Resolving E-Verify Tentative Non-Confirmations is Taking Longer, CATO Institute Reports

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The CATO Institute, a public policy research organization, has released results from a series of **Freedom-of-Information-Act** (FOIA) responses from the Verification Division of **US Citizenship and Immigration Services (USCIS)** (the agency responsible for managing the E-Verify program) showing that as many as one-third of the TNC (tentative non-confirmation) responses from E-Verify could take at least eight days to resolve.

E-Verify is an Internet-based system that allows employers to determine the work eligibility of employees by verifying employees' information against Social Security Administration and Department of Homeland Security databases. An employer transmits Form I-9-related information through a secure computer conduit and will receive either a response that the employee is "work authorized" or a TNC (tentative non-confirmation).

Employers have been critical of the TNC resolution process. By contract, a participating employer is prohibited from taking any adverse employment action against the employee during the TNC resolution process. For some employers, the cost associated with the delay includes training the new employee and providing uniforms. In addition, the employer-verifier must routinely check with E-Verify to confirm resolution—logging in, checking, logging out, and transmitting follow-up instructions and requests for information to the employee.

The CATO FOIA responses revealed that in 2012, there were 68,775 contested TNCs through E-Verify. Of those, 21,007 were Social Security Administration follow-ups with an average turnaround of 3.42 business days after the TNC was contested by the employee. Department of Homeland Security handled the other 47,768 contested TNCs, with an average turnaround of 6.01 business days. Following are the numbers for FY2008 through FY2012:

Number of Days to Resolve				
FY	**Contested SSA TNC Cases**			
	? 1 Day	**1 to 2 Days**	**2 to 3 Days**	**3 to 8 Days**	**? 8 Days**
2008	4,708	1,536	952	2,932	918
2009	3,180	987	577	1,800	748
2010	6,094	2,093	1,261	3,906	1,503
2011	6,274	2,221	1,344	4,503	1,695

2012	7,778	2,791	1,853	6,122	2,463
	37.0%	13.3%	8.8%	29.1%	11.7%

FY	Contested DHS TNC Cases				
	? 1 Day	1 to 2 Days	2 to 3 Days	3 to 8 Days	? 8 Days
2008	5,284	855	530	1,118	16,924
2009	5,977	828	538	1,128	16,345
2010	11,880	2,053	1,172	2,587	20,936
2011	15,445	3,010	1,762	3,637	21,380
2012	16,246	3,166	1,928	4,224	22,204
	34.0%	6.6%	4.0%	8.8%	46.5%

Nearly half of the DHS-related TNCs took longer than eight business days to resolve. For reporting purposes, eight days is the minimum possible delay for that category—meaning, it could be weeks or months until those TNCs are resolved.

The 68,775 contested TNCs in FY2012 represent about 0.33 percent of the 21.1 million E-Verify queries nationwide. Extrapolating that rate over the total U.S. active employee population would produce 511,500 contested TNCs—36% of those, or 184,140, projected to take eight days or longer to resolve.

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