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Washington, D.C. 20548

General Government Division

B-284552

April 14, 2000

The Honorable Ted Stevens, Chairman
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: Third Report Required by the Haitian Refugee Immigration Fairness Act of 1998

This letter responds to certain requirements of the Haitian Refugee Immigration Fairness Act of 1998¹ (HRIFA), which authorizes 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 who applied, as well as 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,

¹ P.L. 105-277, Division A, Title IX.

children, and unmarried sons or daughters. We are to provide reports until all applications have undergone final adjudication. This is our third report.²

Results in Brief

On March 24, 2000, the Immigration and Naturalization Service (INS) and the Executive Office for Immigration Review (EOIR) published final regulations on implementing HRIFA. Haitian nationals have been able to submit applications for adjustment of status under HRIFA since interim regulations went into effect on June 11, 1999.

As of February 29, 2000, INS had received a total of 23,706 HRIFA applications and had approved 14 of these applications. EOIR had 56 applications filed and had approved 32 of them. Details on the categories of applicants and approvals are provided in this letter.

Background

Haitian applicants are to send their applications to INS' Nebraska Service Center in Lincoln, NE. INS' contractor at the service center is responsible for processing the applications up to the point of their adjudication by INS examiners. An 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. Data on Haitian applicants are to be entered in INS' Computer Linked Application Information System (CLAIMS).

Haitian nationals who are eligible for HRIFA should file their applications with EOIR rather than INS 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 administratively closed, are to file their HRIFA application with EOIR, not INS. Data on Haitian applicants are to be entered in EOIR's case tracking system, the Automated Nationwide System for Immigration Review (ANSIR).

HRIFA Regulations Finalized

On March 24, 2000, INS and EOIR published final regulations for implementing HRIFA. The final regulations made some changes to the interim HRIFA requirements (e.g., they modified the definition of orphan) and clarified other requirements (e.g., if applicants submit documentary evidence that they have been unsuccessful in obtaining official Haitian records

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). Our second report was Immigration Benefits: Second Report Required by the Haitian Refugee Immigration Fairness Act of 1998 (GAO/GGD-00-25R, Oct. 19, 1999).

of nationality, interviewing officers or immigration judges may consider secondary evidence of nationality).

Haitian applicants began filing applications on June 11, 1999, the date on which HRIFA interim regulations went into effect. The deadline for filing an application for adjustment of status under HRIFA was March 31, 2000, for principal applicants. There was no application deadline for dependents. On March 31, INS directed its field offices to delay for 60 days the removal of any alien who did not file an application for adjustment of status under HRIFA, but may be eligible to receive the benefit. The directive was issued because Congress has been considering enacting legislation that would reopen and extend the HRIFA application period.

HRIFA Applications Received by INS

As of February 29, 2000, INS data showed that INS had received 23,706 HRIFA applications at the Nebraska Service Center. Of these, 437 were being processed in the mail room or were awaiting data entry processing. The remaining 23,269 had been entered into CLAIMS, and the categories and numbers of these applicants are shown in table 1. As of February 29, 2000, INS had approved 14 applications for adjustment of status under HRIFA.

Table 1: HRIFA Applications and Categories of Applications Received and Approved by INS, as of February 29, 2000

Principal or dependent	Category of applicant	Number in CLAIMS	Number approved
Principal	Asylum	11,926	9
Principal	Parolee	5,868	1
Principal	Child without parents	509	0
Principal	Orphaned child	107	0
Principal	Abandoned child	162	0
Dependent	Spouse	1,699	0
Dependent	Child	2,800	4
Dependent	Unmarried son or daughter	198	0
Total		23,269	14

Source: INS.

HRIFA Applications Received by EOIR

As of February 29, 2000, EOIR data show that 56 HRIFA applications had been filed with EOIR, of which 32 had been approved for adjustment of status. Table 2 provides information on the categories and numbers of HRIFA applicants and approvals.

Table 2: HRIFA Applications and Categories of Applicants Filed With and Approved by EOIR, as of February 29, 2000

Principal or dependent	Category of applicant	Number in ANSIR	Number approved
Principal	Asylum	21	16 ^a
Principal	Parolee	9	6
Principal	Child without parents	14	5
Principal	Orphaned child	4	2
Principal	Abandoned child	1	1
Dependent	Spouse	4	1
Dependent	Child	1	1
Dependent	Unmarried son or daughter	2	0
Total		56	32

^aIn 3 of the 16 cases, the orders granting adjustment of status were not administratively final because appeal had been reserved in all 3 cases and the time allowed to file an appeal had not expired.

Source: EOIR.

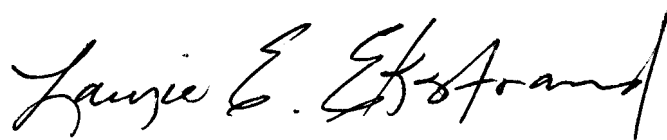
Objectives, Scope, and Methodology

Our objectives for this report were to determine (1) the number and categories of applicants who filed applications with INS or EOIR, and (2) the number and categories of applicants whose applications were approved by INS or EOIR. To fulfill these objectives, we interviewed INS and EOIR officials, and reviewed documentation that they provided to us. We relied on INS and EOIR to provide us with data on applicant and approval numbers. We conducted our work between November 1999 and April 2000 in accordance with generally accepted government auditing standards.

We provided the Department of Justice with a draft of this report for comment and received informal comments on April 11, 2000. Justice made the general comment that the number of applications from principal HRIFA applicants has been consistent with the number that INS anticipated. In contrast, the number of applications from dependents has been much lower than INS anticipated. Justice noted that because there is no filing deadline for dependents, applications from dependents may still be forthcoming. Justice also provided us with technical comments, which we incorporated where appropriate.

B-284552

We are providing copies of this report to the Honorable Janet Reno, Attorney General; and we 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 contributors to this assignment were Lisa Shibata and 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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