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October 19, 1999

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The Honorable Robert C. Byrd, Ranking Minority Member
Committee on Appropriations
United States Senate

The Honorable Orrin G. Hatch, Chairman
The Honorable Patrick J. Leahy, Ranking Minority Member
Committee on the Judiciary
United States Senate

The Honorable C.W. Bill Young, Chairman
The Honorable David Obey, Ranking Minority Member
Committee on Appropriations
House of Representatives

The Honorable Henry J. Hyde, Chairman
The Honorable John Conyers, Jr., Ranking Minority Member
Committee on the Judiciary
House of Representatives

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

This report responds to the requirements of the Haitian Refugee Immigration Fairness Act of 1998¹ (HRIFA) that authorizes certain Haitian nationals and their dependents to apply to adjust their status to legal 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 legal permanent residence. The reports are to contain a breakdown on the numbers who applied or 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

¹ P.L. 105-277, Division A, Title IX.

sons or daughters. Reports are to be provided until all applications have been finally adjudicated. This is our second report.²

Results in Brief

On May 12, 1999, the Immigration and Naturalization Service (INS) and the Executive Office for Immigration Review (EOIR) published interim regulations to implement HRIFA and requested public comments. The comment period ended July 12, 1999. Between May 12, 1999, and July 23, 1999, INS conducted nationwide HRIFA training for INS employees, representatives of community-based organizations (CBO) and attorneys who plan to assist Haitian nationals in completing and filing their applications. INS and EOIR also established application filing procedures and internal processing procedures to adjudicate the applications and track their status, including numbers of applications received or filed and approved by category of applicant.

As of October 1, 1999, INS had received 8,769 HRIFA applications and EOIR had 9 HRIFA applications filed. INS had not approved any applications, and EOIR had approved eight applications. Details on the categories of the applicants and approvals are provided in this report.

HRIFA Regulations Published

On May 12, 1999, INS and EOIR published interim regulations to implement HRIFA.³ The interim regulations went into effect on June 11, 1999. Thus, Haitian applicants could begin filing applications with INS or EOIR on June 11, 1999.

During the comment period that ended July 12, 1999, INS data show it received comments from 23 individuals and 25 organizations. There were 67 proposed changes to the interim regulations.

HRIFA Training Provided by INS

INS conducted HRIFA training for 134 INS employees who are to adjudicate the applications and for 584 representatives of CBOs and attorneys who plan to assist Haitian nationals in completing and filing the applications. As shown in table 1, 1-day training sessions were conducted in eight locations nationwide between May 12, 1999, and July 23, 1999.

² Our first report was Immigration Benefits: Applications for Adjustment of Status Under the Haitian Refugee Immigration Fairness Act of 1998 (GAO/GGD-99-92R, Apr. 21, 1999).

³ Adjustment of Status for Certain Nationals of Haiti, 64 Fed. Reg. 25756 (1999).

Table 1: Scope of HRIFA Training Provided by INS, May 12, 1999--July 23, 1999

Date	Location	Attendees	INS staff	CBOs and attorneys
May 12	Miami, FL	INS officers from the Miami district	45	0
May 13	Miami, FL	CBOs and attorneys from Florida	0	300
May 18	Newark, NJ	CBOs and attorneys from NJ, NY, PA	0	34
May 26	New York, NY	CBOs and attorneys from NY	0	115
May 27	New York, NY	INS officers from the New York and Newark districts	11	0
June 2	Boston, MA	CBOs and attorneys from MA	0	52
June 3	Boston, MA	INS officers from the Eastern Regional Office, Boston and Portland districts	6	0
June 10	Lincoln, NE	INS officers from the Central Regional Office and Nebraska Service Center	48	0
June 15	Los Angeles, CA	INS officers from the Los Angeles and San Diego districts	7	0
June 16	Los Angeles, CA	CBOs and attorneys from Los Angeles and San Diego	0	30
July 1	Washington, D.C.	CBOs and attorneys from Washington, D.C., MD, and VA	0	41
July 16	New Orleans, LA	CBOs and attorneys from LA	0	12
July 23	New Orleans, LA	INS officers from New Orleans and Oakdale, LA; Dover, DE; Houston, TX; Fort Smith, AR; Louisville, KY; Milwaukee, WI; Phoenix, AZ; St. Paul, MN; St. Thomas, VI; and Seattle, WA	17	0
Total			134	584

Source: INS data.

Separate training sessions were provided for INS staff and CBOs and attorneys. Based on our observations at the training sessions in Miami, FL, both the INS and the CBO and attorney training covered the statutory provisions and interim regulations, eligibility, application forms and procedures, evidentiary requirements, definition of Haitian nationality, work authorization, and guidance provided by INS to its field offices. The training for INS staff also covered adjudication procedures and fraud detection. According to INS officials, the same information was provided at each location.

INS Processing of HRIFA Applications

Haitian applicants are to send their applications to INS' Nebraska Service Center in Lincoln, NE. INS established a dedicated post office box for HRIFA applications; consequently, when the Postal Service delivers the mail to the service center's mailroom, the HRIFA applications are already separated from other types of applications. INS' contractor at the service center is to process the applications up to the point of their adjudication by INS examiners. The contractor has prepared draft procedures for processing the applications and has provided

training to its staff. Further, the contractor has dedicated audit staff to monitor quality control and ensure compliance with the procedures.

Contractor staff are responsible for sorting the mail by placing applications of the same type into bins that are then labeled to show the date received and the number of pieces in the bin. Clerks are to review the applications to ensure that the applications are signed and that the proper fees are enclosed. If the signature or proper fee is missing, the application is to be rejected and returned to the applicant. If the application is accepted, clerks are to prepare an application file and verify the applicant's alien number (A-number) or assign a new one. For applicants that already have a verified A-number, clerks are to request that their A-files be sent to the service center.

Clerks are to enter data from the applications, including category of Haitian applicant, into INS' Computer Linked Application Information System (CLAIMS). Fees are to be separated from the application and prepared for deposit, and receipts are to be sent to the applicants.⁴ Forms used to conduct criminal record and other security checks on the applicant are also to be separated and sent to the appropriate agency, such as the Department of State and the Federal Bureau of Investigation. When all requested materials have been received, the files are to be forwarded to INS examiners for adjudication. According to INS officials, because of the time required to conduct security checks, they expect the adjudication process will take about 1 year to complete, commencing from the date the HRIFA application for adjustment is received.

The application may be adjudicated at the service center or in the INS 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 INS officials. If an interview is required or other issues need to be resolved, the application is to be forwarded to the appropriate INS district where the applicant can be interviewed and the application adjudicated. CLAIMS is to be updated following adjudication of the application, including the category under which the applicant was approved.⁵

HRIFA Applications Received by INS

As of October 1, 1999, INS had received 8,769 HRIFA applications at the Nebraska Service Center. Of these, 3,441 were being processed in the mail room or were awaiting data entry processing. The remaining 5,328 had been entered into CLAIMS, and the categories and numbers of these applicants are shown in table 2. As of October 1, 1999, INS had not approved any applications for adjustment of status under HRIFA.

⁴ During this review, we noted that INS was not making timely deposits of Haitians' application fees. At the request of the Chairman, House Subcommittee on Immigration and Claims, we plan to follow up on all INS application fee deposits in a separate review.

⁵ A HRIFA applicant may be approved under any category for which he or she is eligible, irrespective of the category under which he or she applied.

Table 2: HRIFA Applications and Categories of Applications Received and Approved by INS, as of October 1, 1999

Principal or dependent	Category of applicant	Number in CLAIMS	Number approved
Principal	Asylum	3,103	0
Principal	Parolee	1,273	0
Principal	Child without parents	69	0
Principal	Orphaned child	20	0
Principal	Abandoned child	26	0
Dependent	Spouse	303	0
Dependent	Child	501	0
Dependent	Unmarried son or daughter	33	0
Total		5,328	0

Source: INS data.

EOIR Processing of HRIFA Applications

Any Haitian national who is eligible for HRIFA is to file an application to adjust his or her status to legal permanent residence with EOIR rather than INS if the applicant has (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, a Haitian national who is in deportation, exclusion, or removal proceedings is to file his or her HRIFA application with EOIR rather than INS.

According to a May 12, 1999, EOIR memorandum, information about Haitian applicants is to be recorded in its case tracking system, the Automated Nationwide System for Immigration Review (ANSIR). Information on each HRIFA applicant, including the category under which the alien is applying for adjustment of status, is to be entered into ANSIR. When the case is completed, information on the outcome of the case, including the category under which the alien was approved, is to be entered into ANSIR.

HRIFA Applications Received by EOIR

As of October 1, 1999, EOIR had nine HRIFA applications filed, of which one was closed by agreement of the parties and eight had been approved for adjustment of status. Table 3 provides information on the categories and numbers of HRIFA applicants and approvals.

Table 3: HRIFA Applications and Categories of Applicants Filed With and Approved by EOIR, as of October 1, 1999

Principal or dependent	Category of applicant	Number in ANSIR	Number approved
Principal	Asylum	6	6 ^a
Principal	Parolee	1	1
Principal	Child without parents	1	1
Principal	Orphaned child	0	0
Principal	Abandoned child	0	0
Dependent	Spouse	1	0
Dependent	Child	0	0
Dependent	Unmarried son or daughter	0	0
Total		9	8

^aIn two of the six cases, the orders granting adjustment were not administratively final because appeal had been reserved in both cases and the time allowed to file an appeal had not expired.

Source: EOIR data.

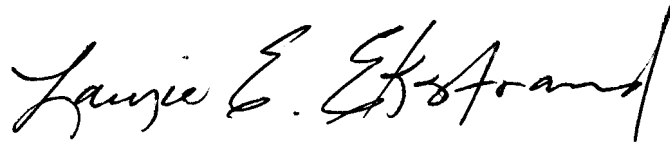
Objectives, Scope, and Methodology

Our objectives for this report were to determine (1) the number and categories of applicants who filed applications with INS or EOIR, (2) the number and categories of applicants whose applications were approved by INS or EOIR, and (3) the procedures that INS and EOIR had established to process and track HRIFA applications. The first two objectives meet the act's reporting requirements, and the third objective provides information on the actions INS and EOIR have taken to implement the act. To fulfill these objectives, we interviewed INS and EOIR officials; reviewed data and documentation related to data collection that were provided by INS and EOIR officials; attended INS-provided training for INS employees as well as CBOs and attorneys in Miami, FL; and reviewed HRIFA application processing procedures at INS' Nebraska Service Center. We did not verify the accuracy of the HRIFA applicant data provided by INS and EOIR because the data needed for verification was incomplete at the time of our review. We conducted our work between April and October 1999, in accordance with generally accepted government auditing standards.

We provided INS and EOIR with a draft of this report. On October 13, 1999, we met with the Chief of the Residence and Status Branch, Office of Adjudications, and other INS officials and separately spoke with an Associate General Counsel from EOIR. In their oral comments, INS and EOIR officials generally agreed with the information in the report, and their technical comments were incorporated where appropriate.

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We are providing copies of this report to the Honorable Janet Reno, Attorney General, and will make copies available to others upon request. If you have any questions about this report, please contact Evi L. Rezmovic or me at (202) 512-8777. The key contributor to this assignment was Jay Jennings.

A handwritten signature in black ink that reads "Laurie E. Ekstrand". The signature is written in a cursive style with a large, prominent initial "L".

Laurie E. Ekstrand
Director, Administration of Justice Issues

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