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October 22, 2001

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

The Honorable Patrick J. Leahy, Chairman  
The Honorable Orrin G. Hatch, 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 F. James Sensenbrenner, Jr., Chairman  
The Honorable John Conyers, Jr., Ranking Minority Member  
Committee on the Judiciary  
House of Representatives

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

This letter responds to certain requirements of the Haitian Refugee Immigration Fairness Act of 1998<sup>1</sup> (HRIFA) that authorized 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 of the numbers who 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

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<sup>1</sup> P.L. 105-277, 112 Stat. 2681-538.

unmarried sons or daughters. Reports are to be provided until all applications have been finally adjudicated. This is our sixth report.<sup>2</sup>

## Results in Brief

As of September 30, 2001, the Immigration and Naturalization Service (INS) had received a total of 35,946 HRIFA applications and had approved 5,072 of these applications. The Executive Office for Immigration Review (EOIR) had 130 applications filed and had approved 87 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 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).

The deadline for principal applicants filing an application for adjustment of status under HRIFA was March 31, 2000. Dependents of principal applicants have no application deadline.<sup>3</sup>

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<sup>2</sup> The previous reports were (1) *Immigration Benefits: Applications for Adjustment of Status Under the Haitian Refugee Immigration Fairness Act of 1998* (GAO/GGD-99-92R, Apr. 21, 1999); (2) *Immigration Benefits: Second Report Required by the Haitian Refugee Immigration Fairness Act of 1998* (GAO/GGD-00-25R, Oct. 19, 1999); (3) *Immigration Benefits: Third Report Required by the Haitian Refugee Immigration Fairness Act of 1998* (GAO/GGD-00-122R, Apr. 14, 2000); (4) *Immigration Benefits: Fourth Report Required by the Haitian Refugee Immigration Fairness Act of 1998* (GAO-01-118R, Oct. 20, 2000); and (5) *Immigration Benefits: Fifth Report Required by the Haitian Immigration Fairness Act of 1998* (GAO-01-651R, Apr. 20, 2001).

<sup>3</sup> The Legal Immigration and Family Equity Act (title XI of P.L. 106-553, as amended by title XV of P.L. 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. Interim regulations implementing these changes to HRIFA went into effect on May 31, 2001.

## HRIFA Applications Received by INS

As of September 30, 2001, INS data showed that INS had received 35,946 HRIFA applications at the Nebraska Service Center, all of which had been entered into CLAIMS. The categories and numbers of these applicants are shown in Table 1. As of September 30, 2001, INS had approved 5,072 applications for adjustment of status under HRIFA.

**Table 1: HRIFA Applications and Categories of Applications Received and Approved by INS, as of September 30, 2001**

Principal or dependent	Category of applicant	Number of applications in CLAIMS	Number of applications approved
Principal	Asylum	17,302	2,859
Principal	Parolee	8,893	1,183
Principal	Child without parents	1,226	54
Principal	Orphaned child	239	9
Principal	Abandoned child	480	9
Dependent	Spouse	2,990	345
Dependent	Child	4,501	582
Dependent	Unmarried son or daughter	315	31
<b>Total</b>		<b>35,946</b>	<b>5,072</b>

Source: INS data.

## HRIFA Applications Received by EOIR

As of September 30, 2001, EOIR data showed that 130 HRIFA applications had been filed with EOIR, of which 87 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 September 30, 2001**

Principal or dependent	Category of applicant	Number of applicants filings in ANSIR	Number of applicants filings approved
Principal	Asylum	62	41
Principal	Parolee	22	17
Principal	Child without parents	26	17 <sup>a</sup>
Principal	Orphaned child	3	2
Principal	Abandoned child	2	2
Dependent	Spouse	9	4
Dependent	Child	3	1
Dependent	Unmarried son or daughter	3	3
<b>Total</b>		<b>130</b>	<b>87</b>

<sup>a</sup>In 1 of the 17 cases, the order granting adjustment is not administratively final because an appeal has been filed.

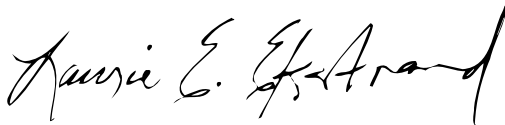
Source: EOIR data.

## **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, and (2) the number and categories of applicants whose applications were approved by INS or EOIR. To fulfill these objectives, we relied on INS and EOIR to provide us with data on applicants and the number of approvals. We conducted our work between September and October 2001, 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 October 18, 2001. In their oral comments, INS and EOIR officials agreed with the information in the report.

We are providing copies of this report to the Honorable John Ashcroft, 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 Mike Kassack.



Laurie E. Ekstrand  
Director, Justice Issues