times per month during a 15-month stay in the United States, would account for a small portion of the participants' time and occur outside of the participants' primary responsibilities as event planners. Based on the documentation submitted, it is reasonable to conclude that as event planners the Beneficiaries would spend the majority of their time in the office location away from the public performing the duties typical of the occupation. The submitted evidence does not establish that the Beneficiaries' will devote the majority of their time as the vehicle to transmit Pakistani language, culture, customs, heritage, traditions, etc. to the public. 8 C.F.R. § 214.2(q)(3)(iii)(C).

Finally, the Petitioner relies on *Maravilla Maravilla*, 381 F.3d at 859, in support of its assertion that the Director abused her discretion by holding the petitioner to a higher standard than any other similarly situated petitioners.⁷ Here, the Director's decision does not suggest she used a standard other than preponderance of the evidence. The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (citing *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989)). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the Director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the Director has some doubt as to the truth, if the Petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the Director can articulate a material doubt, it is appropriate for the Director

⁷ In that case, the Ninth Circuit held that the Board of Immigration Appeals improperly used a *prima facie* standard to evaluate an ineffective assistance of counsel claim. *Id.* at 858.

to either request additional evidence or, if that doubt leads the Director to believe that the claim is probably not true, deny the application or petition.

We acknowledge that extensive documentary evidence has been submitted in support of the petition. The majority of this evidence was submitted to demonstrate that the Petitioner's past program participants have advertised and implemented cultural events that are open to the public. However, as discussed above, certain important information regarding the Beneficiaries' duties has not been provided, such as an hourly breakdown of how each Beneficiary's time would be allocated on a monthly basis, or a distinction between duties that are performed daily and those that occur with less frequency, while the Petitioner's description of their duties and responsibilities is not entirely credible due to conflicting evidence in the record. Therefore, we find that the record supports the Director's denial of the petition.

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

The Petitioner emphasizes that USCIS has previously approved other Q-1 nonimmigrant petitions filed by it. The record does not contain copies of the visa petitions that were previously approved. USCIS approves international cultural exchange programs for the duration of the program, which may not exceed 15 months, plus 30 days. 8 C.F.R. § 214.2(q)(3)(ii). Each petition filing is a separate proceeding with a separate record and separate burden of proof. See 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, we are limited to the information contained in the record of proceeding. See 8 C.F.R. § 103.2(b)(16)(ii). Despite any number of previously approved petitions, we do not have any authority to confer an immigration benefit when the petitioner does not meet its burden of proof in a subsequent petition. See section 291 of the Act. We are not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. See, e.g. *Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r 1988). In this case, the Petitioner has not submitted the requisite evidence specific to these Beneficiaries. Based on the lack of required evidence of eligibility in the current record, the previous approvals granted to other beneficiaries sponsored by the petitioning organization are not determinative.

C. Qualified Employer

The Director determined that that Petitioner did not establish that it will offer the Beneficiaries wages and working conditions comparable to those accorded local domestic workers similarly employed, as required by 8 C.F.R. § 214.2(q)(4)(i)(D). The Petitioner indicates that it intends to pay the Beneficiaries as follows: a wage of \$8.65 per hour, or \$1,442 per month, based on a 40-hour work week; fully furnished housing valued at \$350 per month; and utilities, internet, phone, transportation, and housekeeping services valued at \$285 per month, for a total compensation package valued at \$2,077.00. The Petitioner states that the minimum wage in Georgia is equal to the Federal minimum wage of \$7.25 per hour or \$ 1,208 per month.

However, the Petitioner did not submit any evidence to establish that it has secured housing near the proposed place of employment at the stated monthly value of \$350. Although the Petitioner's initial

letter indicates that it has provided “copies of recent utility and internet bills and payments made to [REDACTED] (the apartment complex),” these items are not contained in the record before us; rather, the Petitioner provided its lease agreement and utility bills for the Petitioner’s office location in [REDACTED] Georgia. The Petitioner did not submit a lease agreement or lease agreements for any residential housing in Georgia, therefore it has not established this portion of its claimed compensation package with unsupported testimonial evidence alone.

Further, the Petitioner has not submitted evidence that the wage offered is standard pay for the position offered. As the Director noted, the Petitioner has provided a description of the Beneficiaries’ proposed positions as being event planners, with duties such as requiring them to plan and implement cultural events, cultural activities, shows; make a marketing and budgetary plan and strategy; contact venues/companies for events; meet venue organizers; negotiate contracts; coordinate with professional performers, chefs, caterers, wait staff; and collect feedback after the event.

However, the Petitioner provided wage data of occupations that are not same as that position. In particular, the Petitioner offered documentation relating to the salaries in Georgia of “Entertainment Attendants and Related Workers, All Other” and “Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop.” Although the Petitioner likens the Beneficiaries’ salaries to other occupations, the Petitioner did not show that \$8.65 per hour constitutes “wages and working conditions comparable to those accorded local domestic workers similarly employed,” such as event planners.

In sum, the Petitioner has not submitted, as required, “appropriate evidence” that it will offer the Beneficiaries wages and working conditions comparable to those accorded local domestic workers similarly employed, as required by 8 C.F.R. § 214.2(q)(4)(i)(D). Accordingly, the appeal will be dismissed on this additional basis.

III. CONCLUSION

The Petitioner has not established that its cultural exchange program satisfies the public accessibility, cultural, and work components set forth at 8 C.F.R. §§ 214.2(q)(3)(iii)(A)-(C) and that it will offer the Beneficiaries wages and working conditions comparable to those accorded local domestic workers similarly employed, as required by 8 C.F.R. § 214.2(q)(4)(i)(D). Consequently, the Beneficiaries are not eligible for nonimmigrant classification under section 101(a)(15)(Q) of the Act. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.