



United States Government Accountability Office
Washington, DC 20548

October 21, 2005

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

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

The Honorable Jerry Lewis
Chairman
The Honorable David R. 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: Thirteenth 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

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

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 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 thirteenth report.²

Results in Brief

Through September 30, 2005, United States Citizenship and Immigration Services (USCIS), formerly part of the Immigration and Naturalization Service (INS), had received a total of 39,524 HRIFA applications and had approved 14,050 of these applications.³ The Executive Office for Immigration Review (EOIR) had 1,792 applications filed and had approved 656 of them. Details on the categories of the applicants and approvals are provided in this report.

²The 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 Refugee 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.: April 21, 2003); (10) *Immigration Benefits: Tenth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, GAO-04-189R (Washington, D.C.: October 17, 2003); (11) *Immigration Benefits: Eleventh Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, GAO-04-1030R (Washington, D.C.: August 13, 2004); and (12) *Immigration Benefits: Twelfth Report Required by the Haitian Refugee Immigration Fairness Act of 1998*, GAO-05-481R (Washington, D.C.: April 14, 2005).

³On 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.

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 to be 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 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

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

⁵The 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. Finalized regulations implementing these changes to HRIFA went into effect on June 4, 2002.

**HRIFA Applications
Received and Approved by
USCIS**

Through September 30, 2005, USCIS data showed that it had received 39,524 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, 2005, USCIS had approved 14,050 applications for adjustment of status under HRIFA.

Table 1: HRIFA Applications and Categories of Applications Received and Approved by USCIS, through September 30, 2005

Principal or dependent	Category of applicant	Number of applications in CLAIMS	Number of applications approved
Principal	Asylum	17,329	6,544
Principal	Parolee	8,902	2,847
Principal	Child without parents	1,228	146
Principal	Orphaned child	240	28
Principal	Abandoned child	481	32
Dependent	Spouse	3,686	1,063
Dependent	Child	7,268	3,301
Dependent	Unmarried son or daughter	390	89
Total		39,524	14,050

Source: USCIS data.

⁶Although 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, 2005, EOIR data from ANSIR showed that 1,792 HRIFA applications had been filed with EOIR, of which 656 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, 2005

Principal or dependent	Category of applicant	Number of applications in ANSIR	Number of applications approved
Principal	Asylum	996	350
Principal	Parolee	435	150
Principal	Child without parents	90	33
Principal	Orphaned child	14	5
Principal	Abandoned child	16	8
Dependent	Spouse	155	71
Dependent	Child	71	31
Dependent	Unmarried son or daughter	15	8
Total		1,792	656

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 2005, in accordance with generally accepted government auditing standards.

⁷Principal 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 had no comments on the report. DHS did not comment on the substance of the report, but provided technical comments, which we incorporated as appropriate.

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 contributor to this assignment was Evi Rezmovic.

A handwritten signature in black ink that reads "Paul L. Jones". The signature is written in a cursive style with a long, sweeping underline.

Paul L. Jones
Director, Homeland Security
and Justice Issues