



United States Government Accountability Office
Washington, DC 20548

November 9, 2006

The Honorable Thad Cochran
Chairman
The Honorable Robert C. Byrd
Ranking Member
Committee on Appropriations
United States Senate

The Honorable Arlen Specter
Chairman
The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Jerry Lewis
Chairman
The Honorable David R. Obey
Ranking Member
Committee on Appropriations
House of Representatives

The Honorable F. James Sensenbrenner, Jr.
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives

Subject: Immigration Benefits: Fifteenth Report Required by the Haitian Refugee Immigration Fairness Act of 1998

This report responds to certain requirements of the Haitian Refugee Immigration Fairness Act (HRIFA) of 1998¹ that authorized certain Haitian nationals and their dependents to apply to adjust their status to lawful permanent residence. Section 902 (k) of the act requires the Comptroller General to report every 6 months on the number of Haitian nationals who have applied and been approved to adjust their status to lawful permanent residence. The reports are to contain a breakdown of the number of Haitians who

¹ Pub. L. No. 105-277, tit. IX, 112 Stat. 2681-538.

applied and the number who were approved as asylum applicants, parolees, children without parents, orphaned children, or abandoned children; or as the eligible dependents of these applicants, including spouses, children, and unmarried sons or daughters. Reports are to be provided until all applications have been finally adjudicated. This is our fifteenth report.²

Results in Brief

Through September 30, 2006, United States Citizenship and Immigration Services (USCIS), formerly part of the Immigration and Naturalization Service (INS), had received a total of 40,298 HRIFA applications and had approved 16,616 of these applications.³ The Executive Office for Immigration Review (EOIR) had 1,947 applications filed and had approved 755 of them. Details on the categories of the applicants and approvals are provided in this report.

Background

Haitian applicants are to send their applications to USCIS's Nebraska Service Center in Lincoln, Nebraska. A contractor at the service center is responsible for processing the applications up to the point of their adjudication by USCIS adjudication officers. An application may be adjudicated at the service center or in a USCIS district with jurisdiction over the area where the alien applicant resides. Generally, applications that are complete and evidentially sufficient can be adjudicated at the service center, according to USCIS officials. If an interview is required or other issues need to be resolved, the application is forwarded to the appropriate USCIS district, where the applicant can be interviewed and the application adjudicated. Data on Haitian applicants are to be entered in USCIS's Computer Linked Application Information Management System (CLAIMS).

Haitian nationals who are eligible for HRIFA should file their applications with EOIR rather than USCIS if they have (1) a proceeding pending before the Immigration Court or the Board of Immigration Appeals or (2) a pending motion to reopen or reconsider filed on or before May 12, 1999. Thus, Haitian nationals who are in deportation, exclusion, or removal proceedings, and whose cases have not been

² The previous reports were (1) GAO, *Immigration Benefits: Applications for Adjustment of Status under the Haitian Refugee Immigration Fairness Act of 1998*, [GAO/GGD-99-92R](#) (Washington, D.C.: Apr. 21, 1999); (2) *Immigration Benefits: Second Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO/GGD-00-25R](#) (Washington, D.C.: Oct. 19, 1999); (3) *Immigration Benefits: Third Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO/GGD-00-122R](#) (Washington, D.C.: Apr. 14, 2000); (4) *Immigration Benefits: Fourth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO-01-118R](#) (Washington, D.C.: Oct. 20, 2000); (5) *Immigration Benefits: Fifth Report Required by the Haitian Immigration Fairness Act of 1998*, [GAO-01-651R](#) (Washington, D.C.: Apr. 20, 2001); (6) *Immigration Benefits: Sixth Report Required by the Haitian Immigration Fairness Act of 1998*, [GAO-02-114R](#) (Washington, D.C.: Oct. 22, 2001); (7) *Immigration Benefits: Seventh Report Required by the Haitian Immigration Fairness Act of 1998*, [GAO-02-600R](#) (Washington, D.C.: Apr. 18, 2002); (8) *Immigration Benefits: Eighth Report Required by the Haitian Immigration Fairness Act of 1998*, [GAO-03-240R](#) (Washington, D.C.: Oct. 22, 2002); (9) *Immigration Benefits: Ninth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO-03-681R](#) (Washington, D.C.: Apr. 21, 2003); (10) *Immigration Benefits: Tenth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO-04-189R](#) (Washington, D.C.: Oct. 17, 2003); (11) *Immigration Benefits: Eleventh Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO-04-1030R](#) (Washington, D.C.: Aug. 13, 2004); (12) *Immigration Benefits: Twelfth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO-05-481R](#) (Washington, D.C.: Apr. 14, 2005); (13) *Immigration Benefits: Thirteenth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO-06-122R](#) (Washington, D.C.: Oct. 21, 2005), and (14) *Immigration Benefits: Fourteenth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, [GAO-06-589R](#) (Washington, D.C.: April 21, 2006).

³ On March 1, 2003, INS was transferred from the Department of Justice to the Department of Homeland Security. Within Homeland Security, the adjudication of HRIFA benefits is the responsibility of USCIS.

administratively closed, are to file their HRIFA application with EOIR, not USCIS.⁴ Data on Haitian applicants are to be entered in EOIR's case tracking system, the Automated Nationwide System for Immigration Review (ANSIR).

The deadline for principal applicants to file an application for adjustment of status under HRIFA was March 31, 2000. Dependents of principal applicants have no application deadline.⁵

HRIFA Applications Received and Approved by USCIS

Through September 30, 2006, USCIS data showed that it had received 40,298 HRIFA applications at its Nebraska Service Center, all of which had been entered into CLAIMS.⁶ The categories and numbers of these applicants are shown in table 1. Through September 30, 2006, USCIS had approved 16,616 applications for adjustment of status under HRIFA.

Table 1: HRIFA Applications and Categories of Applications Received and Approved by USCIS, through September 30, 2006

| Principal or dependent | Category of applicant | Number of applications in CLAIMS | Number of applications approved |
|------------------------|---------------------------|----------------------------------|---------------------------------|
| Principal | Asylum | 17,335 | 7,106 |
| Principal | Parolee | 8,904 | 3,014 |
| Principal | Child without parents | 1,229 | 162 |
| Principal | Orphaned child | 240 | 33 |
| Principal | Abandoned child | 481 | 38 |
| Dependent | Spouse | 3,791 | 1,372 |
| Dependent | Child | 7,900 | 4,788 |
| Dependent | Unmarried son or daughter | 418 | 103 |
| Total | | 40,298 | 16,616 |

Source: USCIS data.

⁴ EOIR was not transferred to the Department of Homeland Security and remains part of the Department of Justice.

⁵ The Legal Immigration and Family Equity Act (title XI of Pub. L. No. 106-553, as amended by title XV of Pub. L. No. 106-554) went into effect on December 21, 2000. This act amended HRIFA to waive certain grounds of inadmissibility for aliens applying for relief under HRIFA. Regulations implementing these changes to HRIFA went into effect on May 31, 2001, and motions to reopen immigration court proceedings for aliens made eligible for HRIFA benefits by these changes had to be filed by June 19, 2001.

⁶ Although March 31, 2000, was the application deadline for principals to file applications for adjustment of status under HRIFA, there have continued to be slight increases in CLAIMS in the number of principal applicants. According to USCIS, CLAIMS data may be adjusted for various reasons. For example, USCIS may determine that a principal's application was rejected in error during the filing period that ended on March 31, 2000; or, a principal may have submitted the application to a field office, and the application may not have been correctly routed to the Nebraska Service Center. As USCIS becomes aware of such cases, it enters them into CLAIMS.

HRIFA Applications Filed with and Approved by EOIR

Through September 30, 2006, EOIR data from ANSIR showed that 1,947 HRIFA applications had been filed with EOIR, of which 755 had been approved for adjustment of status.⁷ Table 2 provides information on the categories and numbers of HRIFA applicants and approvals.

Table 2: HRIFA Applications and Categories of Applications Filed with and Approved by EOIR, through September 30, 2006

| Principal or dependent | Category of applicant | Number of applications in ANSIR | Number of applications approved |
|------------------------|---------------------------|---------------------------------|---------------------------------|
| Principal | Asylum | 1,079 | 405 |
| Principal | Parolee | 459 | 165 |
| Principal | Child without parents | 100 | 41 |
| Principal | Orphaned child | 16 | 6 |
| Principal | Abandoned child | 20 | 11 |
| Dependent | Spouse | 178 | 84 |
| Dependent | Child | 78 | 35 |
| Dependent | Unmarried son or daughter | 17 | 8 |
| Total | | 1,947 | 755 |

Source: EOIR data.

Objectives, Scope, and Methodology

Our objectives for this report were to determine (1) the number and categories of applicants who filed applications with USCIS or EOIR and (2) the number and categories of applicants whose applications were approved by USCIS or EOIR. To attain these objectives, we relied on USCIS and EOIR to provide us with data from their CLAIMS and ANSIR systems, respectively, on applicants and the number of approvals. We assessed the reliability of the data by reviewing existing information about the data and the system that produced them, and we questioned agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for the purposes of this report. We conducted our work between September and October 2006, in accordance with generally accepted government auditing standards.

⁷ Principal applicants who filed an initial application for benefits with the Immigration and Naturalization Service on or before the filing deadline of March 31, 2000, may renew their application for HRIFA benefits with EOIR even after the deadline. Such cases, which would be entered into ANSIR when the application is renewed before EOIR, account for increases in the total number of principal applicants over time.

We provided the Departments of Justice and Homeland Security with a draft of this report for comment. DOJ and DHS had no comments on the report.

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We are providing copies of this report to the Attorney General and the Secretary of the Department of Homeland Security and will make copies available to others upon request. If you have any questions about this report, please contact me at (202) 512-8777. The key contributors to this assignment were Evi Rezmovic and R.E. Canjar.

A handwritten signature in black ink, reading "Paul L. Jones". The signature is fluid and cursive, with the first name "Paul" being the most prominent.

Paul L. Jones
Director, Homeland Security
and Justice Issues