

FINDINGS OF THE E-VERIFY USER SURVEY

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EXECUTIVE SUMMARY

1. BACKGROUND

1.1. Purpose of the Study

This document summarizes the major findings and recommendations from the report, *Findings of the E-Verify User Survey*. This report builds on previous evaluations of the E-Verify Program, a program that participating employers use to electronically verify the employment-authorization status of their new hires.¹ The Basic Pilot Program, now referred to as E-Verify, was originally authorized under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Its authorization has been extended several times since then and the Program has been expanded in scope and modified considerably based, in part, on earlier evaluation report findings which are available on the U.S. Citizenship and Immigration Services (USCIS) website.

This report presents the results of a survey of E-Verify users conducted in 2010 that collected data on employers' opinions and experiences with using E-Verify for their company. When possible, this report compares the findings of the 2010 user survey to the results of Westat's prior E-Verify user survey conducted in 2008 and assesses possible causes of change. This report also focuses on findings related to new topics included in the 2010 user survey.

The report's primary goals are to address the following research questions:

- How has use of the system changed between 2008 and 2010, and what changes in use might have been affected by system or program changes?
- What is the rationale for employers deciding whether to use E-Verify?
- What are the changes in perceived employer satisfaction with E-Verify between 2008 and 2010, and what are the plausible reasons for any change in satisfaction?
- How are the financial and nonfinancial burdens and/or implications for employers participating in E-Verify different from those in 2008? What factors might have affected these changes?
- How has employer compliance with E-Verify (e.g., not prescreening, adhering to the three-day rule, not taking adverse actions, terminating the employment of workers who do not contest, using Photo Matching,² etc.) changed since 2008? What impact have programmatic or legislative changes had on any changes to employer compliance since 2008?
- What future program changes are desirable from employers' perspectives? What are Westat's recommendations based on the survey findings?

¹ See Westat, *Findings of The E-Verify® Program Evaluation*, December 2009, for the most recent comprehensive evaluation (<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM10000082ca60aRCRD&vgnnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD>).

² The name of the E-Verify Photo Tool was changed to Photo Matching in June 2010.

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- What is the impact of legislative changes related to E-Verify becoming mandatory for some employers?
- What is the impact of the Federal Acquisition Regulation (FAR) rule for Federal contractors participating in E-Verify?³
- How do employers perceive their experiences with the E-Verify Help Desk and Customer Service?

The information collected by addressing these questions should be helpful in shaping future program improvements and legislation related to electronic employment verification programs.

1.2. Programmatic Changes

USCIS implemented several major changes to the E-Verify Program between the June 2008 and June 2010 administrations of the user survey. Among the improvements implemented during this time, the following changes directly affected how employers and workers interact with the E-Verify Program:

- **Usability Release 3.0** (June 2010). USCIS launched a redesigned user interface for the E-Verify Program that made changes to every screen. Redesign efforts focused on creating a “user-centered design” by enabling easy and intuitive navigation, using clear and simple language, and displaying a clean and modern design.
- **Revisions to online tutorial and mastery test** (June 2010). Revisions to the online tutorial were launched with Usability Release 3.0 and included efforts to streamline the content presented in the tutorial and use more conversational language.
- **Updates to user manuals and other published materials** (December 2009). Existing E-Verify publications, such as the user manuals, were updated to present information in a more user-friendly format, and new publications were developed.
- **Multimedia approach** (March 2010). USCIS launched a multimedia approach to educating potential E-Verify users, as well as current E-Verify users, about the E-Verify Program through webinars (beginning in 2009) and online videos.
- **Worker rights initiatives** (March 2010). USCIS created several vehicles for educating employers and workers about worker rights as they relate to E-Verify, including two informational videos and a new E-Verify worker hotline to provide workers with general E-Verify information, including completing the USCIS Form I-9, contesting a Tentative Nonconfirmation (TNC) finding, and filing a complaint regarding discrimination for employer misuse of the E-Verify Program.
- **TNC notices and referral letters are available in seven new languages** (Summer 2010).
- **New closure codes are available to help employers accurately close cases** (June 2010).

³ Executive Order 12989, as amended by President George W. Bush on June 6, 2008, directs Federal agencies to require that Federal contractors and their subcontractors electronically verify the employment eligibility of their employees. The amended Executive Order reinforces the policy, first announced in 1996, that the Federal government does business with employers that have a legal workforce. The rule only affects Federal contractors who were awarded a new contract on or after September 8, 2009, that includes the FAR E-Verify clause (73 FR 67704).

1.2. Legislative Changes

Congress has demonstrated interest in expanding the current E-Verify Program and possibly instituting mandatory electronic employment verification for all, or a substantial percentage, of the nation's employers. A recent initiative to implement such a program includes Executive Order 12989, as amended by President George W. Bush on June 6, 2008, which directs Federal agencies to require that Federal contractors and their subcontractors electronically verify the employment eligibility of their employees. The rule only affects Federal contractors who are awarded a new contract on or after September 8, 2009, that includes the FAR E-Verify clause (73 FR 67704).⁴

Federal contractors participating in E-Verify under the FAR clause must follow most of the same E-Verify rules and procedures as general employers. Unlike general employers, however, Federal contractors are permitted, and in fact required, to use E-Verify to check work-authorization statuses for existing employees that will be working on Federal contracts that include the FAR clause. Federal contractors are also permitted to use E-Verify to verify work authorization for all existing employees at this time, if they choose.

Because the FAR rule went into effect with all contracts awarded on or after September 8, 2009, Federal contractors using E-Verify under the FAR clause were included in the 2010 survey of E-Verify users.

New legal action requiring E-Verify use has also taken place at the state level. Since the administration of the 2008 E-Verify user survey, Missouri, Nebraska, and Virginia have enacted new legislation requiring some, but not all, employers to use E-Verify based on USCIS updates as of October 31, 2010.

2. METHODOLOGY

The 2010 E-Verify Users Web Survey sample consisted of 3,727 employers. The survey required recent involvement with E-Verify so that respondents would be informed about the Program's current features. The Web survey sample was stratified by participation status in E-Verify, industry type, the number of E-Verify TNCs, and the number of workers. Within the strata, all employers were selected with equal probability.

Many of the questions asked in the 2010 Web survey were adapted directly from the Web survey used in the 2008 evaluation. Pretesting was conducted with five small groups of employers (i.e., Federal contractors, employment agencies, medium/large employers, small employers, and inactive employers) to ensure that the new questions were clear, that the survey did not take an excessive amount of time to complete, and to test modules that were tailored for these particular types of employers.⁵ The team then modified the survey based on input from these focus groups. Additionally, Westat's usability testing group reviewed and revised the survey instructions for clarity, accuracy, and succinctness.

Data collection occurred during a five-month period starting in August 2010 and ending in November 2010. Of the 3,727 employers in the survey sample, 218 were found to be out of scope because they were no longer in business, were duplicate listings of a company, or were E-Verify Employer Agents (EEAs) or clients of EEAs. Of the remaining 3,509 eligible employers, 2,928 (83 percent) completed the

⁴ See USCIS website:

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=534bbd181e09d110VgnVCM1000004718190aRCRD&vgnextchannel=534bbd181e09d110VgnVCM1000004718190aRCRD>.

⁵ Each focus group included four to six participants selected using the same criteria by which the Web Survey sample was chosen. Participation in the focus groups did not preclude employers from being selected for the Web Survey sample.

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survey. Both the unweighted and the weighted response rates were 83 percent. A minimum of 70 percent of all eligible data items had to be completed in order for the questionnaire to be considered completed.

3. FINDINGS

This section highlights key findings from the user survey in the following four areas: E-Verify usage, E-Verify from the employer perspective, cost, and employer compliance.

3.1. E-Verify Usage

3.1.1. General Findings

Overall, the number of cases transmitted to the E-Verify Program grew substantially between the 2008 and 2010 user survey administrations. The number of cases submitted to E-Verify on a quarterly basis significantly increased from 1.7 million cases submitted in April through June 2008 to nearly 4.6 million cases submitted in April through June 2010. In addition, the number of employers using E-Verify more than doubled between the 2008 and 2010 user survey administrations, to nearly 64,000 employers in April through June 2010.

The E-Verify user population varied slightly between the 2008 and 2010 user survey administrations.

- E-Verify users were less likely to be small employers in 2010 than in 2008. Although the number of small employers transmitting cases to E-Verify grew between 2008 and 2010, this segment of E-Verify users did not grow as quickly as larger employers.
- The number of temporary/employment agencies transmitting cases to E-Verify decreased between 2008 and 2010.
- Employers in industries with typically high numbers of undocumented workers,⁶ which have had large representation in E-Verify in the past, also had decreased representation in 2010. The number of these employers transmitting cases to E-Verify grew between 2008 and 2010, but this segment of E-Verify users did not grow as quickly as employers in other industries.
- Respondents to the 2010 E-Verify user survey reported fewer foreign-born workers than respondents to the 2008 survey.

Employers first learned about E-Verify through a variety of sources. The most commonly reported ways that employers first learned about E-Verify was through information from a state or local government office (16 percent), information from a business or professional association (16 percent), or a request from a client to participate (14 percent)⁷.

When asked about their motivation to participate in E-Verify, the majority of employers (68 percent) reported that they were motivated to use E-Verify to improve their ability to verify

⁶ These industries were Agriculture, Forestry, Fishing, and Hunting; Construction; Food Manufacturing; Services to Buildings and Dwellings; Accommodations; and Food Services and Drinking Places. The definition of this category is based on the following report: Jeffrey S. Passel, Pew Hispanic Center, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, 3.7.2006.

⁷ Employers reporting that they first learned about E-Verify through client requests to participate included temporary/employment agencies as well as companies reporting that they had Federal contracts.

work authorization. In addition, nearly half of employers (49 percent) reported they were motivated to enroll in E-Verify because the state/local government or the Federal government required their participation.⁸

The population of employers mandated to use E-Verify increased significantly between 2008 and 2010. More than half of employers surveyed in 2010 (59 percent) reported that they were required to use E-Verify: 17 percent held a Federal contract requiring participation, 30 percent performed business in a state or locality that requires participation, and 12 percent were affected by both Federal and state/local mandates. In 2008, only 16 percent of employers reported that a Federal or state/local government mandate was their primary reason for participating in E-Verify.⁹

The majority of employers in 2010 that were required to participate in E-Verify under a Federal or state mandate (75 percent) reported that the mandate was only one of many reasons they chose to participate in E-Verify. The one-quarter of E-Verify users reporting that a mandate was the *only* reason they were participating in the Program reported fewer new hires and lower percentages of foreign-born workers among their current employees than users that reported other reasons for their participation.

3.1.2. Sources of Change in Program Use

Permission for Federal contractors to use E-Verify for some or all existing employees under the FAR rule contributed to the increase in transmitted cases. Federal contractors are *required* to use E-Verify for existing employees who will be working on a contract containing the FAR clause and are *permitted* to use E-Verify for all existing employees if they so choose. Therefore, it is reasonable to assume that the increase in E-Verify cases transmitted for existing employees by Federal contractors contributed to the increase in overall cases transmitted since 2008.¹⁰

3.2. E-Verify From the Employer Perspective

3.2.1. General Findings

Employers continued to express high levels of satisfaction with E-Verify in 2010. The large majority of employers continued to report that E-Verify is a highly accurate (94 percent) and effective (94 percent) tool for employment verification. These results are similar to the findings of the 2008 survey. In addition, the majority of mandated employers (62 percent) reported that they would likely continue using E-Verify even if no longer required to do so.

Fewer employers reported that E-Verify was burdensome to the employer in 2010 than in 2008. Most employers in 2010 (86 percent) disagreed with the statement that it is impossible to fulfill all company obligations required by the E-Verify verification process (compared to 80 percent in 2008). However, some employers (20 percent of all surveyed employers) continued to report in 2010 that assisting workers who contest TNC findings is burdensome to their staff.

⁸ Not all employers that reported being mandated to participate in E-Verify reported that the mandate was their motivation for enrolling.

⁹ Although the FAR rule did not go into effect until September 8, 2009, some employers may have enrolled in E-Verify in anticipation of the Federal requirement, and thus reported on the 2008 user survey that the Federal requirement was a reason for their enrollment in E-Verify.

¹⁰ Employers that are not Federal contractors required to use E-Verify under the FAR rule are not permitted to use E-Verify to verify work authorization of existing employees. Prior to September 8, 2009, when the FAR rule went into effect, no employers were permitted to use E-Verify to verify work authorization of existing employees. However, as detailed in Section 3.4.1, a small percentage of employers did report using E-Verify for existing employees in 2008.

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Employers generally expressed satisfaction with the registration process, yet one-third of employers still thought it was too time-consuming. As in 2008, almost all E-Verify users in the 2010 survey (92 percent) agreed or strongly agreed that the online registration process was easy to complete.

Similarly, employers continued to report high levels of satisfaction with the content of the online tutorial, yet a larger percentage of employers in 2010 as compared to 2008 perceived the tutorial as a burden. When asked about the online tutorial, most employers reported that it answered all of their questions about using E-Verify (91 percent), that it adequately prepared them to use E-Verify (96 percent), and that the content was easy to understand (96 percent). These all represent slight increases in satisfaction from 2008. However, half of employers in 2010 (49 percent) agreed that the tutorial takes too long to complete compared to 41 percent in 2008.

Almost all employers (more than 90 percent) continued to hold positive views of program resources provided to E-Verify users, including the online tutorial, the online E-Verify user's manual, and mouse-over features on data entry fields. Most employers (87 percent) also continued to report that USCIS provides adequate training when introducing new program features.

Fewer employers reported needing frequent assistance from the Help Desk or Customer Service in 2010 than in 2008. Only a few employers (4 percent) reported needing frequent assistance from the Help Desk or Customer Service in 2010 compared to 6 percent in 2008. The majority of employers in 2010 (65 percent) reported not needing to contact the E-Verify Help Desk or Customer Service at all for E-Verify assistance.

The large majority of employers that had obtained assistance from the Help Desk and/or Customer Service were satisfied with their experiences. Almost all employers that requested assistance reported satisfaction with contacting the Help Desk (95 percent), Customer Service (94 percent), or either the Help Desk or Customer Service (93 percent).

Almost all employers (98 percent) continued to be satisfied with the E-Verify system's user-friendliness of system navigation and data entry. However, employers were more likely to report E-Verify to be somewhat user-friendly rather than very user-friendly in 2010 than in 2008.

Fewer employers reported in 2010 that it was easy to make errors when entering worker information (17 percent in 2010 compared to 28 percent in 2008). However, some employers (40 percent) reported in 2010 that they experienced difficulty with entering certain types of worker names.

Employers expressed greater satisfaction with system availability in 2010 than in 2008. Only 8 percent of employers reported availability problems in 2010 compared to 17 percent in 2008. Employers in 2010 also experienced fewer problems with system timeouts requiring data reentry (15 percent in 2010 compared to 27 percent in 2008).

Although most employers found the three-day deadline for entering worker information into E-Verify to be a reasonable timeframe, one-fifth of employers found it difficult. Some employers (19 percent) agreed that the number of hires was so great that it was impossible to submit the information required by the specified deadline.

The majority of employers expressed satisfaction with Photo Matching. Many employers agreed that Photo Matching helped them identify cases of potential fraud (61 percent) and also reported that they would like Photo Matching to include more types of documents (67 percent).

Employers responding to the 2010 survey were more likely than 2008 employers to report that E-Verify is accurate in identifying workers who are not employment authorized. In 2010, more employers reported instances of workers leaving the company in response to TNC findings (12 percent in 2010 compared to 6 percent in 2008). Also, more than a quarter of employers reported that the number of unauthorized workers who applied for jobs decreased as a result of using E-Verify.

3.2.2. Potential Causes of Change in Satisfaction Between 2008 and 2010

Improvements in the ways in which employers are trained about E-Verify processes and procedures appear to have had a slightly positive impact on employer satisfaction. Although the increases were not statistically significant, there was a pattern of increased satisfaction with the online tutorial; as indicated in the previous section, more employers reported that the tutorial answered all their questions, adequately prepared them to use the system, and was easy to understand. In addition, fewer employers reported requiring frequent assistance from the E-Verify Help Desk and Customer Service.

Decreases in employer satisfaction with some E-Verify resources can be partially linked to the increase in E-Verify users participating due to Federal or state/local mandates. Employers that reported a mandate as the only reason for their participation in E-Verify were significantly more likely than other employers to report that the tutorial takes too long to complete (61 percent compared to 46 percent of voluntary users) and that it is a burden to pass the mastery test before being allowed to use E-Verify (52 percent compared to 34 percent of voluntary users).¹¹

Improvements in system navigation made through Usability Release 3.0 contributed to continued high satisfaction with navigation and increased satisfaction with data entry. Almost all employers (98 percent) continued to report in 2010 that they were satisfied with system navigation, and employers were less likely to report that it was easy to make errors when entering worker information in 2010 (17 percent) than in 2008 (28 percent).

If the percentage of employers mandated to use E-Verify in 2010 had not increased between 2008 and 2010, it is likely that greater increases in employer satisfaction would have occurred. Employers that reported in 2010 that a mandate was the only reason for their participation in E-Verify reported lower levels of satisfaction than other users. It is reasonable to assume that the percentage of all employers agreeing with statements of satisfaction would have been higher than the observed percents had the percentage of employers mandated to use E-Verify been lower.

3.2.3. Variation in Satisfaction by Employer Type

The 2010 survey revealed some variation in satisfaction by employer type:

- **Large employers were less likely to report that it is impossible to fulfill E-Verify obligations than small employers, and more likely to report that E-Verify is an effective tool for employment verification than small employers.**
- **Employers with large percentages of foreign-born workers were less satisfied with E-Verify than other employers.**

¹¹The designation of employers as either mandated or voluntary is based on their self-reported motivations for participating in E-Verify. Mandated employers refers to employers reporting that a Federal and/or state/local mandate is the *only* reason they are participating in E-Verify. Voluntary employers refers to employers reporting other reasons for participation, including some employers that may be required to participate under a Federal and/or state mandate.

- **Employers reported a similar degree of satisfaction regardless of industry type.**

3.2.4. Employer Recommendations

Employers were asked for their opinions about changes to E-Verify that have been discussed by policymakers as potential changes in the scope of the Program:

- **The majority of employers (73 percent) would like to use E-Verify for job applicants and existing employees.**
- **Most employers (82 percent) supported requiring all companies in the United States to use E-Verify.**
- **There was limited interest in adding to E-Verify the ability to verify fingerprints (35 percent supported this recommendation).**

3.3. Cost

3.3.1. General Findings

In 2010, the majority of employers (79 percent) continued to report no direct costs in setting up E-Verify. The most frequently reported cost was for training employer staff to use E-Verify. Significantly more employers reported training costs in 2010 than in 2008 (22 percent compared to 17 percent).

Employer cost to set up E-Verify has remained fairly stable. The median cost among employers reporting costs to set up E-Verify was \$100 in both 2010 and 2008.¹²

In 2010, the majority of employers (83 percent) continued to report no direct annual costs to maintain E-Verify. The most frequently reported costs were training of replacement staff (11 percent) and wages for the employer's verification staff (11 percent). There were no significant changes between 2010 and 2008 in the costs reported by employers.

The annual cost for employers to maintain E-Verify decreased since 2008. Employers that reported direct maintenance costs spent a median of \$200 annually to maintain E-Verify, which is much lower than the median direct maintenance cost of \$350 reported in 2008.¹³

As in 2008, approximately one-quarter of employers (28 percent) in 2010 reported that indirect set-up costs were a slight, moderate, or an extreme burden, and 19 percent of employers reported that indirect maintenance costs were a slight, moderate, or an extreme burden.

¹²Because of the high costs reported by a small number of employers, the median (rather than mean) costs have been used for both the 2008 and 2010 surveys.

¹³Because of the high costs reported by a small number of employers, the median (rather than mean) costs have been used for both the 2008 and 2010 surveys.

3.3.2. Variation in Cost by Employer Type

There was some variation in costs reported by 2010 employers by employer type:

- **Large employers spend more in total setup and maintenance costs than smaller employers.**
- **Temporary/employment agencies reported higher total setup and maintenance costs than employers in other industries.**
- **Federal contractors reported higher setup and maintenance costs than other employers.**

3.4. Employer Compliance

3.4.1. General Findings

Almost all employers (97 percent) reported that they use E-Verify to verify work authorization for all newly hired employees; however, there was an increase in the percentage of employers that are prescreening. When asked when E-Verify is typically used to verify work authorization, 9 percent of 2010 employers reported practices that constitute prescreening: 5 percent of employers reported using E-Verify before a job offer was made, and 4 percent reported using E-Verify after a job offer was made but before the offer was accepted. This is a significant increase since 2008 when only 4 percent of employers reported using E-Verify prior to the job offer being accepted.

Despite the overall increase in prescreening, reports of prescreening at temporary/employment agencies decreased from 41 percent in 2008 to 26 percent in 2010.

There was an increase in the percentage of non-Federal contractor employers using E-Verify to verify work authorization of existing employees. The percentage of employers that do not have Federal contracts allowing them to use E-Verify for work authorization of existing employees that reported using E-Verify for existing employees increased from 4 percent in 2008 to 13 percent in 2010.

Employers showed increased compliance with E-Verify procedural requirements regarding how to notify workers about TNCs.

- The percentage of employers notifying workers of TNC findings within a day or less increased from 73 percent in 2008 to 80 percent in 2010;
- The percentage of employers that reported always notifying workers about TNC findings in private increased from 91 percent in 2008 to 96 percent in 2010; and
- The percentage of employers that reported always providing workers with written notification of TNC findings increased from 86 percent in 2008 to 91 percent in 2010.

In 2010, employers reported fewer adverse actions against workers with TNC findings than they did in 2008. The percentage of employers that reported restricting work assignments until employment authorization was confirmed decreased from 17 percent in 2008 to 11 percent in 2010.

Almost all employers who had used Photo Matching reported comparing the picture provided by the Photo Matching response to the documents provided by the worker (95 percent). This was a

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significant increase from the 71 percent of 2008 employers that had used Photo Matching and reported properly performing this same comparison. However, there was also a significant increase in the percentage of employers that compare the picture provided by the Photo Matching response to the actual person (from 60 percent in 2008 to 76 percent in 2010). This is not the proper use of Photo Matching.

Some employers continue to ask noncitizen workers to submit documents that would trigger Photo Matching. As in 2008, nearly 20 percent of employers reported that, with the advent of Photo Matching, they are more likely to ask noncitizens for immigration documents during the verification process. Employers are prohibited by statute from asking workers for specific documents in the Form I-9 process.

Employers reported that they received TNC findings due to data entry mistakes less frequently in 2010 than in 2008. Since 2008, USCIS made an effort to reduce the chances of making data entry errors by streamlining the data entry process in Usability Release 3.0. Indeed, the percentage of employers reporting that their company had received TNC findings as a result of a data entry mistake when entering Form I-9 information into E-Verify decreased significantly from 77 percent in 2008 to 25 percent in 2010.

Employers reported increased compliance with the E-Verify procedural requirements regarding closing TNC findings that resulted from data entry mistakes. When asked what they do when a data entry error is found, more employers in 2010 (79 percent) correctly reported closing the original case as an invalid query and entering the corrected information as a new case (compared to 72 percent in 2008).

Most employers reported promptly terminating the employment of workers with Final Nonconfirmation (FNC) findings. On average, in 2010, employers reported they terminated the employment of workers 0.7 work days after receiving an FNC finding.

3.4.2. Potential Causes of Changes in Compliance Between 2008 and 2010

Improvements in E-Verify user training likely led to increases in employer compliance with several E-Verify requirements. The evaluation team hypothesized that the addition of new vehicles for training, including webinars and videos, and improvements to the E-Verify user's manual, Quick Reference Guides, and online tutorial, would lead to increased compliance with E-Verify requirements. Survey results supported these expectations. As indicated in the previous section, compliance increased between 2008 and 2010 with regards to:

- Notifying workers of TNC findings in private, in writing, and in person;
- Not restricting work assignments, delaying training, or reducing pay for workers with TNC findings; and
- Correctly following procedures for closing invalid cases and for using Photo Matching.

General increases in compliance might be linked to an increase in mandated employers that showed higher levels of compliance with several aspects of E-Verify than voluntary employers.¹⁴ Overall, employers that reported participating in E-Verify *only because* they were mandated to do so were more compliant with E-Verify rules than voluntary users.

¹⁴The designation of employers as either mandated or voluntary is based on their self-reported motivations for participating in E-Verify. Mandated employers refers to employers reporting that a Federal and/or state/local mandate is the *only* reason they are participating in E-Verify. Voluntary employers refers to employers reporting other reasons for participation, including some employers that may be required to participate under a Federal and/or state mandate.

- Mandated users were more likely than voluntary users to always notify workers in private of their TNCs (99 percent compared to 97 percent for voluntary users), and to always provide written notification of the TNC (96 percent compared to 91 percent for voluntary users).
- Mandated users were less likely than voluntary users to report that they discourage workers from contesting a TNC (1 percent compared to 5 percent for voluntary users).
- Mandated users were less likely than voluntary users to restrict assignments or delay training for workers who received a TNC finding (5 percent compared to 12 percent for voluntary users).

Prescreening increased despite improvements to training materials. The evaluation team hypothesized that USCIS's efforts to improve training materials would lead to increased compliance with respect to who has their work authorization verified using E-Verify and when the employer uses E-Verify for them. The increase in the larger population of mandated users, particularly Federal contractors at risk of losing Federal support if they do not follow E-Verify procedures, also supported the hypothesis that instances of prescreening would decrease in 2010. However, survey findings showed that the overall percentage of employers prescreening job applicants increased from 4 percent in 2008 to 9 percent in 2010. Mandated users were just as likely as voluntary employers to prescreen job applicants in 2010.

As a whole, Federal contractors under the FAR rule did not show higher compliance than other employers. There were no significant differences in compliance with E-Verify procedures between Federally mandated employers, state/locally mandated employers, and non-mandated employers.

3.4.3. Variation in Compliance by Employer Type

3.4.3.1. Federal Contractors

Approximately half of Federal contractors took advantage of the option under FAR to use E-Verify for their entire workforce, including existing employees. One-quarter chose to use E-Verify for all existing employees, including employees who were not required to have their work authorization checked under FAR (e.g., because they do not work on Federal contracts), and one-quarter chose to use E-Verify for only those existing employees who work on Federal contracts.

When using E-Verify for existing employees, approximately one-third of Federal contractors did not ask workers to either complete a new Form I-9 or update their old forms. Despite guidance from USCIS that Federal contractors choosing to use E-Verify for existing employees may either complete new Forms I-9 for their existing employees or update their employees' existing Forms I-9, one-third of employers did not ask workers to either complete a new Form I-9 or update their old Form I-9.

3.4.3.2. Other Employer Characteristics

The 2010 survey revealed some variation in compliance by employer characteristics:

- **Small employers were more likely to report practices constituting prescreening, to report that the TNC process was a burden on staff, and to restrict work assignments or delay training for workers contesting TNC findings.**
- **Most temporary/employment agencies require that at least some job candidates be found work authorized by E-Verify before referral to clients.**

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- **Employers in industries with high percentages of undocumented workers were more likely than other employers to report that the E-Verify process is burdensome to their staff and that contesting TNCs is not encouraged.**
- **Employers reporting 20 percent or more workers as foreign-born discriminated less against workers with TNC findings, but also reported less stringent practices for terminating the employment of workers with FNCs.**

4. SUMMARY OF RECOMMENDATIONS

The following summary of recommendations addresses three broad and somewhat overlapping categories: E-Verify outreach and training, employer satisfaction and burden, and employer compliance and data entry accuracy.

Recommendations regarding E-Verify outreach and growth:

- USCIS should strengthen and/or establish formal relationships with professional employer organizations (e.g., U.S. Chamber of Commerce, National Association of Small Businesses, National Federal Contractors Association, National Association of Small Business Contractors, American Hotel and Lodging Association) and with state and local governments that mandate use of E-Verify to enhance communication with these entities, increase awareness of E-Verify, and make USCIS aware of the unique needs of different types of employers.

Recommendations regarding employer burden and satisfaction:

- Test and evaluate a pilot program requiring E-Verify users to verify that workers are employment authorized prior to allowing them to start work;¹⁵
- Expand the three-day requirement to five days;¹⁶
- Continue efforts to improve the accuracy of E-Verify findings for employment-authorized workers;
- Continue to work on increasing the types of documents that can be used with Photo Matching;
- Consider adding a formal appeal process that employers or their workers could use if they disagree with the final E-Verify finding;
- Continue to identify the specialized needs of different subgroups;
- Create materials targeted to subgroups of employers (e.g., small employers, employers in industries with high percentages of undocumented workers, and mandated employers) by assessing and incorporating their needs into the development and revision of E-Verify procedures;
- Provide advance notification when refresher tutorials or tutorial updates on new features are required; and

¹⁵ Implementing this recommendation would require additional legislation by Congress.

¹⁶ See footnote 12.

- Develop software that allows employers to complete the Form I-9 electronically without completing a paper Form I-9.

Recommendations regarding employer compliance and accuracy:

- Adapt and/or supplement current training materials, tutorials, webinars, and on-screen help to further emphasize instructing employers about procedures known to lead to violations of E-Verify and Form I-9 requirements (e.g., 3-day rule, prescreening);
- Provide just-in-time help, such as pop-up notifications or help text providing instructions or referring users to the appropriate videos or documents, for employers receiving a TNC for the first time and those who receive them infrequently (every three months);
- Provide additional guidance and instruction to employers for entering workers' names (e.g., expanded help to employers for workers with single names, compound or hyphenated last names, or very long names, and discrepancies between compound names listed on documents from SSA and the Department of Homeland Security);
- Evaluate the impact of the new E-Verify self-check feature on prescreening to determine what, if any, effect this new initiative has on reducing the practice of prescreening;
- Explore the feasibility of developing software, and making it available without charge to employers, to produce electronic Forms I-9 and encourage employers to use this service; and
- Enforce a strong monitoring and compliance program to identify and act upon serious program violations that occur for reasons other than employer lack of knowledge or understanding of E-Verify procedures and policies.

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CHAPTER I. INTRODUCTION

1. PURPOSE OF THE STUDY

The Illegal Immigration Reform and Responsibility Act (IIRIRA), enacted in September 1996, established the Basic Pilot Program to test the feasibility and desirability of electronically verifying the work-authorization status of all newly hired employees. The Basic Pilot Program was expanded in scope and extended several times. In June 2004, a Web version of the Basic Pilot Program—later renamed the E-Verify Program—was implemented. The Web version incorporated many improvements growing out of experiences with the original Basic Pilot Program and evaluations of the Basic Pilot Program as well as two additional pilot programs that were terminated. In October 2009, E-Verify's authorization was extended until September 30, 2012.

This report is part of a multiyear evaluation of the E-Verify Program. It presents the results of a survey of E-Verify users conducted in 2010 that collected data on E-Verify employers' opinions and experiences with using E-Verify for their company. When possible, this report compares the findings of the 2010 user survey to the results of Westat's prior E-Verify user survey conducted in 2008 and assesses possible causes of change. This report also focuses on findings related to new topics included in the 2010 user survey.

The report's primary goals are to address the following research questions:

- How has use of the system changed between 2008 and 2010, and what changes in use might have been affected by system or program changes?
- What is the rationale for employers deciding whether to use E-Verify?
- What are the changes in perceived employer satisfaction with E-Verify between 2008 and 2010, and what are the plausible reasons for any change in satisfaction?
- How are the financial and nonfinancial burdens and/or implications for employers participating in E-Verify different from those in 2008? What factors might have affected these changes?
- How has employer compliance with E-Verify (e.g., not prescreening, adhering to the three-day rule, not taking adverse actions, terminating the employment of workers who do not contest, using the Photo Matching Tool,¹⁷ etc.) changed since 2008? What impact have programmatic or legislative changes had on any changes to employer compliance since 2008?
- What future program changes are desirable from employers' perspectives? What are Westat's recommendations based on the survey findings?
- What is the impact of legislative changes related to E-Verify becoming mandatory for some employers?
- What is the impact of the Federal Acquisition Regulation (FAR) rule for Federal contractors participating in E-Verify?

¹⁷The name of the E-Verify Photo Tool was changed to Photo Matching in June 2010.

- How do employers perceive their experiences with the E-Verify Help Desk and Customer Service?

The information gathered by addressing these questions should be helpful in shaping future program improvements and legislation related to electronic employment verification programs.

2. DESCRIPTION OF THE E-VERIFY PROGRAM

Under IIRIRA, all workers hired after November 6, 1986, along with their employers, are required to complete the Form I-9, which is used to certify that new hires are authorized to work in the United States. As part of this process, employers also examine documents such as secure immigration documents, U.S. passports, or driver’s licenses that are evidence of the worker’s identity and work authorization.

E-Verify provides employers with a Web-based system that enables participants to submit Form I-9 information and quickly verify their new hires’ work-authorization status. To participate in E-Verify, employers must sign a Memorandum of Understanding (MOU) agreeing to comply with all of the E-Verify requirements. After employers enter data from the Form I-9 into E-Verify, the E-Verify system automatically sends the information to the Social Security Administration (SSA) for comparison with data in SSA records. Data for most noncitizens and some citizens are also compared with data in Department of Homeland Security (DHS) immigration records.¹⁸ Most often employers receive immediate notification that the new hires are authorized to work; however, in some cases Federal records do not permit immediate confirmation of the worker’s employment-authorization status. When E-Verify cannot immediately confirm that the worker is authorized to work, a Tentative Nonconfirmation (TNC) is issued. A TNC might indicate that a person is not authorized to work, but it also might occur for other reasons such as typographical errors when entering the data or a worker not registering a name change with SSA or the U.S. Citizenship and Immigration Services (USCIS). Employers are required to inform workers about TNCs and give them the opportunity to contest these findings by contacting SSA in person or USCIS by telephone or fax and resolving any problems with their records. If a worker fails to contact SSA or USCIS within eight Federal workdays, the E-Verify system issues a Final Nonconfirmation (FNC) finding and employers are expected to promptly terminate the worker’s employment.

A more extensive overview of the design of the E-Verify Program is provided in Appendix A.

3. CONTEXT OF THE REPORT

This report examines changes that have taken place between 2008 and 2010 in employers’ use of E-Verify, costs associated with using E-Verify, satisfaction with E-Verify, and compliance with E-Verify procedures. It also provides plausible explanations for those changes. It is, therefore, important to understand the contextual changes that have occurred between the administrations of the 2008 and 2010 surveys. These changes include changes to the E-Verify Program itself and new Federal, state, or local legal requirements related to E-Verify use.

3.1. Programmatic Changes

USCIS implemented several major changes to the E-Verify Program between the June 2008 and June 2010 administrations of the user survey, including the following:

- **Usability Release 3.0** (June 2010). USCIS launched a redesigned user interface for the E-Verify Program that made changes to every screen. Redesign efforts focused on creating a “user-

¹⁸ In some cases, data on naturalized citizens may also be compared with DHS and U.S. passport records.

centered design” by enabling easy and intuitive navigation, using clear and simple language, and displaying a clean and modern design. Notable features include these:

- Users have the ability to access the **user manual** from any page.
- A **Case Alerts** section at the bottom of the home page notifies the user of cases requiring action, including open cases to be closed, cases with new updates, and cases with expiring work-authorization documents.
- **The data entry process was streamlined in order to facilitate data entry and minimize errors.** The data entry screen where worker information is entered changed from a vertical layout to a three-column layout, which eliminates the need to scroll through the data entry screen. Also, drop-down boxes were added to decrease data entry errors.
- **User-friendly language** clarifies terminology and helps facilitate navigation through the query process. For example, “query” was replaced with “case,” “self terminate” was replaced with “employee has quit,” “Photo Tool” was replaced with “Photo Matching,” and “exit link” was replaced with “log out.”
- **Revisions to online tutorial and mastery test** (June 2010). Revisions to the online tutorial were launched with Usability Release 3.0 and included efforts to streamline the content presented in the tutorial and use more conversational language.
- **Updates to user manuals and other published materials** (December 2009). Existing E-Verify publications, such as the user manuals, were updated to present information in a more user-friendly format, and new publications were developed, including:
 - User manuals for employers (revised) and Federal contractors (new);
 - Quick Reference Guides for employers (revised) and E-Verify enrollment process (new); and
 - Supplemental Guidance for Federal Contractors (new).
- **Multimedia approach.** USCIS launched a multimedia approach to educating potential E-Verify users, as well as current E-Verify users, about the E-Verify Program through webinars and online videos.
 - **Webinars (2009).** Webinars enable employers to participate in an interactive, online presentation about E-Verify. The *E-Verify Overview* webinar for employers interested in learning about E-Verify covers topics such as how E-Verify works, how to enroll, employer responsibilities, and program highlights and provides a demonstration of the Program. A webinar for existing E-Verify users provides a more detailed look at the Program, including USCIS Form I-9 requirements, user roles, and case alerts, and includes a demonstration of how to handle a TNC case. USCIS also created a customized webinar for Federal contractors that provides a general overview of E-Verify use under the FAR E-Verify clause.

- **Videos (March 2010).** USCIS produced five short educational videos that are available online: *How to Enroll in E-Verify* demonstrates the enrollment process for new users, *How to Create a Case* and *How to Respond to a TNC* demonstrates how current users perform these two integral steps in the E-Verify process, and two additional videos address worker rights and responsibilities (see below).
- **Worker rights initiatives (March 2010).** USCIS created several vehicles for educating employers and workers about worker rights as they relate to E-Verify. Two informational videos, *Understanding E-Verify: Employer Responsibilities and Worker Rights* and *Know Your Rights: Employee Rights and Responsibilities*, are available online through both the E-Verify Program and the USCIS website. In April 2010, USCIS also implemented a new E-Verify worker hotline to provide workers with general E-Verify information, including completing the USCIS Form I-9, contesting a TNC finding, and filing a complaint regarding discrimination for employer misuse of the E-Verify Program. Worker rights are also emphasized in the revised online tutorial and published materials.
- **TNC notices and referral letters are available in seven new languages (Summer 2010).** USCIS translated TNC notices and referral letters for workers into several additional languages (i.e., Chinese, Creole, French, Korean, Russian, Tagalog, and Vietnamese). When needed, employers are able to print these translations or translated documents directly from the E-Verify Program.
- **New closure codes are available to help employers accurately close cases (June 2010).** As part of efforts to use more conversational language to facilitate navigation through and more accurate use of E-Verify, USCIS implemented 11 new case closure codes through Usability Release 3.0.
- Although the 2010 user survey sample excludes E-Verify Employer Agents (EEAs), it is worth noting that the **pre-TNC check feature and Photo Matching are both now available for EEAs** (December 2009).

In addition to these major changes that provide new information or program features directly to the E-Verify user, USCIS implemented several other program changes:

- **All photos E-Verify returns during Photo Matching¹⁹ have added security features**, such as shrink wrapping and watermarks, so the photos cannot be downloaded and used to make fraudulent documents (December 2009).
- The E-Verify matching algorithm has been revised to **permit the reversal of date and month** in all date entry fields (December 2009). The matching algorithm will now accept dates entered in the day/month/year format in addition to the month/day/year format, eliminating the possibility that a worker might receive a TNC because his or her date of birth was entered using European conventions rather than U.S. conventions.
- **A Dunn and Bradstreet Employer Check** is performed during E-Verify enrollment for all employers. Employer information entered during the E-Verify registration process is matched with

¹⁹The Photo Matching feature permits employers to compare photographs on employee documents with digital photographs stored in government systems to detect existing valid documents that have a new photograph substituted on the original document or that are counterfeit documents created with valid information but a new photograph. The only documents currently available in Photo Matching are Permanent Resident (“green”) cards and Employment Authorization Documents (EADs).

information in Dunn and Bradstreet databases²⁰. Companies that do not meet a certain confidence level through this matching process are contacted by E-Verify Customer Service. This check will help ensure that valid companies are enrolled in the Program and minimize opportunities for fraudulent companies to use E-Verify. During this phase, the Dunn and Bradstreet check applies to enrolling employers and companies enrolling as EEAs. The check does not apply to EEA clients.

- **USCIS provides monthly management reports to SSA**, which allow them to see how field offices are performing with relation to EV-STAR²¹ and the types of cases that are being transmitted to E-Verify through EEAs and other employers (June 2009).

3.2. Legal Requirements of the E-Verify Program

3.2.1. Federal Requirements

Congress has demonstrated interest in expanding the current E-Verify Program and possibly instituting mandatory electronic employment verification for all, or a substantial percentage, of the nation's employers. A recent initiative to implement such a program includes Executive Order 12989, as amended by President George W. Bush on June 6, 2008, which directs Federal agencies to require that Federal contractors and their subcontractors electronically verify the employment eligibility of their employees. The amended Executive Order reinforces the policy, first announced in 1996, that the Federal government does business with employers that have a legal workforce. The rule only affects Federal contractors who are awarded a new contract on or after September 8, 2009, that includes the FAR E-Verify clause (73 FR 67704).²²

Federal contractors participating in E-Verify under the FAR clause must follow most of the same E-Verify rules and procedures as general employers. Unlike general employers, however, Federal contractors are permitted, and in fact required, to use E-Verify to check work-authorization statuses for existing employees that will be working on Federal contracts that include the FAR clause. Federal contractors must initiate cases for existing staff within the first 90 days of E-Verify enrollment or within 90 days of the contract award date if the employer is already an E-Verify user.²³ Federal contractors are also permitted to use E-Verify to verify work authorization for all existing employees at this time, if they choose. If Federal contractors decide to submit cases to E-Verify for their entire workforce, they must notify DHS by updating their company profile if they are a current E-Verify user or during the E-Verify enrollment process if they are a new user. During the enrollment process, these employers must indicate which group(s) of employees they plan to verify.

Because the FAR rule went into effect with all contracts awarded on or after September 8, 2009, Federal contractors using E-Verify under the FAR clause were included in the 2010 survey of E-Verify users.

²⁰ Dunn and Bradstreet, Inc. is a company that provides business information. Dunn and Bradstreet's commercial database contains more than 177 million business records.

²¹ EV-STAR (E-Verify SSA Tentative Nonconfirmation Automated Response System) is an automated tracking process for referring and contesting TNCs at SSA. It was implemented in October 2007, to more closely mirror the USCIS TNC tracking process.

²² See USCIS website:

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=534bbd181e09d110VgnVCM1000004718190aRCRD&vgnnextchannel=534bbd181e09d110VgnVCM1000004718190aRCRD>.

²³ There are some exceptions to the requirement to use E-Verify for all new hires. The exceptions apply to institutions of higher learning, state and local governments, and governments of federally recognized Indian tribes, and for sureties performing under a takeover agreement with a Federal agency. Under the rule, such entities may choose to use E-Verify only on new and existing employees assigned to the covered Federal contract.

3.2.2. State and Local Requirements

New legal action requiring E-Verify use has also taken place at the state level. Since the administration of the 2008 E-Verify user survey, Missouri, Nebraska, and Virginia have enacted new legislation requiring some, but not all, employers to use E-Verify based on USCIS updates as of October 31, 2010. In Missouri (effective January 1, 2009) and Nebraska (effective October 1, 2009), E-Verify must now be used to verify employment authorization for all state employees and all employees of state contractors.²⁴ (See Appendix B.)

3.3. Environmental Changes

3.3.1. Immigration

The estimated number of unauthorized immigrants has decreased since 2007, from 11.8 million in 2007 to 11.6 million in 2008 and 10.8 million in 2009.²⁵ However, the estimated number of unauthorized immigrants living in the United States in 2010 was 11.2 million, which is virtually unchanged from a year earlier. The estimated number of unauthorized immigrants in the workforce, 8 million, also did not differ from 2009 estimates.²⁶

4. REPORT ORGANIZATION

The report is organized into six sections. Chapter I provides background on the study. Chapter II discusses the methodology. Chapter III addresses E-Verify usage, including the reasons employers choose to participate in E-Verify. Chapter IV presents E-Verify from the employers' perspective, addressing issues of satisfaction and burden and presenting employer recommendations. Chapter V summarizes employer costs. Chapter VI examines how well employers have generally complied with E-Verify Program requirements. Chapter VII provides conclusions and recommendations for USCIS based on the findings in the previous sections. Appendix A provides details about the design of the E-Verify Program, and Appendix B summarizes current state legislation related to E-Verify. Appendix C provides a detailed table of the impact of changes in sampling methodology between 2008 and 2010. Appendices D and E contain the survey data collection instruments used in 2010 and 2008, respectively, and Appendix F provides a glossary.

²⁴In Virginia, E-Verify must now be used for all state employees but not state contractors.

²⁵Michael Hofer, Nancy Rytina, and Bryan C. Baker, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2009*, Population Estimates January 2010, Office of Immigration Statistics, U.S. Department of Homeland Security.

²⁶Jeffrey S. Passel, Senior Demographer, Pew Hispanic Center, and D'Vera Cohn, Senior Writer, Pew Research Center, *Unauthorized Immigrant Population: National and State Trends, 2010*, 2.1.2011 (<http://pewhispanic.org/reports/report.php?ReportID=133>).

CHAPTER II. RESEARCH METHODS

1. SAMPLE DESIGN

The 2010 E-Verify Users Web Survey sample consisted of 3,727 employers. The survey required recent involvement with E-Verify so that respondents would be informed about the Program's current features. To be eligible for the survey, a company had to have been in business at the time of the survey and had to have:

- Submitted cases to E-Verify between January and March 2010; or
- Formally terminated involvement in E-Verify between October 2009 and March 2010; or
- Signed a Memorandum of Understanding (MOU) for participation between July and December 2009 but had not transmitted any cases to E-Verify between January and March 2010.

The 2010 survey was company (headquarters/firm) based.²⁷ By contrast, the 2008 sample was establishment (location/branch) based so that a company with multiple locations could have multiple chances of selection in 2008 and sometimes appeared in the sample multiple times. (For example, a department store with multiple stores in various cities and states could be considered to have multiple establishments.) The decision to switch from sampling at the establishment level to the full company level was made for practical reasons—to eliminate or alleviate some of the following problems encountered in the 2008 data collection:

- The 2008 sample included multiple locations of the same company. In some cases, there were over 100 establishments for some companies in the sample.
- Often, the answers provided from each of the establishments of a company were very similar because all locations followed the same E-Verify procedures.
- Sometimes, the local respondents at each establishment were unable to answer questions regarding their use of E-Verify because all verifications for new hires were conducted at the company level.
- There were some instances in which all establishments of a company were required to get permission from the company before they were allowed to complete the Web survey, which consumed more of the company's time and resources. In these cases, if the company denied permission, all of the establishments of that company were coded as refusing to answer the survey.

By focusing on a single survey from each company, data collection for 2010 proceeded more smoothly with fewer interruptions in respondents' schedules. The change in sampling resulted in expected changes to several questions. For example, the average number of workers increased since the company reported the number of workers in the entire company, while previously local establishments reported only for their branches. The opinions in the 2010 survey represent those who the company declared to be the most knowledgeable; typically such a person would be at the headquarters, but this person's opinions may or may not be the same as those in other establishments of the company. Finally, in some cases, companies

²⁷ A franchise that was independently owned and had acquired the rights to use the name of a national chain was considered a company rather than a branch of a larger company. For simplicity, this report treats the term company as being synonymous with firm or headquarters.

did not have uniform E-Verify participation for all their establishments so that, for example, a company might participate in E-Verify in some states but not in others. Thus, a company's responses from headquarters do not necessarily represent the actions of the entire company. Of those companies in the 2010 survey that actively participated in E-Verify and had multiple establishments:

- 81 percent conducted all verifications at one site;
- 12 percent conducted verifications at multiple establishments;
- 2 percent gave establishments discretion as to whether they would participate in E-Verify;
- 4 percent had some establishments participating (e.g., because of a state or local mandate) but did not have company-wide participation; and
- 1 percent gave other responses.

To avoid overburdening employers that were eligible for more than one evaluation study, some employers were excluded from the 2010 study: E-Verify Employer Agents (EEAs) and their clients, and employers that participated in the Arizona onsite study conducted in 2009. To ensure that the 2008 and 2010 studies were as comparable as possible, data from EEAs and their clients from the 2008 survey were excluded from the analysis because they were not included in the 2010 survey sample. (See Section 7 for more detailed information.)

The Web survey sample was stratified by participation status in E-Verify, industry type, the number of E-Verify Tentative Nonconfirmations (TNCs), and the number of workers. Within the strata, all employers were selected with equal probability. E-Verify participation status was defined as follows:

- **Active employers with TNCs.** Employers in this stratum had at least one TNC response to a case submitted to E-Verify between January and March 2010. TNCs indicate that the worker's employment-authorization status cannot be confirmed based on information in Federal records. The experience of receiving a TNC is of interest because this mismatch leads to additional actions by the employer and the worker regarding notifying the worker, who can potentially contest the finding. Because only 17 percent of all active employers in the frame had experienced a TNC, this stratum was oversampled compared to the remaining strata to ensure adequate numbers of cases for analysis.
- **Active employers with no TNCs.** Employers in this category had transmitted at least one case to E-Verify between January and March 2010. However, none of their workers received a TNC during that time period.
- **Inactive employers.** This group includes both (1) employers that had formally terminated use of the system between October 2009 and March 2010, and (2) employers that had not formally terminated use of the system but had signed an MOU between July and December 2009 and had not had any transactions in the three months ending in March 2010.

Industry type was defined as the following:

- Employment agencies and temporary help services;
- Industries known to have relatively large percentages of undocumented workers;²⁸ and
- All other industries.

2. INSTRUMENT DESIGN AND DEVELOPMENT

2.1. Selection of Questions for the Survey

Many of the questions asked in the 2010 Web survey were adapted directly from the Web survey used in the 2008 evaluation. The following modifications were made to the previous survey instrument:

- Questions arising from the 2009 stakeholders meeting and discussions with Federal staff were added.
- Some questions in the 2008 survey that asked about E-Verify changes, such as Photo Matching, were deleted.
- Questions designed to obtain additional insights into the special needs of inactive employers and temporary/employment agencies were added. These questions reflected information obtained during a series of employer focus groups.
- A new series of questions about satisfaction with the E-Verify Customer Service and Technical Help phone numbers was added.
- A series of questions aimed at Federal contractors was included.

2.2. Pretesting of the Draft Survey

Major skip patterns were included in the Web survey so respondents were asked only applicable questions. For example, “inactive employers” were not asked questions about their current use of E-Verify. The initial hard copy drafts of the different versions of the Web survey were pretested with five small groups of employers (i.e., Federal contractors, employment agencies, medium/large employers, small employers, and inactive employers) to verify that the questions were clear and that the survey did not take an excessive amount of time to complete.²⁹ The research team conducted four of these focus groups using WebEx, a Web hosting service for integrated teleconferencing, and one group via a teleconference. The team then modified the survey based on input from these focus groups. Additionally, Westat’s usability testing group reviewed and revised the survey instructions for clarity, accuracy, and succinctness.

²⁸These industries were Agriculture, Forestry, Fishing, and Hunting; Construction; Food Manufacturing; Services to Buildings and Dwellings; Accommodations; and Food Services and Drinking Places. The definition of this category is based on the following report: Jeffrey S. Passel, Pew Hispanic Center, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, 3.7.2006.

²⁹ Each focus group included four to six participants selected using the same criteria by which the Web Survey sample was chosen. Participation in the focus groups did not preclude employers from being selected for the Web Survey sample.



2.3. Development and Testing of the Web Survey

Using the hard copy versions of the questionnaires as a guide, combined with specifications concerning skip patterns and edit checks, programming staff developed an online version of the Web survey, which was tested by the project and programming staff as part of an iterative process. The Web survey contained different modules for the populations of interest.

The following is a list of the features of the online survey:

- The online survey made use of logins, passwords, and a Secure Sockets Layer (SSL) to ensure limited access and data security.
- Programmable conditional and skip logics were built in. All skips were conducted automatically based on respondents' prior responses in the questionnaire and on data in the Transaction Database, so that employers were only asked those questions that were relevant.
- Validations and edits were designed to alert respondents if they missed questions or had entered inconsistent responses.
- Respondents were able to save and close the survey and then return to the next unanswered question at any time before the survey was submitted as complete. Thus, respondents could complete the survey over multiple sessions, allowing the possibility to check records, consult with others, and choose those times that were most convenient for the respondent to complete the survey.
- Depending on the item, different response formats such as “yes/no,” “select one,” and “select all that apply” were used.
- Respondents were able to navigate back through the survey and change prior responses without data loss.
- Respondents were offered the opportunity to print a copy of their responses at anytime during the process of completing the survey. This printed copy also informed them which questions were part of a skip pattern, as well as which ones had not been answered.
- A receipt control module provided the evaluation team with real-time information on response rates and other survey statuses.

A copy of the final version of the Web survey is contained in Appendix D.

3. SURVEY MANAGEMENT SYSTEM DESIGN AND DEVELOPMENT

A computerized survey management system (SMS) was designed specifically for use on the 2010 Web survey. By using the 2010 SMS, no paper receipts or transmittals were needed and no additional data entry was required. One of the greatest advantages of the system was the wide variety of real-time reports available throughout the data collection period.



The following items were part of the 2010 SMS:

- The SMS required the use of logins, passwords, and a Secure Sockets Layer to ensure limited access and data security. This allowed access to the SMS from a variety of locations, and also allowed different authority levels for supervisors and callers.³⁰
- The SMS provided multiple functions for monitoring and managing cases, including the ability to assign cases to specific callers, run status reports and “Alarm Reports” (overdue action required), monitor appointments, and review refusals, problem cases, and tracing cases.
- Entry validations and edits were designed to alert users to any missed fields where a response was required.
- Evaluation staff who conducted follow-up activities by phone could use the SMS to act as an electronic call record—setting appointments, updating contact information, and adding comments.

Programmers and project staff thoroughly tested the SMS, which was progressively refined until it was approved for use.

4. STAFF TRAINING

The Web survey allowed the instrument to be self-administered by the respondents. Support staff was active in sending reminder e-mails, conducting mailouts, staffing a help desk for respondents who had problems completing the questionnaire, calling employers to verify that the contact information was correct, prompting nonrespondents to complete the survey, and verifying questionable responses or correcting missing data that were identified in the data review. To ensure that all project personnel conducted survey activities in a consistent manner, the evaluation team provided thorough training to the telephone callers and the supervisory staff who worked on the Web survey. For the caller staff, this training included an explanation of the purpose of the survey, review and explanation of calling duties, and role-playing scenarios using the SMS. Training of supervisory staff that used the SMS consisted of an explanation of the purpose of the survey, review of result codes and edits, and practice navigating through the menu system of the SMS.

5. DATA COLLECTION

Data collection took place during a four-month period starting in August 2010 and ending in November 2010.

The initial contact with employers was through an e-mail from Westat containing the information that the employer needed to access and complete the survey. It also requested the recipient to provide information on who should be contacted if the recipient was not the correct contact person to complete the Web survey. The e-mail included a letter from the U.S. Citizenship and Immigration Services’ (USCIS) Director of Research and Evaluation on agency letterhead explaining the reason for the survey and reminding participants of their agreement to cooperate with the evaluation as stated in the MOU they had signed. It also informed them that Westat would be conducting the survey and stressed that all information would be kept confidential.

³⁰Supervisors were responsible for assigning cases to callers, who conducted nonresponse follow-up, and for monitoring their progress.



When e-mails bounced back as undeliverable, an e-mail was sent to an alternative contact person if one was listed on the employer file provided by the USCIS contractor responsible for operating the E-Verify system. If there was no alternative contact person, or if the e-mail to the alternative contact person also proved to be undeliverable, the company was contacted by telephone to ascertain the correct contact person. The initial e-mail was then sent to the new contact.

If the survey had not been completed within approximately one week of the initial e-mail contact, Westat sent a reminder e-mail to the employer. Sample members who had still not responded approximately one week later were reminded by telephone. In early November, USCIS placed a notice on the E-Verify website stating that data collection was nearing completion and urging those employers that had been asked to participate to respond, if they had not already done so.

Approximately two weeks before the data collection period was to end, a “data collection closing” e-mail was sent to all employers that had neither completed the survey nor had specified that they would not respond. A week later, the remaining nonfinalized respondents were sent a FedEx package containing a Westat letter and a USCIS letter describing the survey and explaining how to logon to the Web questionnaire. This was intended for any respondents that e-mail had not been successful in reaching.

6. RESPONSE RATES

Of the 3,727 employers in the survey sample, 218 were found to be out of scope because they were no longer in business, were duplicate listings of a company, or were EEAs, or clients of EEAs. Of the remaining 3,509 eligible employers, 2,928 (83 percent) completed the survey. A minimum of 70 percent of all eligible data items needed to be completed in order for the questionnaire to be considered completed. Both the unweighted response rate and the weighted response rate were 83 percent. Exhibit II-1 shows the number of eligible employers on the sample frame, the sample size, the number of respondents, and the response rate for each of the two major stratifying variables (participation status and industry type).

Exhibit II-1. Web Survey Sample Size and Response Rate, by Participation Status and Industry Type

Stratum	Number of employers on sample frame	Number of employers selected ¹	Number of eligible employers	Number of completed surveys	Unweighted response rate ²	Weighted response rate ²
Participation status						
Active with TNCs	3,410	1,820	1,748	1,521	84	87
Active with no TNCs	16,197	999	957	823	82	86
Inactive	7,037	908	804	584	64	72
Industry type						
Temporary/employment agencies	385	277	245	201	82	83
High percentage of undocumented workers	7,320	1,709	1,617	1,326	82	80
Other	18,939	1,741	1,647	1,401	85	84
Total	26,644	3,727	3,509	2,928	83	83

¹The number of selected employers includes employers that were found to be ineligible during data collection.

²The response rates were calculated after excluding ineligibles.

7. DATA COMPARISONS

When examining change over time or when making comparisons between two or more different groups of employers, tests of significance were run to determine whether those differences might be due to random error associated with statistical sampling. Unless stated otherwise, this report only discusses differences that were statistically significant at the 0.05 level.

Data comparisons also may be affected by a change in how the sampling was performed in the 2008 and 2010 surveys. As discussed in Section 1 of this chapter, the sampling approach changed from sampling establishments in 2008 to sampling companies in 2010. To examine the implications of this change, the 2008 survey results were recalculated after deleting all responses from establishments that were not listed as company headquarters. These recalculations generally changed the 2008 survey estimates by only a small amount—typically only one or two percentage points. There was no consistent pattern in terms of the direction of the difference: sometimes the revised statistics showed more satisfaction than the previous estimates and sometimes they showed less.³¹ Based on the small size of these changes, the revised sampling methodology does not greatly change the statistical findings, permitting meaningful comparisons between the 2008 and 2010 surveys.

Another sampling difference between the 2008 and 2010 surveys is that EEAs and their clients were excluded from the 2010 sample but not from the 2008 study. To compensate for this change in the survey sample, the 2008 statistics presented in this report are based on 2008 results excluding these two types of employers. Thus, there are some minor differences between the 2008 data previously reported and the data in this report.

Since the characteristics of employers changed between 2008 and 2010, analyses were conducted to determine whether observed changes can be explained by employer characteristics. However, it is not feasible to control for changes in the economic situation between 2008 and 2010, which may also have affected employers' experiences with E-Verify. For example, many companies did little or no hiring during the latter period, so they appeared as inactive or barely active in E-Verify when normally they might show higher levels of activity. With reduced hiring, employees were also less likely to be notified of TNCs, which require additional steps by employers and thus may affect the employer's level of satisfaction.

³¹ See Appendix C for details on these differences.

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CHAPTER III. E-VERIFY USAGE

1. BACKGROUND

This chapter addresses three closely related topics: levels of E-Verify use, characteristics of employers that use E-Verify, and employers' motivations for using E-Verify. The discussion focuses on change between 2008 and 2010.

To assess change in the use of the E-Verify Program between the 2008 and 2010 user survey administrations, this chapter compares statistics on cases transmitted to E-Verify in April through June 2008 and April through June 2010. The fiscal quarter of April through June 2008 aligns with the 2008 E-Verify user survey administration. The fiscal quarter of April through June 2010 immediately precedes the 2010 E-Verify user survey administration and provides the most recent data available for analysis purposes. Characteristics of E-Verify survey respondents are also examined.

Since the 2008 survey, the number of employers participating in E-Verify has increased substantially. The characteristics of these employers have also changed over time. Changes in the characteristics of the E-Verify user population must be examined and taken into account when looking at employers' responses to the 2010 E-Verify user survey.

2. FINDINGS

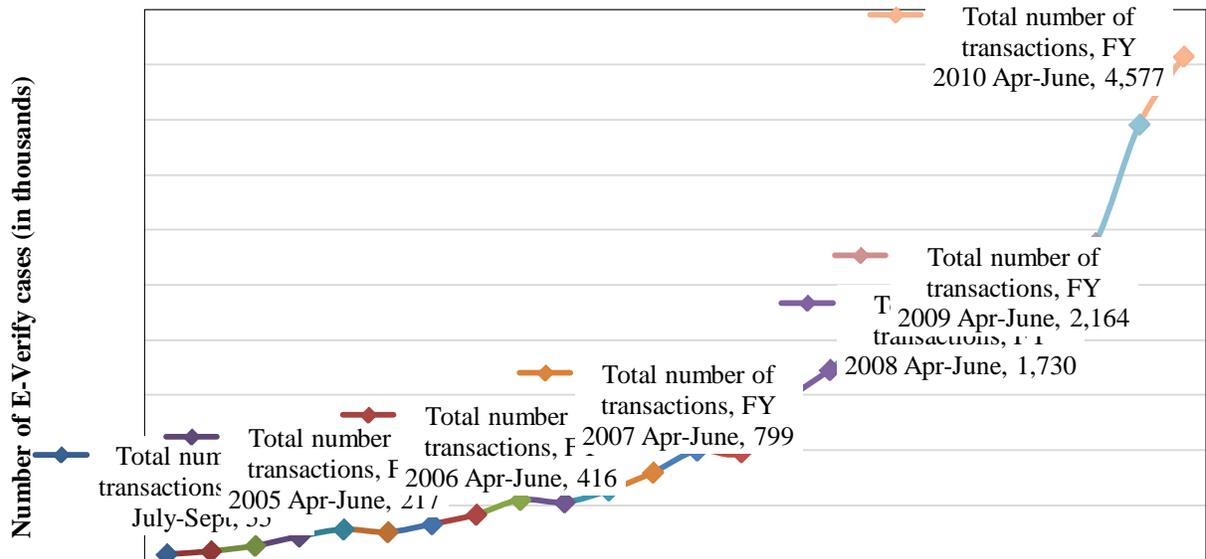
2.1. Program Use

The number of cases submitted to E-Verify on a quarterly basis significantly increased between the 2008 and 2010 survey administrations. Since E-Verify's inception, there has been a strong upward trend in the number of cases transmitted to E-Verify.³² The nearly 4.6 million cases submitted to E-Verify in April through June 2010 represent an increase of 164 percent over the 1.7 million cases submitted in April through June 2008 (Exhibit III-1).

³² *Findings of the E-Verify Program Evaluation*, December 2009.



Exhibit III-1. Number of Cases Transmitted to E-Verify: July 2004–June 2010

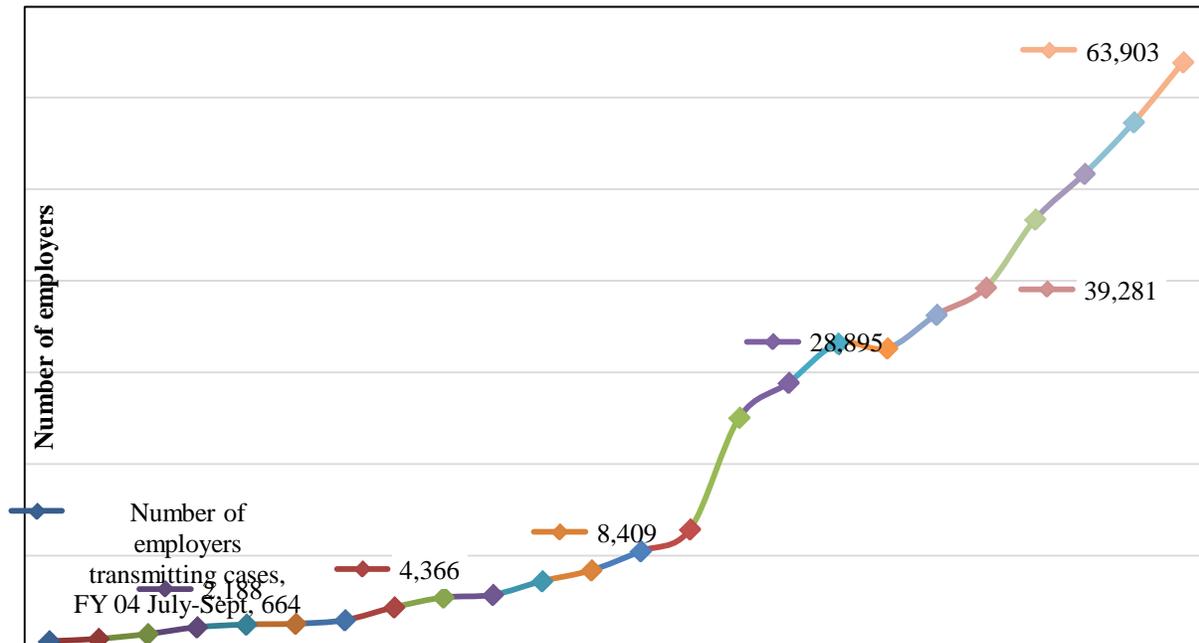


SOURCE: E-Verify Transaction Database.

The number of employers using E-Verify more than doubled between the 2008 and 2010 user survey administrations. In April through June 2008, 28,895 employers transmitted cases to E-Verify (Exhibit III-2). This number increased by 121 percent to 63,903 employers transmitting cases in April through June 2010. As shown in the exhibit, the number of E-Verify users has increased steadily between these two periods.



Exhibit III-2. Number of Employers Transmitting Cases to E-Verify: July 2004–June 2010



SOURCE: E-Verify Transaction Database.

The mean number of cases submitted to E-Verify per employer also increased between the 2008 and 2010 user survey administrations. Between survey administrations, the mean number of cases transmitted to E-Verify per employer increased from 60 cases in April through June 2008 to 72 cases in April through June 2010. However, the median number of E-Verify cases submitted stayed the same at 9 cases.

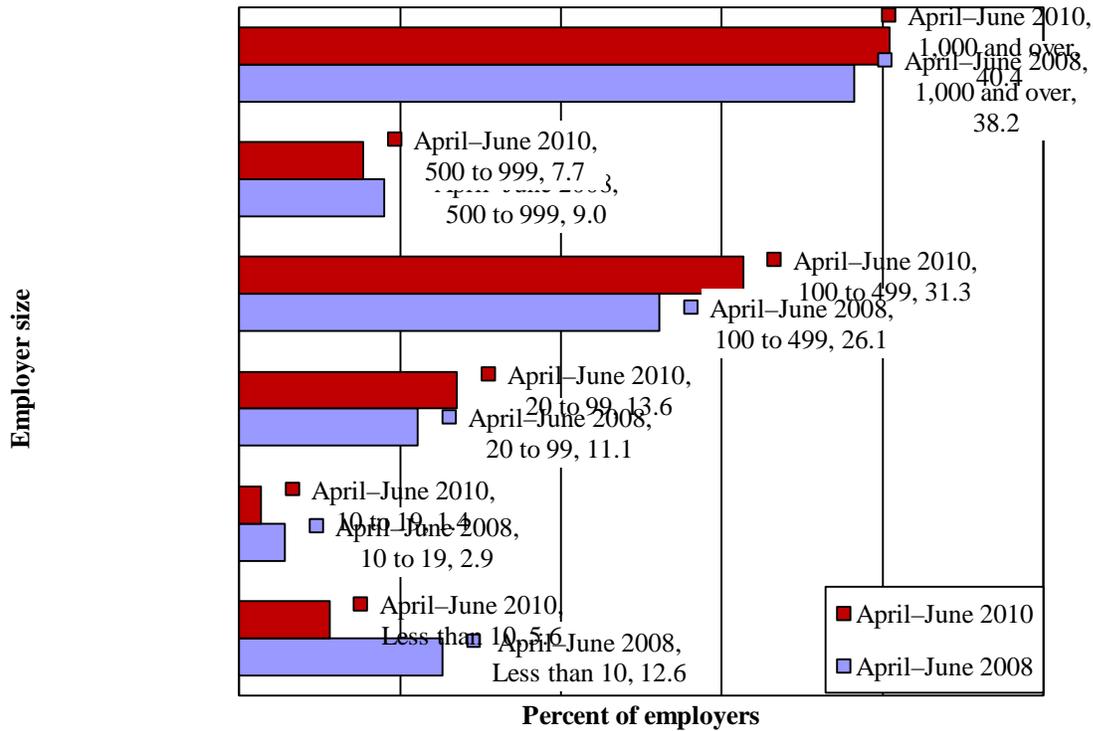
2.2. Characteristics of Employers Using E-Verify

E-Verify users were less likely to be small employers in 2010 than in 2008. Historically, small employers have been underrepresented among E-Verify users.³³ Although the number of small employers transmitting cases to E-Verify grew between 2008 and 2010, this segment of E-Verify users did not grow as quickly as larger employers. Between the 2008 and 2010 user survey administrations, the percentage of E-Verify users with less than 10 employees decreased from 13 percent in 2008 to 6 percent in 2010; the percentage of E-Verify users with 10 to 19 employees also decreased from 3 percent to 1 percent (Exhibit III-3). Conversely, there were increases in the percentage of medium-sized employers with 20 to 99 employees (from 11 percent to 14 percent), and larger employers with 100 to 499 employees (from 26 percent to 31 percent).

³³ *Findings of the E-Verify Program Evaluation*, December 2009.



Exhibit III-3. Distribution of E-Verify Employers, by Size: 2008 and 2010



NOTE: Sum does not add to 100 percent because of rounding.
SOURCE: E-Verify Transaction Database.

Temporary/employment agencies and employers in industries with typically high numbers of undocumented workers, which have had large representation in E-Verify in the past, decreased representation in 2010. Temporary/employment agencies made up only 4 percent of all E-Verify users transmitting cases in April through June 2010, a decrease from 17 percent of employers in April through June 2008 (Exhibit III-4). In fact, the actual number of temporary/employment agencies transmitting cases to E-Verify decreased from 300,272 agencies in April through June 2008 to 163,160 agencies in April through June 2010.

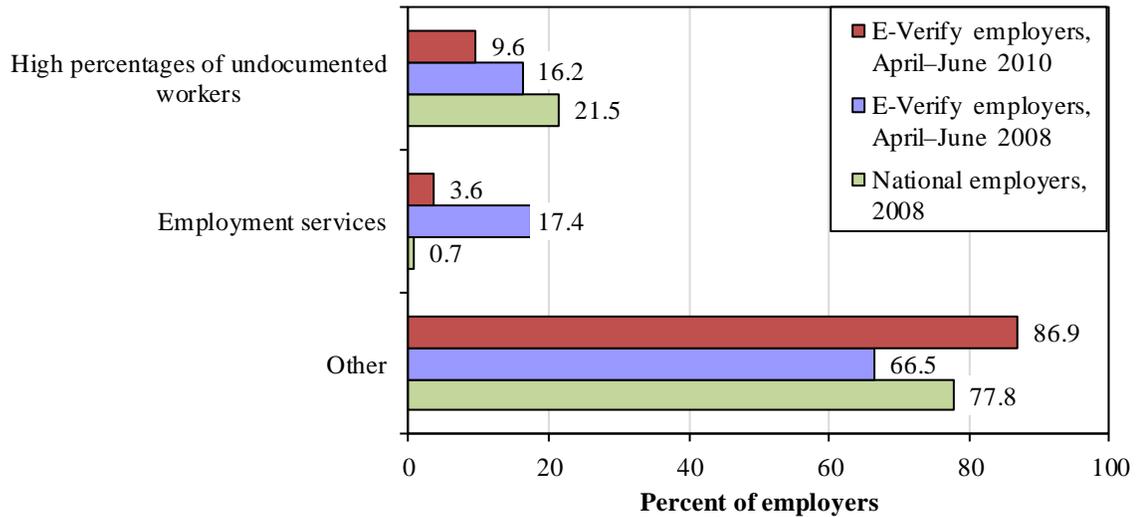
Employers working in industries with high percentages of undocumented workers made up 10 percent of all E-Verify users in 2010, a decrease from 16 percent in 2008.³⁴ The number of these employers transmitting cases to E-Verify grew between 2008 and 2010, but this segment of E-Verify users did not grow as quickly as employers in other industries.

Although the percentage of temporary/employment agencies transmitting cases to E-Verify has become more similar to the percentage of temporary/employment agencies nationally (0.7 percent of employers

³⁴These industries were Agriculture, Forestry, Fishing, and Hunting; Construction; Food Manufacturing; Services to Buildings and Dwellings; Accommodations; and Food Services and Drinking Places. The definition of this category is based on the following report: Jeffrey S. Passel, Pew Hispanic Center, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, 3.7.2006.

nationally), the percentage of employers working in industries with high percentages of undocumented workers has become less similar to the national distribution (21.5 percent of employers nationally).

Exhibit III-4. Distribution of Employers, by Employer Industry: E-Verify Employers and National Employers



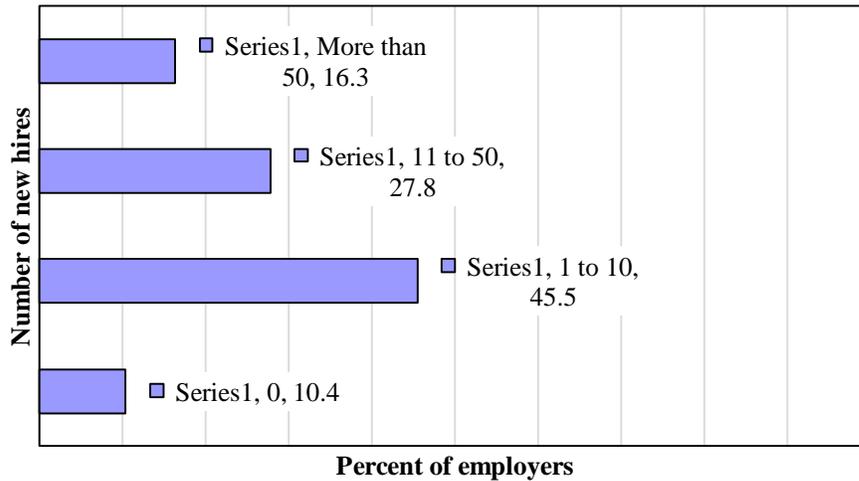
NOTE: Sum does not add to 100 percent because of rounding.

SOURCE: E-Verify Transaction Database, and U.S. Census County Business Patterns: 2008.

There was no change between 2008 and 2010 in percentage of employers reporting that they had no new hires in the past six months; however, the findings are likely understated. In the 2008 survey, 11 percent of employers reported that they had no new hires in the last 6 months, while in the 2010 survey, 10 percent of employers reported that they had no new hires in the last 12 months (Exhibit III-5).³⁵ These statistics show that at minimum, there was no change in the percentage of employers reporting no new hires in the last six months. However, this figure likely understates the level of change between the two years, because the 2010 survey asked about hiring in the last 12 months while the 2008 survey asked about hiring in the last six months. It is highly probable that the percentage of employers reporting no new hires in 2010 would be higher if they were asked only about the last six months.

³⁵The question wording was modified from the 2008 survey in order to remove the effects of seasonality. Different industries have different peak periods (e.g., a peak period for farming is summer, while a peak period for the retail industry is December), so a survey question that asks only about the last six months would tend to give greater weight to some industries than to others.

Exhibit III-5. Number of New Hires Reported by E-Verify Employers in the Last 12 Months: 2010

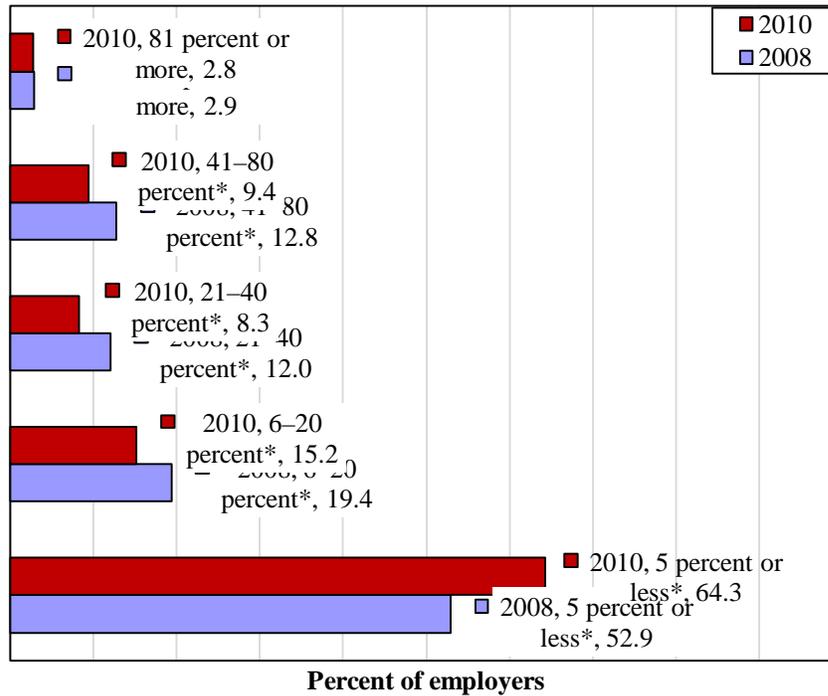


SOURCE: E-Verify Web Survey.

Respondents to the 2010 E-Verify user survey reported fewer foreign-born workers than respondents to the 2008 survey. Employers reporting that 5 percent or less of their current workers were immigrants increased significantly from 53 percent in 2008 to 64 percent in 2010 (Exhibit III-6). As will be discussed in Section 2.4.1, mandated E-Verify users responding to the 2010 survey reported lower percentages of immigrants among their current workers than voluntary E-Verify users, influencing the change in the overall percentage.³⁶

³⁶ For purposes of this study, the designation of employers as either mandated or voluntary is based on their self-reported motivations for participating in E-Verify. Mandated employers refers to employers reporting that a Federal and/or state/local mandate is the *only* reason they are participating in E-Verify. Voluntary employers refers to employers reporting other reasons for participation, including some employers that may be required to participate under a Federal and/or state mandate.

Exhibit III-6. Percent of Workers Who Are Immigrants, as Reported by Employers: 2008 and 2010

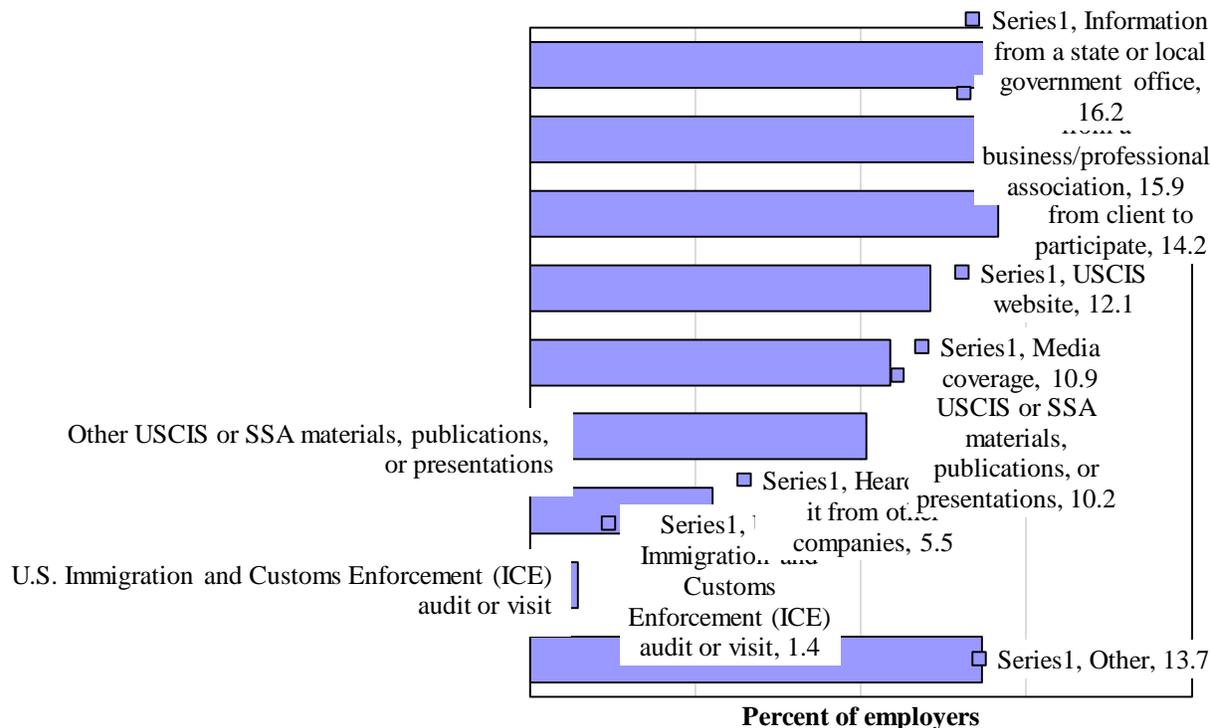


*Statistically significant differences between 2010 and 2008 E-Verify users at $p < 0.05$.
 SOURCE: E-Verify Web Surveys.

2.3. Motivation for Program Use

Employers first learned about E-Verify through a variety of sources. The most commonly reported ways that employers first learned about E-Verify was through information from a state or local government office (16 percent), information from a business or professional association (16 percent), or a request from a client to participate (14 percent)³⁷ (Exhibit III-7). Fewer employers reported first learning about E-Verify through the USCIS website (12 percent) or other USCIS or SSA materials, publications, or presentations (10 percent). Among the 14 percent of employers that reported that they learned about E-Verify through “other” sources, several employers reported that they learned about E-Verify through an immigration attorney or company lawyer, or through their company headquarters or parent company.

³⁷Employers reporting that they first learned about E-Verify through client requests to participate included temporary/employment agencies as well as companies reporting that they had Federal contracts.

Exhibit III-7. Ways Employers Learned About E-Verify: 2010


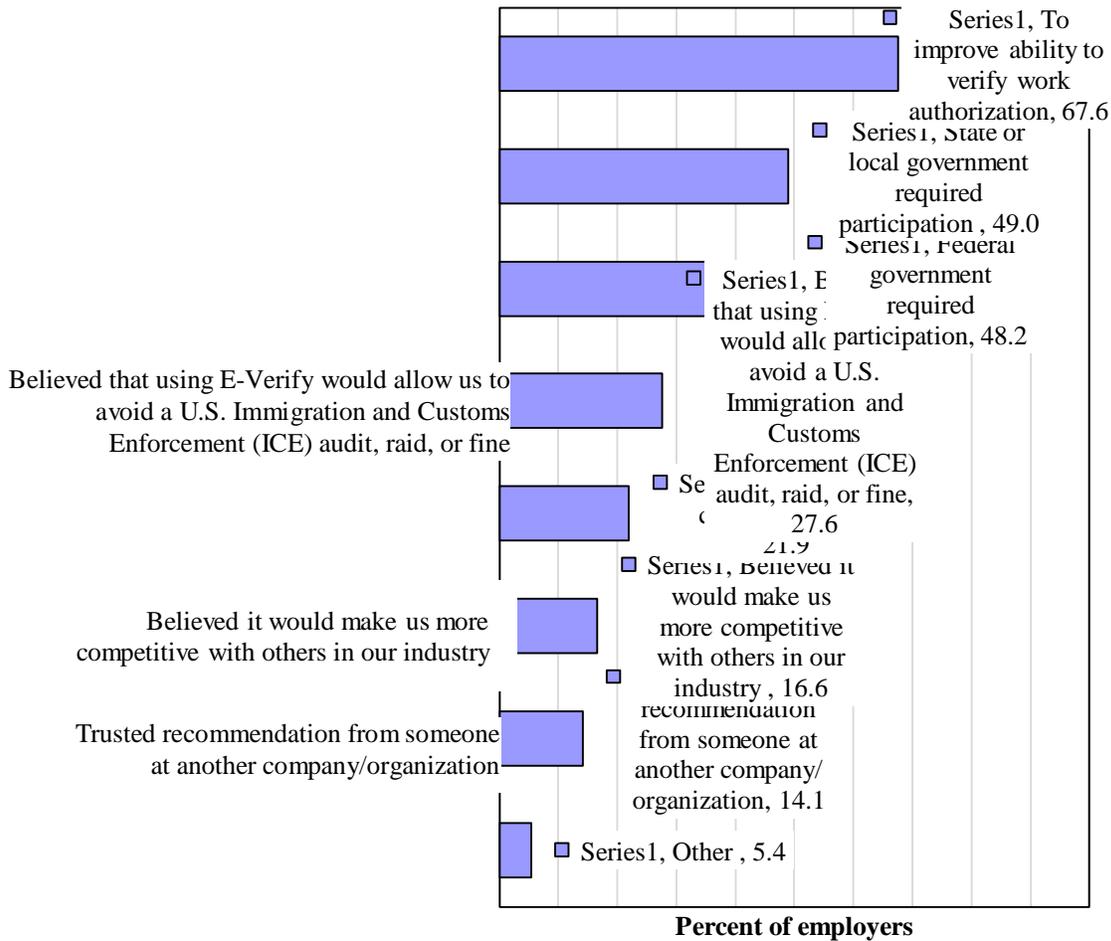
NOTE: Sum does not add to 100 percent because of rounding.
 SOURCE: E-Verify Web Survey.

Most employers reported that they were motivated to use E-Verify to improve their ability to verify work authorization. When asked to report the reasons they were motivated to enroll in E-Verify, 68 percent of employers reported that they signed up for E-Verify to improve their ability to verify work authorization (Exhibit III-8). Nearly half of employers reported that they were motivated to enroll in E-Verify because the state or local government required participation (49 percent) or the Federal government required their participation³⁸ (48 percent). In addition, slightly more than one-quarter of employers (28 percent) believed that using E-Verify would allow them to avoid a U.S. Immigration and Customs Enforcement (ICE) audit, raid, or fine. Client requests were reported by 22 percent of employers as a reason they agreed to use E-Verify.³⁹

³⁸ Not all employers that reported being mandated to participate in E-Verify reported that the mandate was their motivation for enrolling.

³⁹ Employers reporting client requests as a reason they agreed to use E-Verify included temporary/employment agencies as well as companies reporting that they had Federal contracts. The survey item asked respondents to select all reasons that they agreed to use E-Verify, and many Federal contractors selected both “state or local government required participation” and “to satisfy a client’s request.”

Exhibit III-8. Reasons Employers Reported For Enrolling in E-Verify: 2010



NOTE: Sum does not add to 100 percent because respondents could choose more than one response.
 SOURCE: E-Verify Web Survey.

Many employers reported signing up for E-Verify because of the Federal government mandate; however, not all employers citing this reason had Federal contracts requiring their participation in the Program. Approximately half of employers surveyed in 2010 (48 percent) reported that they agreed to participate in E-Verify at least in part because the Federal government required participation. However, as detailed below, only 29 percent of employers reported having Federal contracts that mandated their participation.

There are several plausible explanations for why more employers were motivated to use E-Verify by the Federal mandate than the number of employers actually possessing a Federal contract requiring their participation:

- Employers may have misunderstood the Federal requirement, believing that the Federal Acquisition Regulation (FAR) rule applied to their company even though their company did not meet the conditions of the regulation.
- Employers expecting to obtain Federal contracts in the future may have chosen to start using E-Verify before they would be required to do so.
- Temporary/employment agencies using E-Verify may have clients with Federal contracts.
- Employers thought that the existence of the FAR rule provided sufficient support for their company to begin using E-Verify, whether or not they anticipated procuring a future Federal contract.

2.4. Types of E-Verify Users

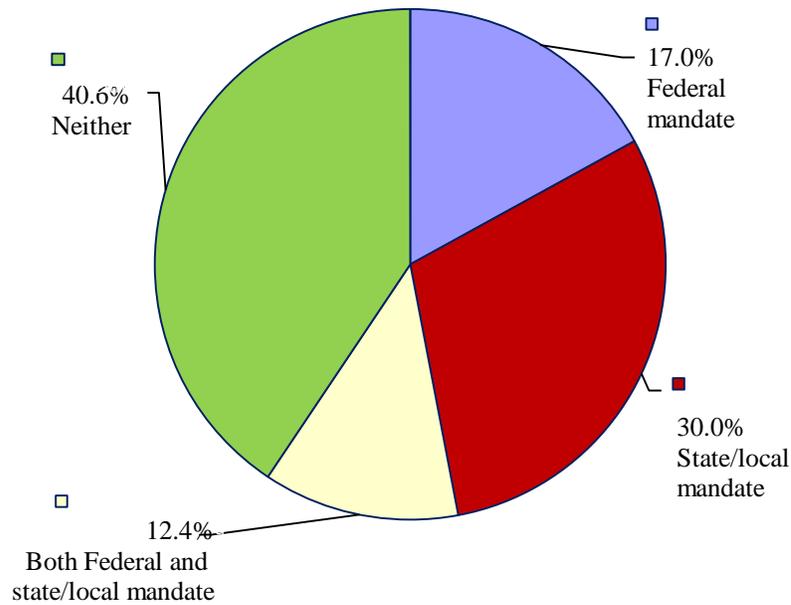
2.4.1. Mandated Users

The population of employers mandated to use E-Verify increased significantly between 2008 and 2010. More than half of employers surveyed in 2010 (59 percent) reported that they were required to use E-Verify by a Federal contract requiring participation (17 percent), or because they performed business in a state or locality that requires participation (30 percent), or they were affected by both Federal and state/local mandates (12 percent) (Exhibit III-9). By contrast, in 2008 only 16 percent of employers reported that a Federal or state/local government mandate was their primary reason for participating in E-Verify.⁴⁰

Of multisite employers required to use E-Verify due to either a Federal or state/local mandate, most (77 percent) indicated that all locations are required by the mandate to use E-Verify.

⁴⁰The 2010 survey asked all respondents to report whether or not they were required to use E-Verify under either a Federal or state/local mandate, whereas the 2008 survey asked respondents to select their primary reason for using E-Verify. If a Federal or state/local mandate was not the employer's primary reason for participating in E-Verify in 2008, it was not recorded that the employer was mandated to participate. For this reason, the percentage of 2008 employers mandated to participate in E-Verify might be underrepresented.

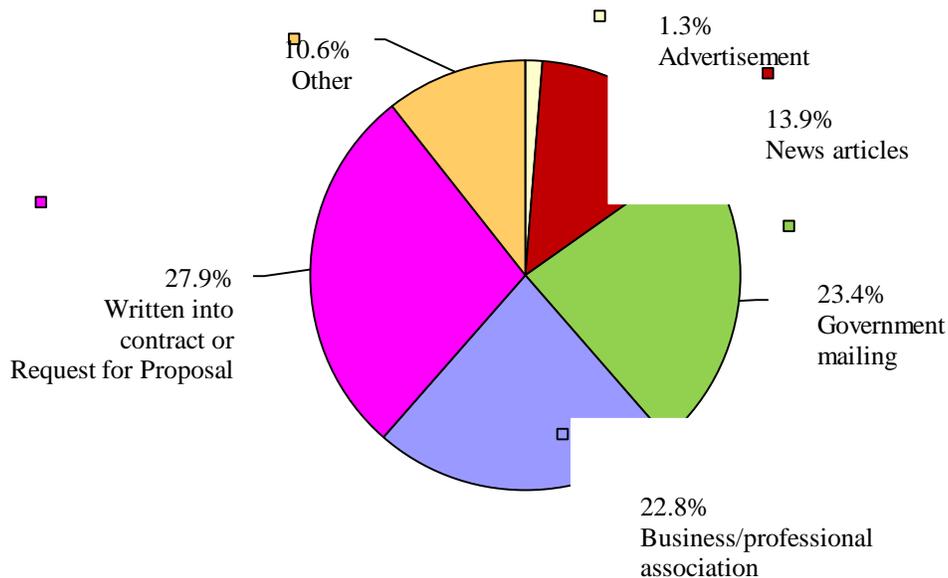
Exhibit III-9. Percent of Employers Required to Participate in E-Verify Because of a Federal or State/Local Mandate: 2010



SOURCE: E-Verify Web Survey.

Employers that are required to use E-Verify by a Federal or state mandate first learned of the requirement in a variety of ways. Twenty-eight percent of users required to use E-Verify by a mandate reported that the requirement was written into a contract or Request for Proposal (Exhibit III-10). An additional 23 percent found out about the requirement through a business or professional organization, and another 23 percent received notice through a government mailing. A smaller group of employers (14 percent) learned about the mandate through news articles.

Exhibit III-10. Ways Mandated E-Verify Users Learned of the Requirement to Use E-Verify: 2010



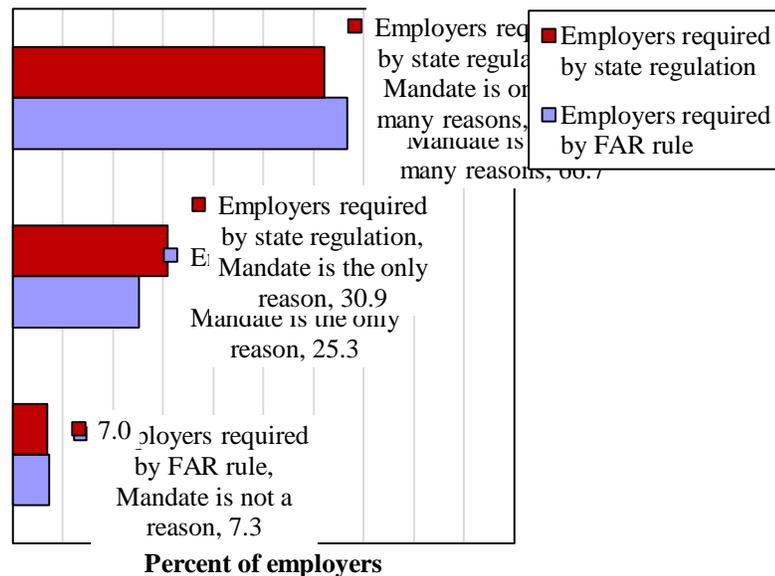
NOTE: Sum does not add to 100 percent because of rounding.

SOURCE: E-Verify Web Survey.

Most employers required to participate in E-Verify under a Federal or state mandate reported that the mandate was only one of many reasons they chose to participate in E-Verify. Of employers required to participate in E-Verify under the FAR rule, only 25 percent reported that the mandate was the only reason for their participation in E-Verify (Exhibit III-11). Most employers (67 percent) reported that the mandate was one of many reasons they participated in E-Verify, and a few employers (7 percent) reported that the mandate was not a motivation for their participation. Similarly, most employers required to use E-Verify because of a state or local mandate also reported that the mandate was only one of several reasons for their participation (62 percent).



Exhibit III-11. Reasons Mandated Users Reported For Participating in E-Verify: 2010



NOTE: Sum does not add to 100 percent because of rounding.

SOURCE: E-Verify Web Survey.

E-Verify users reporting that a mandate was the only reason they were participating in the Program (mandated employers) reported fewer new hires and lower percentages of foreign-born workers among their current employees than voluntary users. Mandated employers were more likely to have hired 10 or fewer employees in the last 12 months (63 percent compared to 50 percent for voluntary users), and more likely to say that 5 percent or less of their employees were immigrants (74 percent compared to 53 percent for voluntary users). These findings may help explain why these employers had not previously enrolled in E-Verify and why they indicated that the mandate was the only reason they were participating. There were no significant differences between mandated and voluntary users in terms of employer size or the number of cases transmitted since their first initiated case.

2.4.2. Prior E-Verify Users

The most frequently reported reason employers stopped using E-Verify was their lack of new hires in the past six months, and some employers no longer used it because they thought the system was too burdensome. A few employers responding to the 2010 survey (4 percent) reported that they were no longer using E-Verify. As in 2008, the most frequently reported reason that employers stopped using E-Verify was the lack of new hires in the past six months. The percentage of employers reporting lack of new hires as their primary reason for stopping use of E-Verify rose significantly from 33 percent in 2008 to 65 percent in 2010. Twenty percent of 2010 employers reporting that they had stopped using E-Verify thought it was too burdensome to use the system, and therefore they no longer used it.⁴¹

⁴¹ Although prior users were not asked to elaborate on why they found E-Verify to be too burdensome, Chapter IV of this report examines information provided by current E-Verify users about how satisfied they were with E-Verify and their views on the level of burden that the Program imposes on the employer.



2.5. Sources of Change in Program Use

As discussed in earlier sections, new legislation and regulations at both the Federal and local levels mandating E-Verify use for some employers significantly increased the number of E-Verify users and also contributed to the increase in the number of cases transmitted to E-Verify. Other sources of change in E-Verify use are discussed below.

Permission for Federal contractors to use E-Verify for some or all existing employees under the FAR rule contributed to the increase in transmitted cases. At the time of the 2008 user survey, prior to the FAR rule, E-Verify cases were permitted only for new hires, although some employers failed to comply with the rule against verifying existing employees. Federal contractors are *required* to use E-Verify for new hires and existing employees who will be working on the contract containing the FAR clause and are *permitted* to use E-Verify for all existing employees if they so choose. Therefore, it is reasonable to assume that the increase in E-Verify cases transmitted for existing employees by Federal contractors contributed to the increase in overall cases transmitted since 2008.

CHAPTER IV. E-VERIFY FROM THE EMPLOYER PERSPECTIVE

1. BACKGROUND

This chapter examines information employers provided about how satisfied they were with E-Verify and their views on the level of burden that the Program imposes on the employer. Findings related to general satisfaction and burden are presented, as well as more specific findings on employer satisfaction with the registration and start-up process, E-Verify resources, system navigation and availability, compatibility with hiring practices, use of the Photo Matching program, and effectiveness in identifying unauthorized workers.

Where feasible, responses from the 2010 and 2008 E-Verify user surveys are compared and plausible causes of change are presented. Both program changes to E-Verify, as well as changes to the E-Verify population, are considered, including the impact of legislative mandates. This chapter also discusses variation in satisfaction by other employer characteristics, including employer industry, size, and percent foreign-born workforce. Finally, employer recommendations for improving E-Verify are presented.

As discussed below, employer satisfaction with E-Verify was generally high, although some E-Verify users reported being dissatisfied with aspects of the Program. They also had a variety of recommendations for how the Program could either address areas of dissatisfaction or otherwise be improved. These recommendations are important, because they point to possible changes that the U.S. Citizenship and Immigration Services (USCIS) and the Social Security Administration (SSA) may want to implement in the future.

2. FINDINGS

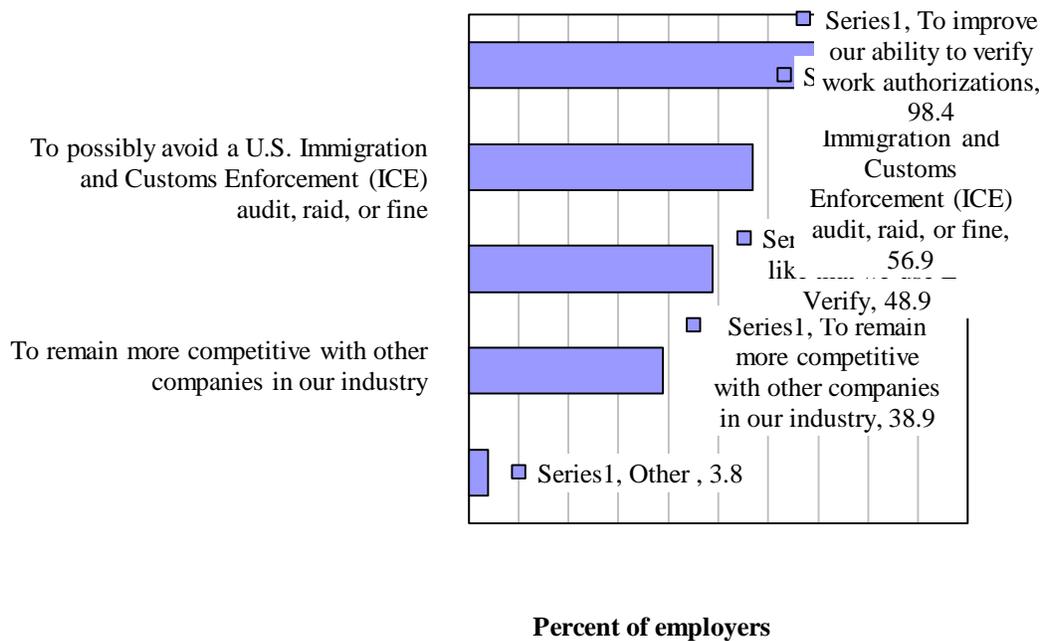
2.1. General Satisfaction

Employers continued to express high levels of satisfaction with E-Verify in 2010. The large majority of employers continued to report that E-Verify is a highly accurate (94 percent) and effective (94 percent) tool for employment verification. These results are similar to the findings of the 2008 survey in which 92 percent agreed that E-Verify is highly accurate and 96 percent agreed that E-Verify is an effective tool for employment verification.

Many mandated employers reported that they would likely continue using E-Verify even if no longer required to do so. More than half of mandated employers (62 percent) said they were likely to continue using E-Verify if no longer required to do so. Of these, 98 percent reported that they would continue to use E-Verify to improve their ability to verify work authorizations, and 57 percent reported that they would continue to use E-Verify to possibly avoid a U.S. Immigrations and Customs Enforcement (ICE) audit, raid, or fine (Exhibit IV-1).

Of the 38 percent of mandated employers that were unlikely to continue using E-Verify if no longer required to do so, many (53 percent) reported that they would discontinue use of E-Verify because they seldom have new hires, and 56 percent reported they would discontinue use of E-Verify because it is burdensome to use.

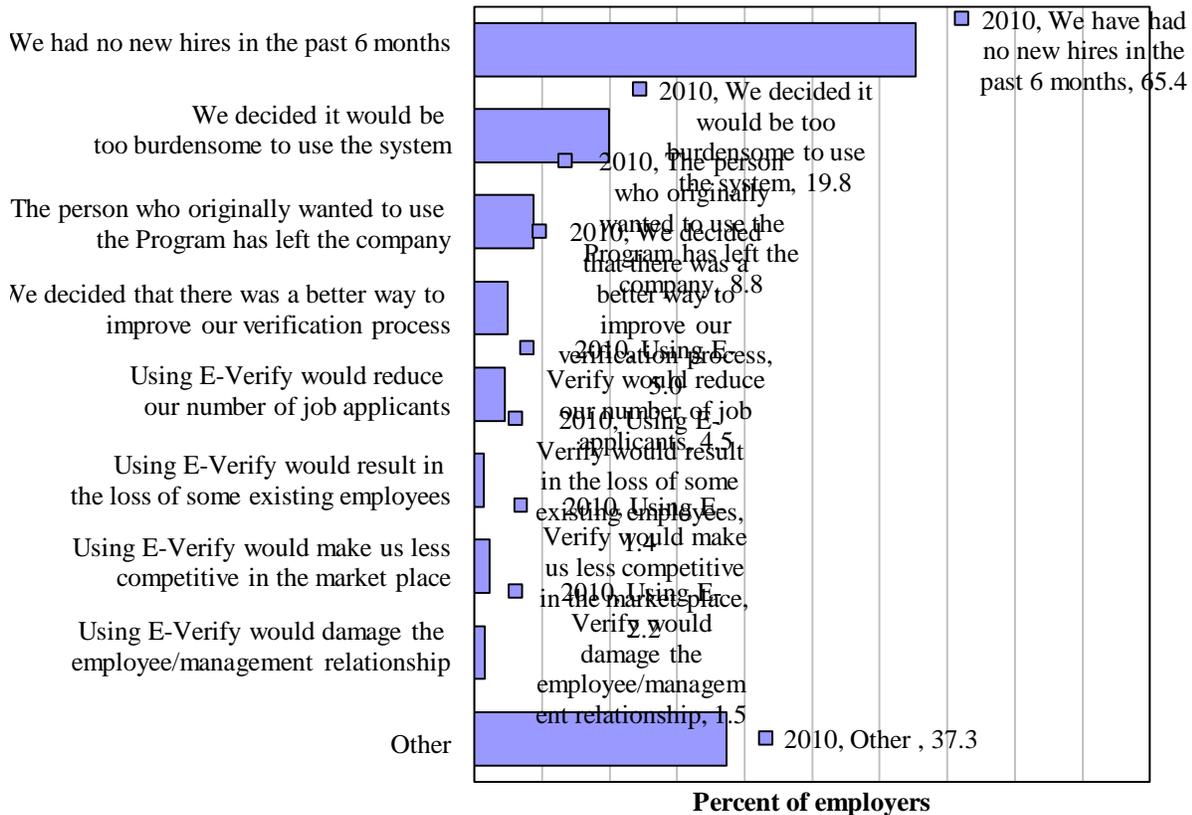
Exhibit IV-1. Reasons Mandated Employers Would Continue Using E-Verify if No Longer Required to Do So: 2010



NOTE: Sum does not add to 100 percent because respondents could choose more than one response.
 SOURCE: E-Verify Web Survey.

Despite high levels of satisfaction among current E-Verify users, some prior users reported they were no longer using E-Verify because they were dissatisfied with the Program. Among prior E-Verify users, approximately one-third (34 percent) reported they stopped using E-Verify due to some dissatisfaction with the Program. The most common area of dissatisfaction, reported by 20 percent of prior E-Verify users, was that it would be too burdensome for them to use the system (Exhibit IV-2). In addition, 5 percent of prior users reported that they thought there was a better way to improve the company’s verification process, and 5 percent of prior users indicated that using E-Verify would reduce their number of job applicants. Very few prior users reported that E-Verify would damage the employee/management relationship, make the company less competitive in the market place, or result in the loss of existing workers (each reason was reported by 2 percent or less). The most frequently reported reason prior users no longer used E-Verify was because they had not hired any new workers in the past six months (65 percent). Other reasons provided by employers for no longer using the system included that it was too burdensome to complete the tutorial, passwords were too difficult to change or were forgotten, and contracts no longer required them to use E-Verify.

Exhibit IV-2. Reasons Prior Users No Longer Use E-Verify: 2010



NOTE: Sum does not add to 100 percent because respondents could choose more than one response.
 SOURCE: E-Verify Web Survey.

2.2. Employer Satisfaction

2.2.1. Burden on Employers

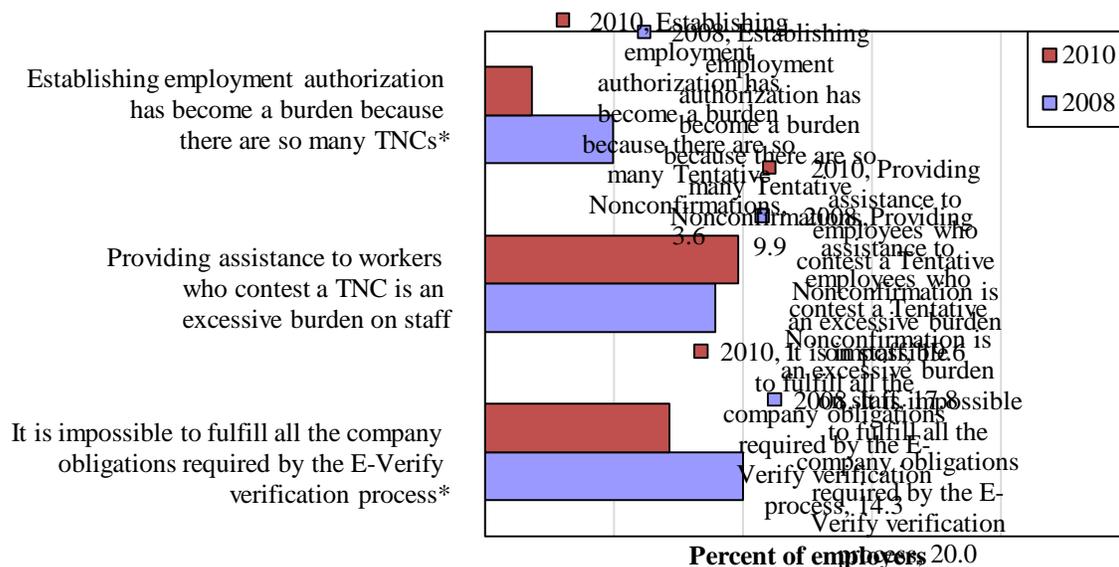
Fewer employers reported that E-Verify was burdensome to the employer in 2010 than in 2008.

Employers in 2010 were significantly more likely to disagree with the statement that it is impossible to fulfill all company obligations required by the E-Verify verification process. In 2010, 86 percent of employers disagreed with this statement, compared to only 80 percent of employers that disagreed with it in 2008 (Exhibit IV-3).

Several employers find that assisting workers who contest Tentative Nonconfirmation (TNC) findings is burdensome to their staff. The percentage of employers reporting that establishing work authorization has become a burden because there are so many TNCs dropped from 10 percent in 2008 to 4 percent in 2010. However, 20 percent of all employers surveyed continued to report in 2010 that providing assistance to workers who contest a TNC finding is an excessive burden on staff, perhaps due to the time it takes to complete the TNC paperwork, explain the finding to the worker, and guide the

worker through the contesting process. A full overview of the E-Verify Program and TNC process is provided in Appendix A.

Exhibit IV-3. Percent of Employers Agreeing That E-Verify Is Burdensome For Employers: 2008 and 2010



*Statistically significant difference between 2010 and 2008 of E-Verify users at $p < 0.05$.
 NOTE: Sum does not add to 100 percent because the exhibit includes only responses that relate to burden.
 SOURCE: E-Verify Web Surveys.

2.2.2. Registration and Start-Up Process

Employers generally expressed satisfaction with the registration process, yet a substantial number still thought it was too time-consuming. As in 2008, almost all E-Verify users in the 2010 survey (92 percent) agreed or strongly agreed that the online registration process was easy to complete (Exhibit IV-4). However, a slightly larger percentage of 2010 employers reported that the registration process was too time-consuming (34 percent in 2010 compared to 30 percent in 2008).

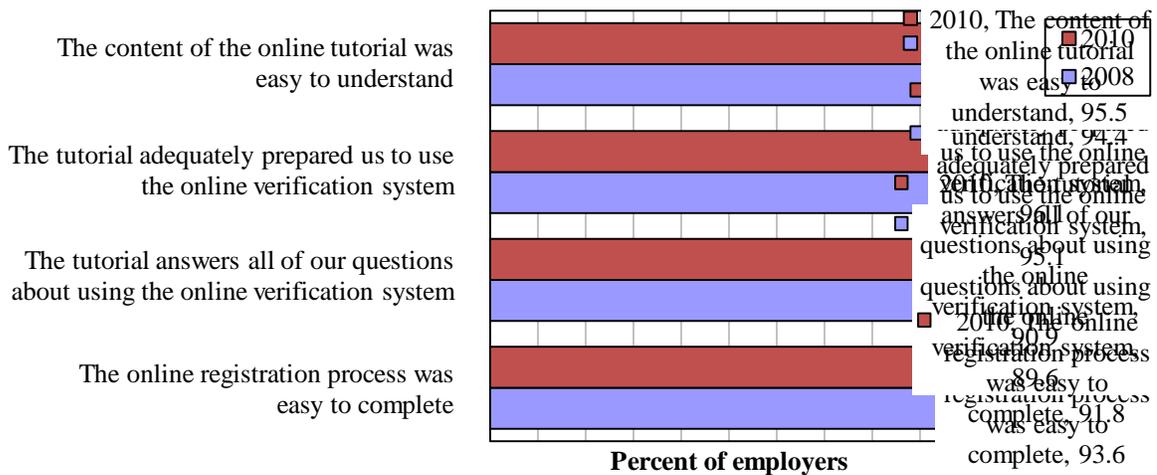
Similarly, employers continued to report high levels of satisfaction with the content of the online tutorial, yet a larger percentage perceived the tutorial as a burden in 2010 than in 2008. When asked about the online tutorial in 2010, most employers reported that it answered all of their questions about using E-Verify (91 percent), that it adequately prepared them to use E-Verify (96 percent), and that the content was easy to understand (96 percent). These all represent slight increases in satisfaction from 2008. However, 49 percent agreed that the tutorial takes too long to complete, compared to 41 percent in 2008, and 38 percent agreed that it is a burden to have to pass the mastery test before being allowed to use E-Verify, compared to 27 percent in 2008.

Some employers commented that updates to the tutorial were also burdensome, as they could cause difficulty with meeting the three-day deadline for entering new hire information. When updates are made to the tutorial, users are required to complete the new portion of the tutorial when they next log into E-Verify and are not permitted to initiate any cases for workers until the tutorial is complete. Users

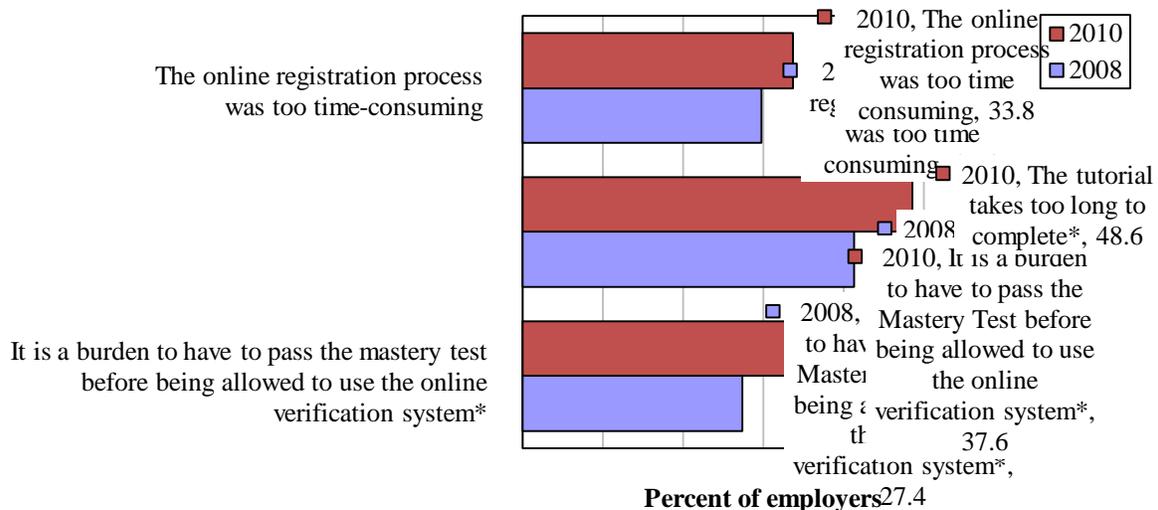
recommended that E-Verify provide advance notification, perhaps via e-mail, when new tutorial updates are required.

Exhibit IV-4. Employer Views of E-Verify Registration and Start-Up Procedures: 2008 and 2010

Percent agreeing with positive statements about E-Verify



Percent agreeing with negative statements about E-Verify



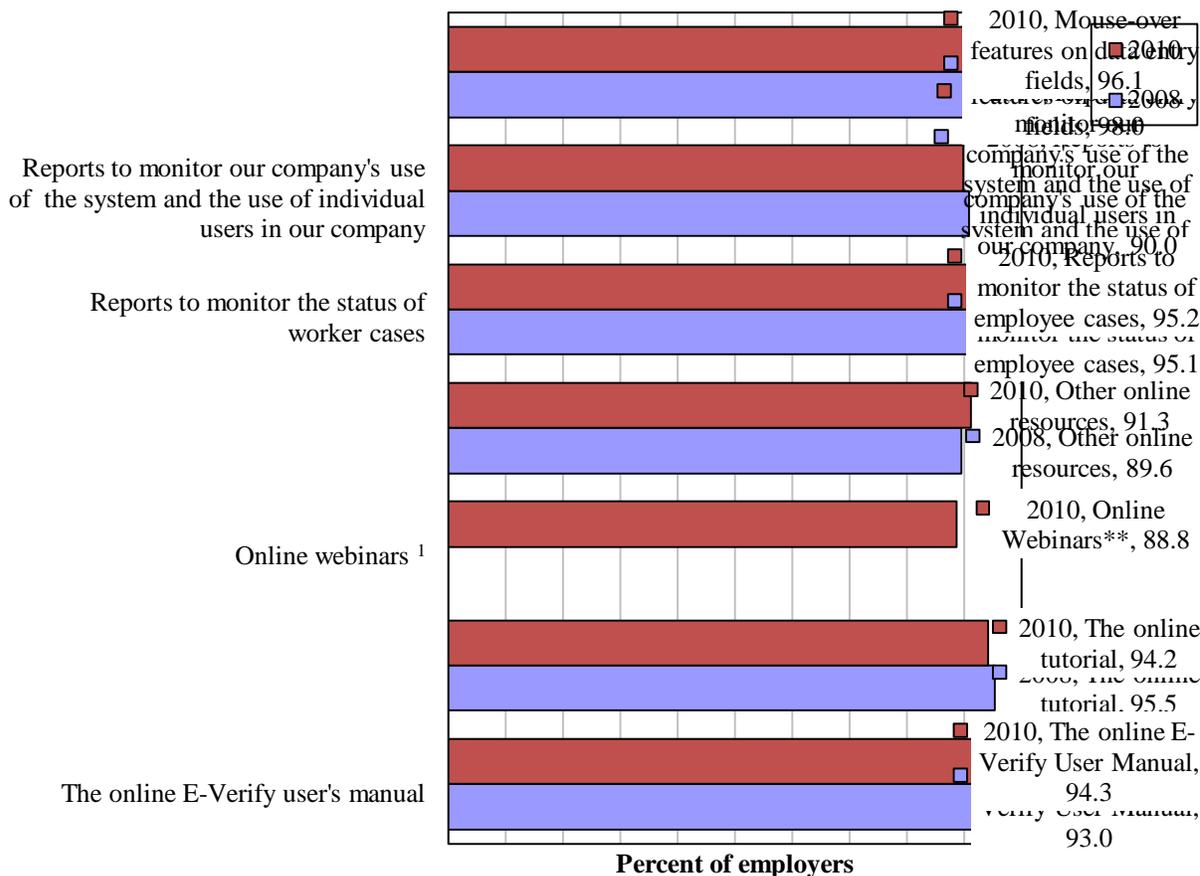
*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.
SOURCE: E-Verify Web Surveys.

2.2.3. E-Verify Program Resources

Employers continued to hold positive views of the Program resources provided to E-Verify users. There were no significant changes in employers' high levels of satisfaction with E-Verify resources;

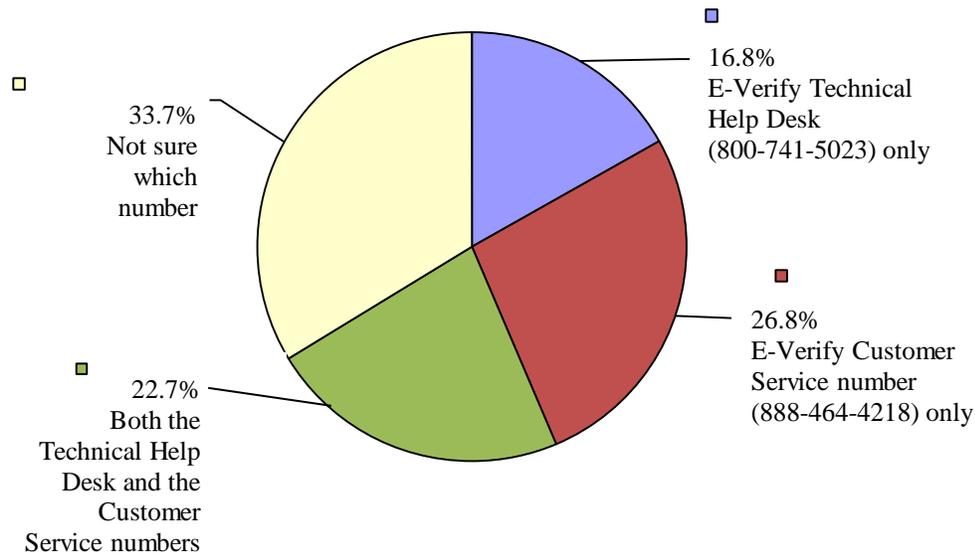
90 percent or more of all employers reported that most resources available to them were helpful or very helpful (Exhibit IV-5). Employers also continued to report that USCIS provides adequate training when introducing new program features (87 percent agree or strongly agree; not shown in exhibit).

Exhibit IV-5. Percent of E-Verify Users Reporting E-Verify Program Resources Are Helpful or Very Helpful: 2008 and 2010



¹ There was no comparable item in the 2008 survey.
SOURCE: E-Verify Web Surveys.

Most employers reported not needing to contact the E-Verify Help Desk or Customer Service at all for E-Verify assistance. More than half of employers (65 percent) reported that they had not tried to contact the E-Verify Help Desk or Customer Service because they had not had any need to do so. Only a very small number of employers (2 percent) reported that they had problems with E-Verify but did not know the number to call for help, indicating that this information is easily accessible within the E-Verify documentation and on the website. Of the 33 percent of employers that relied on technical assistance from the Help Desk or Customer Service, 17 percent contacted only the Help Desk, 27 percent contacted only the Customer Service desk, and 23 percent contacted both (Exhibit IV-6).

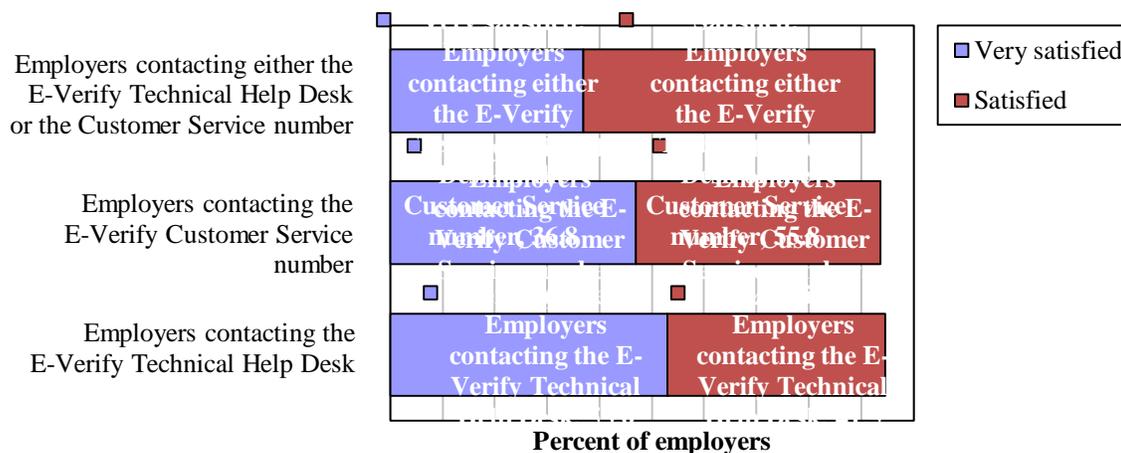
Exhibit IV-6. Services Contacted by Employers For Assistance With Using E-Verify: 2010

SOURCE: E-Verify Web Survey.

Fewer employers reported needing frequent assistance from the Help Desk or Customer Service in 2010. Of the employers responding to the 2010 survey, only 4 percent reported needing frequent assistance from the Help Desk or Customer Service, compared to 6 percent of employers that reported needing frequent technical assistance in 2008. Not surprisingly, employers with a greater percentage of TNC findings in the 12 months preceding the 2010 survey (50 percent or more transactions resulting in TNCs) were significantly more likely to report needing frequent assistance than those with fewer TNCs (32 percent compared to only 3 percent of employers with fewer than 50 percent of their transactions resulting in TNCs).

The large majority of employers that reported in 2010 that they had obtained assistance from the Help Desk and/or Customer Service were satisfied with their experiences. As shown in Exhibit IV-7, most employers that requested assistance reported satisfaction with contacting the Help Desk (95 percent), Customer Service (94 percent), or either the Help Desk or Customer Service (93 percent).

Exhibit IV-7. Percent of E-Verify Employers Reporting Their Satisfaction With Their Experience(s) With the Help Desk/Customer Service Number: 2010



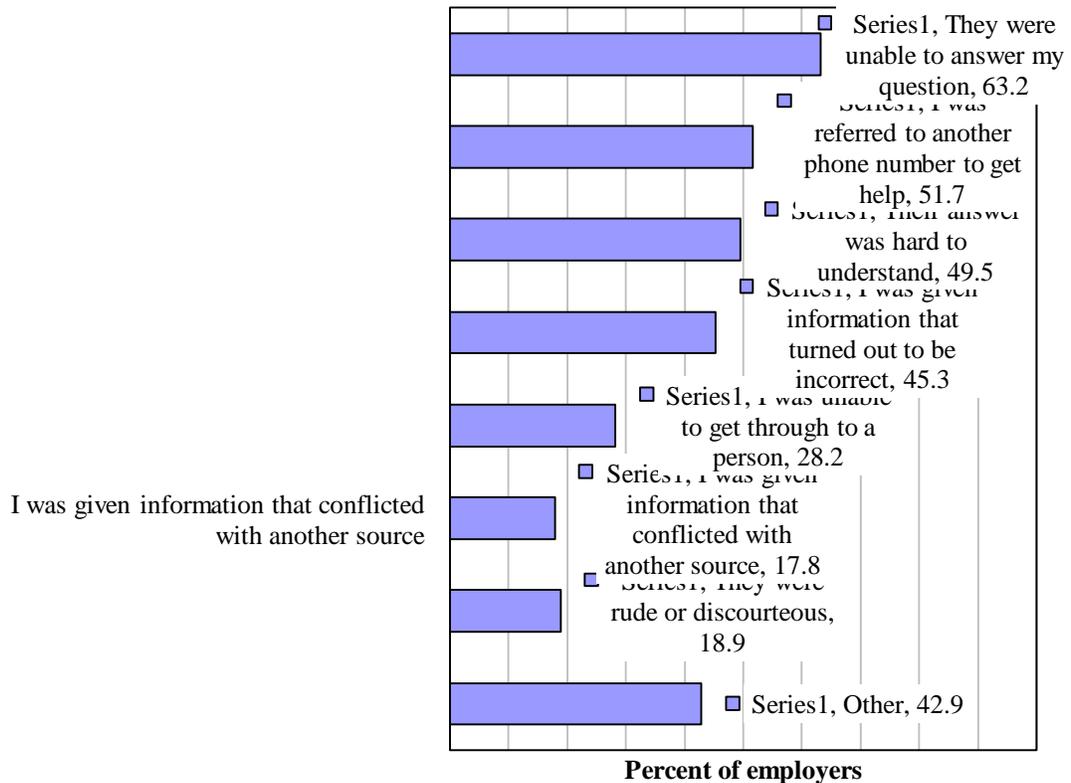
SOURCE: E-Verify Web Survey.

The few employers that were unsatisfied with their experiences with the E-Verify Help Desk or Customer Service reported a variety of problems. As shown in Exhibit IV-8, the reported problems included:

- The Help Desk/Customer Service number was unable to answer their question (63 percent of unsatisfied employers);
- They were referred to another phone number to get help (52 percent of unsatisfied employers);
- The answer they were given was hard to understand (50 percent of unsatisfied employers); or
- They were given information that turned out to be incorrect (45 percent of unsatisfied employers).

Employers that reported other reasons for their dissatisfaction specified that the people they spoke with were unable to “go off script,” or provided generic answers that did not completely address the question or provided answers that were verbatim from the E-Verify manuals and provided no additional information or help for complex questions. A few employers requested that Customer Service staff provide responses to inquiries in real time (i.e., via instant messaging) or at least within 24 hours of the initiated request.

Exhibit IV-8. Percent of Dissatisfied Employers Reporting Problems With the E-Verify Help Desk or Customer Service Number: 2010

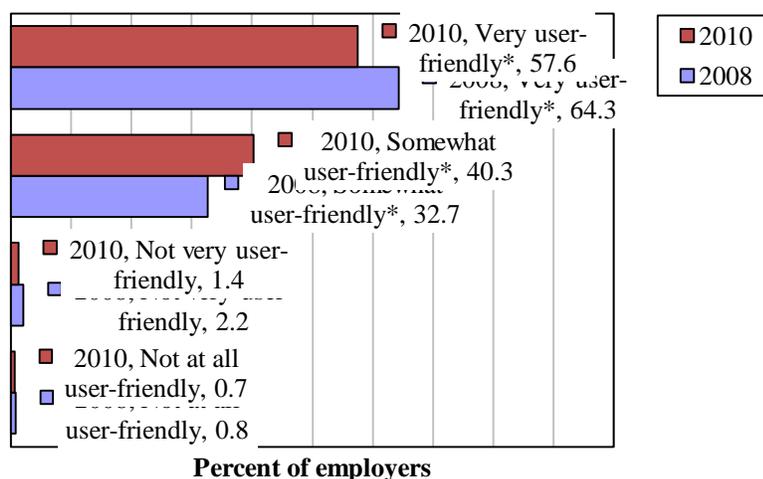


NOTE: Sum does not add to 100 because respondents could choose more than one response
 SOURCE: E-Verify Web Survey.

2.2.4. System Navigation and Data Entry

Employers continued to be satisfied with the E-Verify system’s user-friendliness of system navigation and data entry. In both 2008 and 2010, nearly all employers expressed satisfaction with the user-friendliness of the system, with 98 percent in 2010 and 97 percent in 2008 indicating that E-Verify was either somewhat or very user-friendly (Exhibit IV-9). However, employers were more likely to report E-Verify to be somewhat user-friendly rather than very user-friendly in 2010 than in 2008.

Exhibit IV-9. Employer Views of the User-Friendliness of E-Verify System Navigation and Data Entry



*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.
 SOURCE: E-Verify Web Surveys.

Fewer employers reported in 2010 that it was easy to make errors when entering worker information. Employers responding to the survey in 2010 were significantly less likely to report that it was easy to make errors when entering worker information into E-Verify (17 percent in 2010 compared to 28 percent in 2008).

Some employers experienced difficulty with entering certain types of worker names. Approximately 40 percent of employers agreed that they are sometimes unsure about how to enter certain types of names in E-Verify, including single names, compound or hyphenated last names, or very long names. Employers commented that confusion over workers having multiple first and/or last names is further complicated when there are discrepancies between the names listed on documents from SSA and the Department of Homeland Security (DHS). A few employers commented that name confusion can easily trigger TNCs, causing time-consuming work for both the employer and the worker. This finding implies that employers need more instruction and/or guidance from USCIS on how to correctly enter different name types.⁴²

2.2.5. System Availability

Employers expressed greater satisfaction with system availability in 2010 than in 2008. Employers were significantly less likely to report they have had problems with E-Verify system availability; only 8 percent of employers reported availability problems in 2010 compared to 17 percent in 2008. In 2010, only 5 percent of employers reported that E-Verify was not always available because the Federal system was “down,” and only 5 percent reported that E-Verify was not always available because the employer’s own Internet system is unreliable.

⁴²See the report *Evaluation of the Accuracy of E-Verify Findings*, June 2011.

Employers in 2010 also experienced fewer problems with system timeouts requiring data reentry. Significantly fewer employers (15 percent) reported that system timeouts required them to reenter data previously entered into the E-Verify system (compared to 27 percent in 2008).

2.2.6. The Program's Compatibility With Hiring Practices

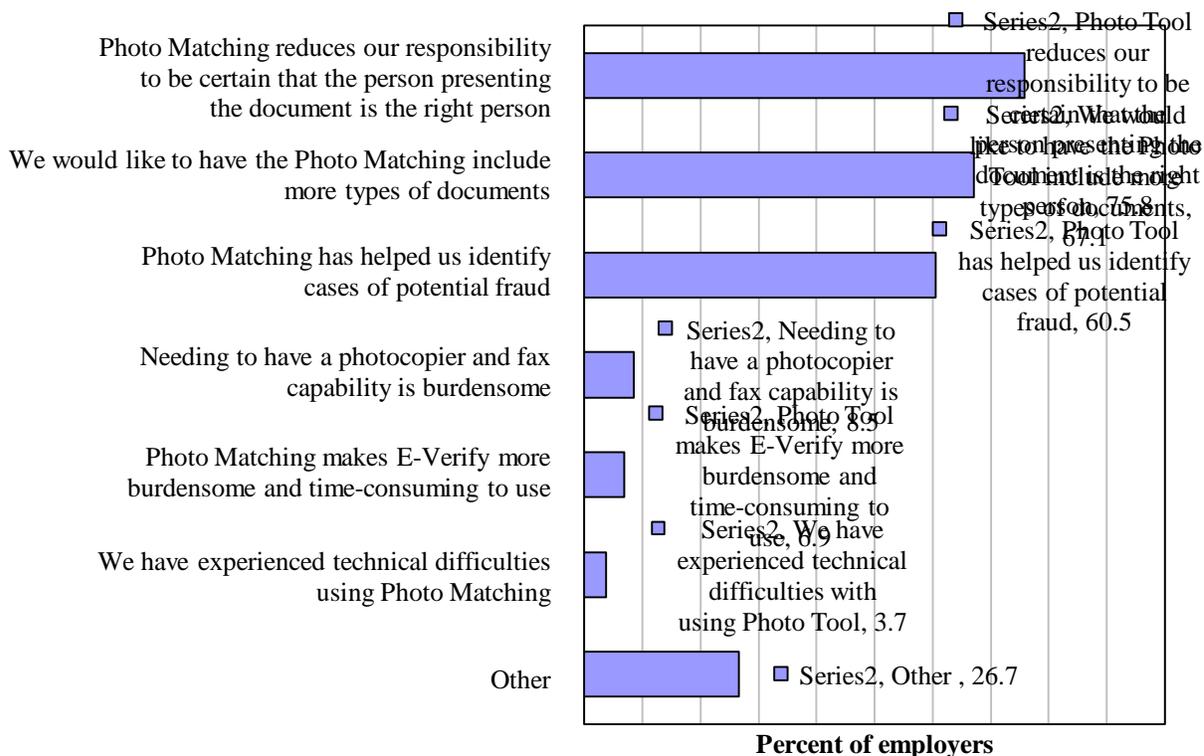
Most employers found the three-day deadline for entering worker information into E-Verify to be a reasonable timeframe, although a fifth of employers found it difficult. In 2010, 19 percent of employers agreed that the number of hires was so great that it was impossible to submit the information required by the specified deadline (81 percent disagreed with this statement). Similarly, 20 percent of employers reported agreement with this statement in 2008. Employers with only one or two staff members dedicated to E-Verify expressed difficulty meeting the three-day deadline due to staff sick time or vacations. Other employers reported difficulty meeting the three-day deadline due to peak hiring seasons, such as in university settings, or due to seasonal hiring. However, only 12 percent of employers experienced difficulty using the Program for verifying the work authorization of seasonal workers.

2.2.7. Photo Matching

Employers expressed satisfaction with Photo Matching. Exhibit IV-10 shows that about three-quarters of employers (76 percent) reported Photo Matching reduced their responsibility to be certain that the person presenting the document is the right person.⁴³ Many employers agreed that Photo Matching helped them identify cases of potential fraud (61 percent) and also reported that they would like Photo Matching to include more types of documents (67 percent). This finding indicates that employers will welcome USCIS' expansion of Photo Matching to include U.S. passports and passport cards. Several employers also recommended the addition of state driver's licenses and ID cards, Employment Authorization Documents, and Permanent Resident cards to Photo Matching.

⁴³The purpose of Photo Matching is to ensure that the document presented is not fraudulent by matching the photo in the document to the photo in the system. The employer is still responsible for making sure that the person presenting the document is the right person.

Exhibit IV-10. Percent of E-Verify Employers Agreeing With Statements About Photo Matching: 2010



SOURCE: E-Verify Web Survey.

2.2.8. E-Verify’s Effectiveness in Identifying Unauthorized Workers

Employers responding to the 2010 survey were more likely to report that E-Verify is accurate in identifying workers who are not employment authorized than were 2008 employers; more employers reported instances of workers leaving the company in response to TNC findings. The percentage of employers reporting that workers never return to work when a TNC is received increased from 6 percent in 2008 to 12 percent in 2010. The percentage of employers that reported that workers always decide to quit rather than contest the TNC finding also increased, from 5 percent in 2008 to 14 percent in 2010. Similarly, the percentage of employers reporting that workers always quit before the employers have a chance to tell them about the TNC finding increased slightly, from 1 to 2 percent.

Although still high, the percentage of employers reporting that their workers tell them they plan to contest is lower than the percentage reporting in 2008. Although the majority of employers reported that workers tell them at least sometimes that they plan to contest, the percentage dropped from 88 percent in 2008 to 82 percent in 2010.

More than a quarter of employers reported that the number of unauthorized workers who applied for jobs decreased as a result of using E-Verify. Twenty-eight percent of employers reported that fewer unauthorized persons applied for work. A small minority of employers reported that using E-Verify decreased the number of employment-authorized workers who applied for jobs (7 percent) or made qualified workers difficult to recruit (7 percent).

Very few employers participating in E-Verify agreed that it made them less competitive. When asked about their perceptions of E-Verify's impact on their company's competitiveness, 25 percent of employers agreed that E-Verify created a competitive advantage; only 3 percent of employers agreed that E-Verify caused the company to be less competitive.

2.3. Potential Causes of Change in Satisfaction Between 2008 and 2010

2.3.1. Change in Satisfaction With E-Verify Program Resources

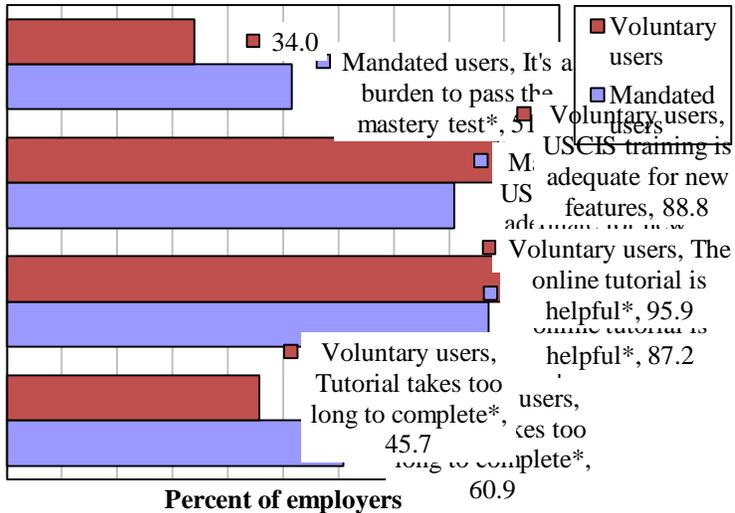
Improvements in the ways in which employers are trained about E-Verify processes and procedures appear to have had a slightly positive impact on employers' satisfaction. In 2009, USCIS began providing online webinars to interested employers. The webinars highlight key features, including how to enroll and run a case through E-Verify, and address employer responsibilities for proper use of the system. In fiscal year 2009, USCIS conducted 140 webinars with approximately 2,825 employers. In 2010, USCIS also made a significant effort to streamline the online tutorial using more conversational language and produced new training vehicles, including online videos and additional webinars. The evaluation team hypothesized that these improvements in training materials would translate to increased employer satisfaction with the online tutorial and other Program resources. Survey results supported this expectation.

- **Although the percentages of employers reporting satisfaction with the online tutorial were already very high in 2008, there were slight increases in 2010** in the percentages of employers reporting satisfaction, suggesting the following:
 - **The tutorial answers more questions.** The percentage of employers reporting that the tutorial answered all of their questions about using E-Verify increased from 90 percent in 2008 to 91 percent in 2010.
 - **The tutorial better prepares employers to use the system.** The percentage of employers reporting that the tutorial adequately prepared them to use E-Verify increased from 95 percent in 2008 to 96 percent in 2010.
 - **The tutorial is easier to understand.** The percentage of employers reporting that the content of the tutorial was easy to understand increased from 94 percent in 2008 to 96 percent in 2010.
- **Another indication of the positive impact of improvements in training on user satisfaction is the drop in assistance required from the E-Verify Help Desk and Customer Service numbers.** Only 4 percent of employers reported requiring assistance from these services in 2010, a statistically significant drop from the 6 percent of employers requiring assistance in 2008. Presumably, employers encountered fewer problems during verification due to the better training provided in the revised online tutorial and new online videos and webinars, as well as improved system navigation.
- **Improvements to the online E-Verify user's manual and other online resources between 2008 and 2010 may have also resulted in slight increases in employer satisfaction.** Slight, but not statistically significant, increases in the percentage of employers that found the online E-Verify user manual to be helpful increased from 93 percent to 94 percent. The percentage of employers that found "other online resources" helpful increased from 90 percent to 91 percent.

Decreases in employer satisfaction with E-Verify resources can be partially linked to the increase in E-Verify users participating due to Federal or state/local mandates. The evaluation team hypothesized that employers participating in E-Verify due solely to a Federal or state/local mandate would report lower satisfaction with E-Verify because of their obligation to participate. The survey results showed that this was indeed the case; mandated users reported lower levels of satisfaction with several elements of E-Verify.

- **Mandated users found E-Verify training materials more burdensome and less helpful than voluntary users.**⁴⁴ Employers that reported a mandate as the only reason for their participation in E-Verify were significantly more likely to report that the tutorial takes too long to complete (61 percent) and that it is a burden to pass the mastery test before being allowed to use E-Verify (52 percent) (Exhibit IV-11). Voluntary users were also more likely to agree with these statements in 2010 than in 2008, although not to the same extent as mandated users. In addition, mandated employers were also significantly less likely to agree that the online tutorial was helpful (87 percent) and significantly less likely to agree that USCIS provided adequate training for new features (81 percent).

Exhibit IV-11. Percent of E-Verify Users Agreeing With Statements About E-Verify Training: Mandated and Voluntary Users



*Statistically significant difference between mandated and voluntary users at p < 0.05.
SOURCE: E-Verify Web Survey: 2010.

2.3.2. Change in Satisfaction With E-Verify User-Friendliness

Improvements in system navigation contributed to continued high satisfaction with navigation and increased satisfaction with data entry. Usability Release 3.0 focused on making E-Verify more user-friendly and enabling easy and intuitive navigation. These improvements helped maintain already high

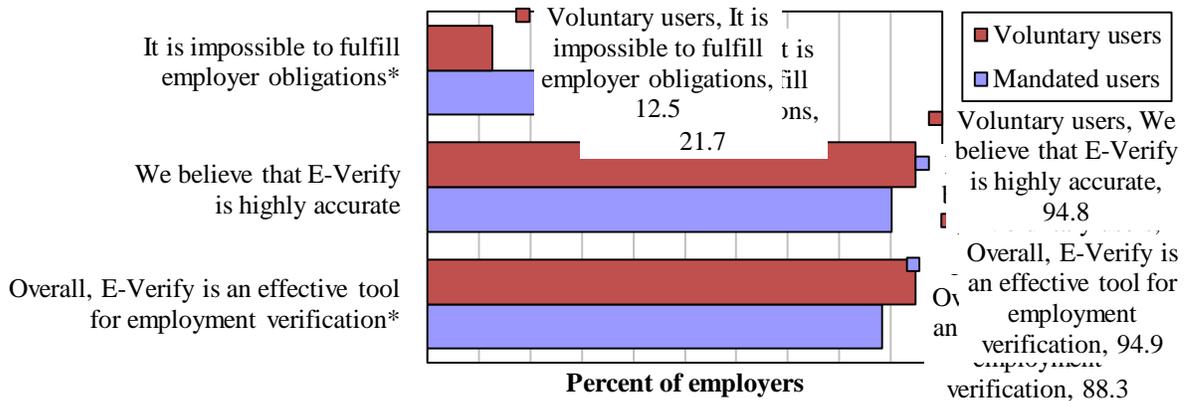
⁴⁴The designation of employers as either mandated or voluntary is based on their self-reported motivations for participating in E-Verify. Mandated employers refers to employers reporting that a Federal and/or state/local mandate is the *only* reason they are participating in E-Verify. Voluntary employers refers to employers reporting other reasons for participation, including some employers that may be required to participate under a Federal and/or state mandate.

levels of satisfaction with system user-friendliness; employers reporting being satisfied with system navigation increased from 97 percent to 98 percent between 2008 and 2010. Usability Release 3.0 also streamlined the data entry process by reorganizing the layout of the screen where the user enters worker information and making use of drop-down menus for entering dates. As a result, employers were less likely to report that it was easy to make errors when entering worker information (17 percent of employers reported it was easy to make errors in 2010 compared to 28 percent in 2008). Although most employers expressed satisfaction with system navigation, some employers commented that the new data entry process was more cumbersome and time-consuming than before. Employers suggested reverting to numeric entry for dates and felt that the additional screens to navigate through were too time-consuming.

2.3.3. Change in Overall Program Satisfaction

If the percentage of employers mandated to use E-Verify in 2010 had not increased between 2008 and 2010, it is likely that greater increases in employer satisfaction would have occurred. As shown in Exhibit IV-12, mandated users reported lower levels of satisfaction than voluntary users. For example, mandated users were significantly more likely to agree that it is impossible to fulfill employer obligations associated with the E-Verify process (22 percent of mandated users as compared to 13 percent of voluntary users). As discussed in Chapter III, Section 2.4.1, more than half of employers surveyed in 2010 (59 percent) reported they were mandated to use E-Verify, and only 16 percent of employers surveyed in 2008 reported that a mandate was their primary reason for participating in E-Verify.⁴⁵ Therefore, it is reasonable to assume that the percentage of all employers agreeing with the statement “It is impossible to fulfill employer obligations” would have been lower than the observed 14 percent of users had the percentage of employers mandated to use E-Verify been lower.⁴⁶

Exhibit IV-12. Percent of E-Verify Users Agreeing With Statements About the Overall Functioning of E-Verify: Mandated and Voluntary Users



*Statistically significant difference between mandated and voluntary users at p < 0.05.
 SOURCE: E-Verify Web Survey: 2010.

⁴⁵The 2008 user survey did not ask respondents if they were mandated to use E-Verify as did the 2010 survey. The 2008 survey asked employers to report the main reason the establishment agreed to participate in E-Verify; response options included “Federal government required participation” and “state or local government required participation.” However, if a mandate was the employer’s primary reason for participating in E-Verify, it was not recorded that the employer was mandated to participate.

⁴⁶As reported in Chapter IV, Section 2.2.1, 86 percent of all respondents to the 2010 user survey disagreed with the statement that it is impossible to fulfill all company obligations required by the E-Verify verification process.

The distribution of employer characteristics among mandated users did not explain their lower level of satisfaction with E-Verify. To the extent that mandated users have different employer characteristics than general users, their substantial presence in the 2010 user population could either artificially create or obscure changes over time. As reported in Chapter III, mandated users were more likely to report that 5 percent or fewer of their workers were immigrants, less likely to have experienced TNCs, and more likely to have hired 10 or fewer workers in the last 12 months. However, for the most part, these three employer characteristics were not associated with overall lower satisfaction.

- Employers with no TNCs in the past 12 months were slightly less likely than employers with TNCs to agree that E-Verify is an effective tool (93 percent compared to 95 percent), yet employers with no TNCs were more likely to agree that E-Verify is accurate (95 percent compared to 84 percent). There was no difference in employers' perceptions of the impossibility of fulfilling employer obligations based on the percentage of transactions resulting in TNCs.
- Employers with 15 or fewer new hires in the last 12 months were less likely than employers with larger numbers of new hires to agree that E-Verify is an effective tool for verification (92 percent compared to 95 percent). However, there was no difference in employers' perceptions of accuracy or the impossibility of fulfilling employer obligations based on number of new hires.
- Employers with 5 percent or fewer foreign-born workers were *more* likely than other employers to agree that E-Verify is accurate and an effective tool for employment authorization. These employers were also *less* likely to agree that it is impossible to fulfill employer obligations. (See Section 2.4, Variation in Satisfaction by Employer Type, for additional discussion.)

In summary, the fact that mandated employers had fewer new hires and fewer TNCs than voluntary users could have made them slightly less likely to agree with the statement that E-Verify is an effective tool. However, the overall distribution of employer characteristics among mandated users did not appear to influence their reporting of lower levels of satisfaction with E-Verify.

2.4. Variation in Satisfaction by Employer Type

2.4.1. Industry

Employers shared a similar degree of satisfaction regardless of industry type. The evaluation team hypothesized that employers in industries with high percentages of undocumented workers would report a different level of satisfaction than other employers. Evaluation staff thought that employers would either be highly satisfied with E-Verify, finding it to be highly accurate and effective in identifying the undocumented workforce, or be skeptical of E-Verify findings and unsatisfied with the Program, questioning its accuracy and effectiveness. However, the analysis found no significant differences in satisfaction between employers in industries with high percentages of undocumented workers and other industries. Similarly, the analysis found no significant differences in satisfaction between temporary/employment agencies and other industries.

2.4.2. Size

Large employers were less likely to report that it is impossible to fulfill E-Verify obligations than small employers. Large employers with more than 150 workers were less likely to report that it was impossible to fulfill obligations compared to small (up to 25 workers) and medium (26–150 workers) employers (8 percent of large employers compared to 16 and 17 percent of small and medium employers,

respectively). Large employers might find it easier to comply with E-Verify obligations because they have more resources and staff to accommodate E-Verify use.

Large employers were more likely to report that E-Verify is an effective tool for employment verification than small employers. Large employers with more than 150 workers (97 percent) were more likely to perceive E-Verify to be effective than small employers (92 percent), presumably because the system is especially useful in streamlining the verification process for employers with many workers. By contrast, small employers might find E-Verify to be less effective if they do not have dedicated human resources or other staff to devote to E-Verify, or if they have fewer new hires.

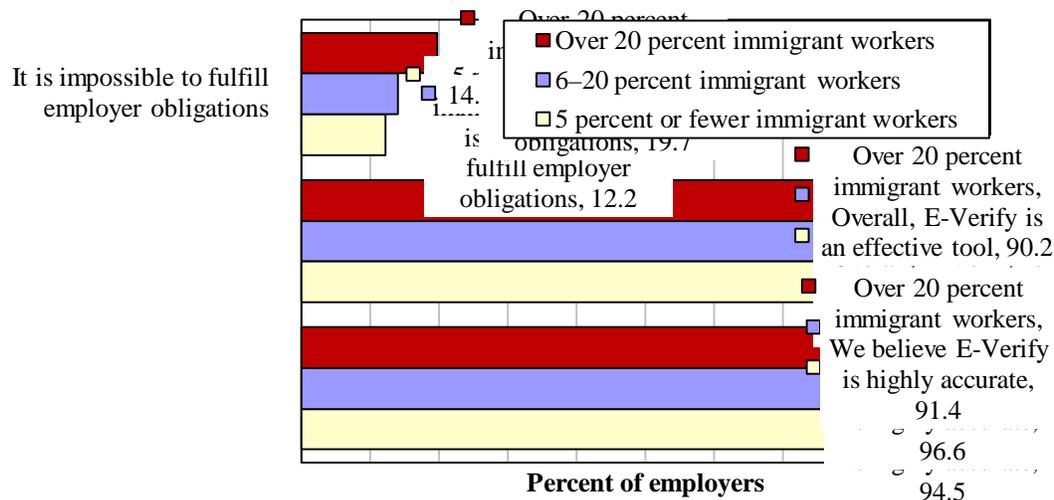
2.4.3. Employers With Large Percentages of Foreign-Born Workers

Employers with large percentages of foreign-born workers were less satisfied with E-Verify than other employers. Overall, employer satisfaction with E-Verify was very high. However, employers reporting 20 percent or more of their workers are immigrants reported lower levels of satisfaction with E-Verify than employers with lower percentages of immigrant workers (Exhibit IV-13).

Employers that reported they had 20 percent or more immigrant workers were:

- **More likely to report that it is impossible to fulfill E-Verify obligations.** Approximately 20 percent of employers with 20 percent or more immigrant workers agreed with the statement that it is impossible to fulfill E-Verify obligations, compared to 12 percent of employers with 5 percent or fewer immigrants and 14 percent of employers with 6 to 20 percent immigrants.
- **Less likely to report that E-Verify is an effective tool.** Approximately 90 percent of employers with 20 percent or more immigrant workers agreed with the statement that E-Verify is an effective tool, compared to 94 percent of employers with 5 percent or fewer immigrants and 97 percent of employers with 6 to 20 percent immigrants.
- **Less likely to report that E-Verify is highly accurate.** Approximately 91 percent of employers with 20 percent or more immigrant workers agreed that E-Verify is highly accurate, compared to 95 percent of employers with 5 percent or fewer immigrants and 97 percent of employers with 6 to 20 percent immigrants.

Exhibit IV-13. Percent of E-Verify Users Agreeing With Statements About the Overall Functioning of E-Verify, by Percent Immigrant Workers: 2010



SOURCE: E-Verify Web Survey.

Lower satisfaction among employers with high percentages of foreign-born workers might be expected because of the additional data entry required for noncitizen workers, the additional use of Photo Matching for noncitizen cases, and the increased likelihood that noncitizen cases will result in TNC findings. Therefore, it is important for USCIS to strengthen their formal relationships with employers with high percentages of foreign-born workers to learn how they can continue to address their needs and concerns.

2.5. Employer Recommendations

Employers were asked for their opinions about possible changes to E-Verify, including whether it should be used for job applicants or existing employees or be made mandatory for all employers. Employers were also asked questions about more technical changes that might make the Program work better. Finally, they were encouraged to provide their own recommendations for improving E-Verify.

Many employers would like to use E-Verify for job applicants and existing employees. Most employers supported the recommendation for E-Verify to allow prescreening of job applicants; however, the percentage of employers supporting this change is lower than in 2008 (73 percent compared to 80 percent). Similarly, most employers supported the recommendation for E-Verify to allow using the system for existing employees (i.e., workers hired by the company prior to when the company started using E-Verify), but the percentage supporting this change is lower than in 2008 (73 percent compared to 77 percent).

Most employers also supported requiring all companies in the United States to use E-Verify. When asked for their opinion about requiring all companies in the United States to use E-Verify, 82 percent supported this change. This percentage is lower than the 87 percent of employers that supported this change in 2008. Not surprisingly, employers that reported a mandate as their *only* reason for participating in E-Verify in 2010 were less likely to recommend requiring all companies to use E-Verify (65 percent) than those with a mandate being one among other reasons (89 percent) or a mandate not being a reason at all (80 percent).

There was limited interest in adding to E-Verify the ability to verify fingerprints. Slightly more than one-third of employers surveyed in 2010 (35 percent) supported the recommendation for E-Verify to incorporate the ability to take and verify fingerprints.

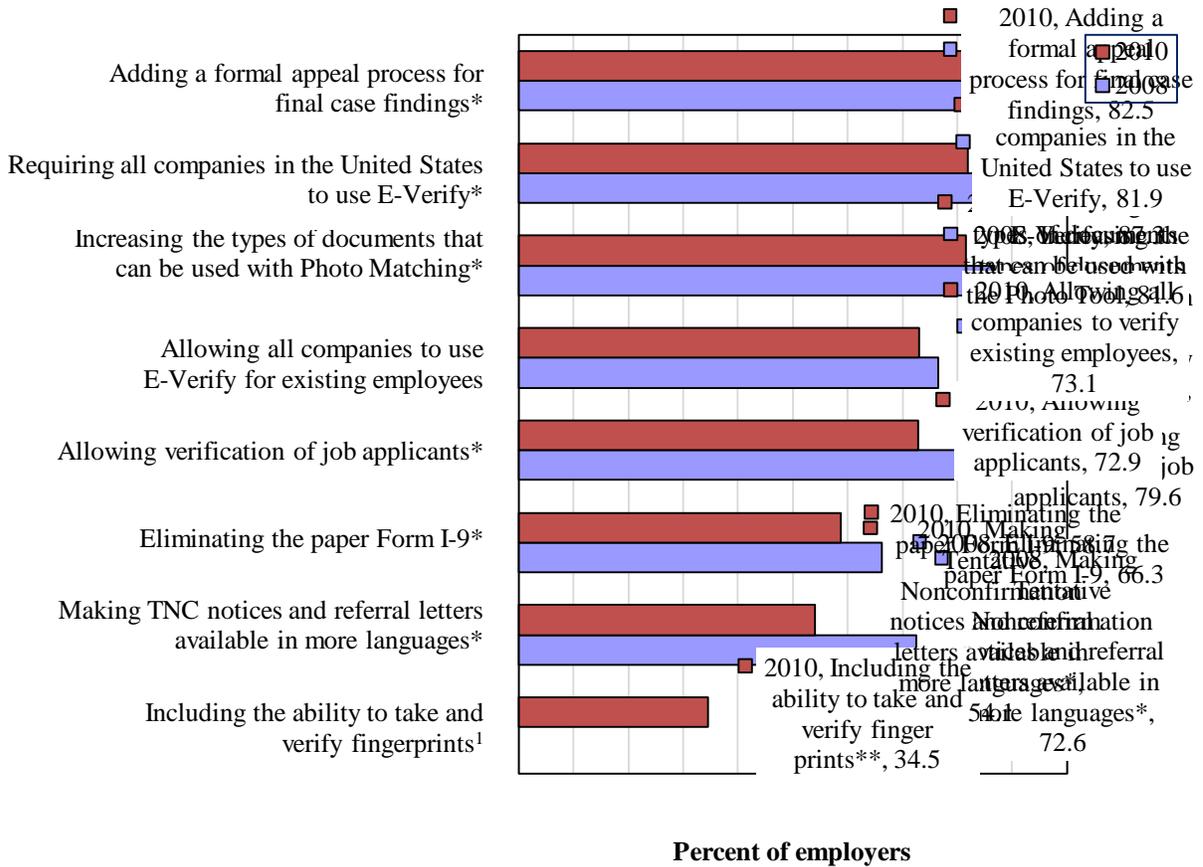
Employers also recommended several other potential changes to E-Verify. As shown in Exhibit IV-14, many employers recommended:

- Adding a formal appeal process that employers or their workers could use if they disagreed with the final case finding (83 percent in 2010 compared to 89 percent in 2008);
- Increasing the types of documents that can be used with Photo Matching (82 percent in 2010 compared to 87 percent in 2008); and
- Eliminating the paper Form I-9 (59 percent in 2010 compared to 66 percent in 2008).

Employers were significantly less likely to support the recommendation for making TNC notices and referral letters available in more languages (54 percent in 2010 compared to 73 percent in 2008). This change most likely reflects USCIS' effort in summer 2010 to make TNC notices and referral letters available in seven new languages (i.e., Creole, French, Vietnamese, Chinese, Korean, Russian, and Tagalog).

When asked for their own recommendations to improve E-Verify, several employers recommended extending the three-day timeframe for initiating worker cases in E-Verify and simplifying the requirements on user passwords.

Exhibit IV-14. Percent of E-Verify Users Agreeing With Recommendations For Changes to E-Verify: 2010 and 2008



*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.
¹There was not a comparable question asked in the 2008 survey.
 SOURCE: E-Verify Web Surveys.

CHAPTER V. COST

1. BACKGROUND

This chapter examines the financial and nonfinancial implications for employers participating in E-Verify. It compares survey responses from the 2010 and 2008 E-Verify user surveys and presents plausible causes of change. Between 2008 and 2010, no programmatic changes to E-Verify were made that directly affect the cost of E-Verify setup or maintenance. However, legislative and regulatory mandates at the Federal and state and local levels required more employers to use E-Verify. This chapter discusses cost variation by employer characteristics, including employer industry, size, and mandate status.

2. FINDINGS

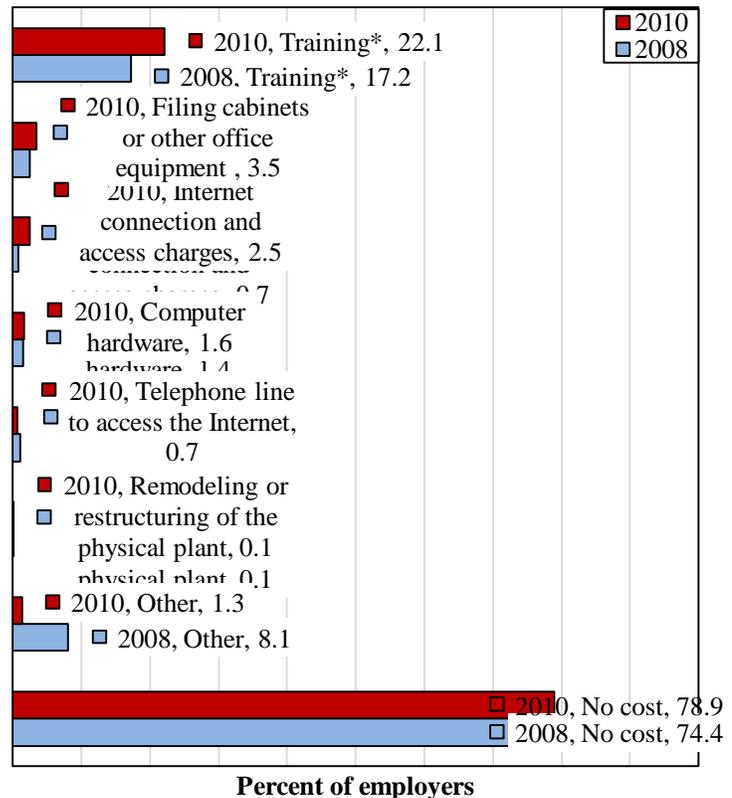
2.1. Direct Costs for Setting Up E-Verify

The majority of employers continue to report no direct costs in setting up E-Verify. Of the employers that responded to the 2010 survey, 79 percent reported no direct setup costs (Exhibit V-1).⁴⁷ This percentage is only slightly higher than in 2008, when 74 percent of employers reported no direct costs in setting up E-Verify.

The most frequently reported setup cost was for training employer staff to use E-Verify. There was a significant increase in the percentage of employers reporting training costs, from 17 percent in 2008 to 22 percent in 2010. The remaining costs reported by employers all fall below 5 percent and show little change between 2008 and 2010.

⁴⁷For the 2010 survey, users were asked to estimate costs and users who provided no cost estimates were placed in the no direct cost category. In the 2008 survey, users were asked if they had no direct costs. The questions are not directly comparable; however, in both cases users reported having no costs.

Exhibit V-1. Percent of Employers With Direct Costs Incurred in Setting Up the E-Verify Program



*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.

NOTE: Sum does not add to 100 percent because respondents could choose more than one response.

SOURCE: E-Verify Web Survey: 2008 and 2010.

Employer cost to set up E-Verify has remained fairly stable. The median cost among employers reporting costs to set up E-Verify was \$100 in both 2010 and 2008 (Exhibit V-2).⁴⁸ However, some employers spent considerably more in both years to set up E-Verify; the 10 percent of employers falling into the 90th percentile of those responding to this item on the 2010 survey reported spending \$1,000 or more to set up E-Verify. In 2008, the 10 percent of employers falling into the 90th percentile of employers responding to this item reported \$700 or more in setup costs.

⁴⁸Numbers are not adjusted for inflation given the relatively low costs reported and the short time period between 2008 and 2010. For example, \$100 in 2010 is worth \$99 in 2008. The median cost reported in 2010 for 2008 employers may vary from the number reported in the 2008 report due to differences in the data editing procedures. Because of the high costs reported by a small number of employers, the median (rather than the mean) costs have been used for both the 2008 and 2010 surveys.

Exhibit V-2. Estimates of the Total Direct Expenditures For Setting Up the E-Verify Program

Response	Percent reporting cost		Cost					
	2008	2010	10th percentile		Median		90th percentile	
			2008	2010	2008	2010	2008	2010
All costs	25.7	21.1	\$50	\$30	\$100	\$100	\$700	\$1,000
Training	17.2	22.1	40	32	100	100	500	670
Computer hardware	1.4	1.6	100	100	500	1,000	3,000	1,800
Telephone line to access the Internet	1.1	0.7	30	2	30	25	800	200
Internet connection and access charges	0.7	2.5	50	10	200	50	1,000	350
Filing cabinets or other office equipment	2.4	3.5	80	25	200	150	500	500
Remodeling or restructuring of the physical plant	0.1	0.1	2,000	500	2,000	500	9,999	500
Other	8.1	1.3	20	30	100	100	1,000	5,000

SOURCE: E-Verify Web Survey: 2008 and 2010.

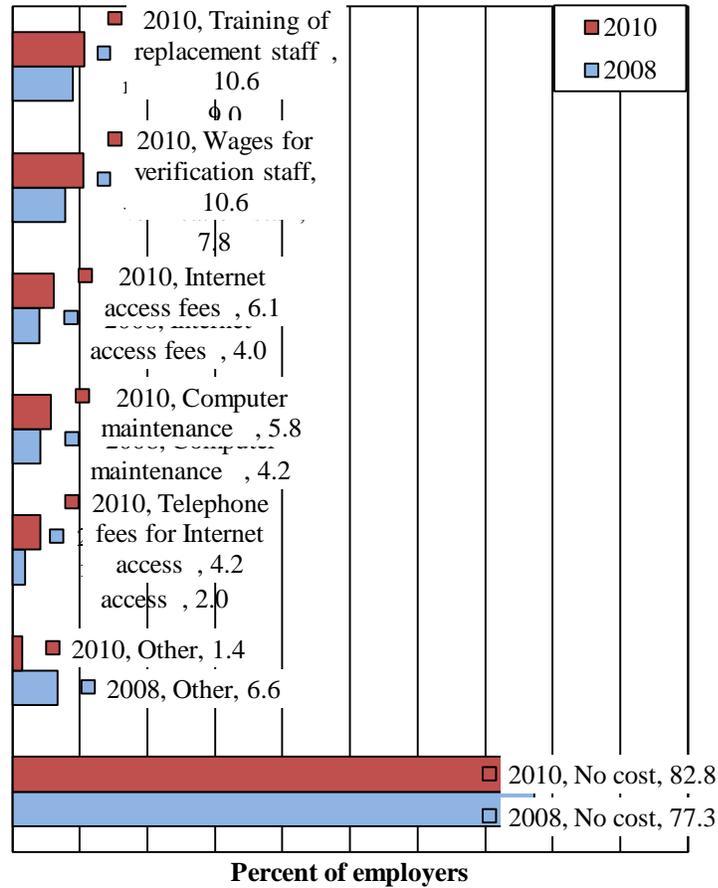
The majority of inactive users reported no direct costs in setting up E-Verify. Approximately 4 percent of employers reported on the 2010 survey that they had used E-Verify previously but no longer used it. Of these inactive users, 78 percent reported no direct setup costs, which is similar to the 79 percent of all E-Verify users that reported no direct setup costs in 2008. Inactive users that did report setup costs reported a median cost of \$150 to set up E-Verify, which is only slightly more than the median cost reported by all E-Verify users (\$100).

2.2. Direct Costs for Maintaining E-Verify

The majority of employers continue to report no direct annual costs to maintain E-Verify. Eighty-three percent of 2010 E-Verify users reported no direct annual maintenance costs (Exhibit V-3). Although the percentage of employers that reported no direct annual maintenance costs decreased by 5 percent between 2008 and 2010, this change was not statistically significant.

The most frequently reported direct annual costs were training of replacement staff and wages for the employer’s verification staff. Of the employers that responded to the 2010 survey, 11 percent reported costs for training of replacement staff, and the same percentage reported costs for verification staff wages. A few employers also reported internet access fees (6 percent), computer maintenance costs (6 percent), and telephone fees for internet access (4 percent). There were no significant changes between 2010 and 2008 in the costs reported by employers.

Exhibit V-3. Percent of Employers With Annual Costs Incurred in Maintaining the E-Verify Program



NOTE: Sum does not add to 100 percent because respondents could choose more than one response.
 SOURCE: E-Verify Web Survey: 2008 and 2010.

Employers that reported direct maintenance costs spent a median of \$200 annually to maintain E-Verify, which is much lower than the median direct maintenance cost of \$350 reported in 2008 (Exhibit V-4).⁴⁹ However, the annual maintenance cost is considerably higher for some employers. The total annual maintenance cost for 10 percent of employers in 2010 was \$3,860 or more, while the total annual maintenance cost for 10 percent of employers in 2008 was \$4,500 or more.

⁴⁹Numbers are not adjusted for inflation given the relatively low costs reported and the short time period between 2008 and 2010. For example, \$100 in 2010 is worth \$99 in 2008. The median cost reported in 2010 for 2008 employers may vary from the number reported in the 2008 report due to differences in the data editing procedures. Because of the high costs reported by a small number of employers, the median (rather than the mean) costs have been used for both the 2008 and 2010 surveys.

Exhibit V-4. Estimates of the Total Direct Expenditures For Maintaining the E-Verify Program

Response	Percent reporting cost		Cost					
	2008	2010	10th percentile		Median		90th percentile	
			2008	2010	2008	2010	2008	2010
All costs	22.7	17.2	\$50	\$39	\$350	\$200	\$4,500	\$3,860
Computer maintenance	4.2	7.1	50	50	200	200	1,100	950
Telephone fees for internet access	2.0	5.1	25	38	150	300	1,500	960
Internet access fees	4.0	7.3	25	45	350	456	1,200	1,200
Training of replacement staff	9.0	10.6	50	50	150	150	1,000	1,000
Wages for verification staff	7.8	10.5	120	25	500	200	5,000	5,000
Other	6.6	1.6	10	0	400	100	5,000	5,000

SOURCE: E-Verify Web Survey: 2008 and 2010.

2.3. Indirect Costs

A minority of employers in 2010 continue to report indirect costs for setting up and maintaining E-Verify. Employers are often able to measure the direct cost of E-Verify setup and maintenance. However, measuring the indirect costs of E-Verify, which cannot be as easily measured in dollars, may create a burden for employers. The indirect costs of E-Verify that employers may experience include the reassignment of workers, additional recruitment, and delayed production.⁵⁰ When asked about indirect setup costs, 28 percent of employers surveyed in 2010 reported that these costs were a slight, moderate, or extreme burden. For indirect maintenance costs, 19 percent of the 2010 employers reported a slight, moderate, or extreme burden. The percentages for 2008 employers were similar, with 25 percent of employers reporting a slight, moderate, or extreme burden for indirect setup costs and 17 percent reporting a slight, moderate, or extreme burden for indirect maintenance costs.

Inactive users perceived indirect setup costs to be more burdensome than did active users.

Approximately one-quarter of inactive users (28 percent) in 2010 reported that indirect setup costs were a slight burden, while 15 percent reported these costs were a moderate burden. Additionally, about half (56 percent) of inactive users reported that there was no burden connected with indirect setup costs compared with 72 percent of users overall.

2.4. Legislative Mandates as a Potential Source of Change in Costs Between 2008 and 2010

The increase in mandated employers among E-Verify users did not result in any changes in direct costs. The evaluation team hypothesized that higher percentages of mandated employers participating in E-Verify in 2010 would lead to increases in cost, because of the possibility that some employers had previously not enrolled in E-Verify due to perceived prohibitively high costs for setting up and maintaining E-Verify.⁵¹ However, an examination of direct setup and maintenance costs revealed only one significant difference between costs reported in 2008 and 2010: the percentage of employers reporting setup training costs increased from 17 percent in 2008 to 22 percent in 2010. Mandated users were only slightly more likely to report training costs than voluntary users (25 percent of mandated users

⁵⁰Delayed production occurs when employers have to slow production for some reason. For example, it could occur with E-Verify if employers fired someone because of a Final Nonconfirmation (FNC) and production slowed while the employers looked for a replacement.

⁵¹Westat’s study of nonusers found that the second most common reason reported by employers for not using E-Verify is that it’s too costly to use (*The Practices and Opinions of Employers Who Do Not Participate in E-Verify*, December 2010).

compared to 22 percent of voluntary users).⁵² Mandated users spent a median of \$150 in total on training costs compared to \$100 for voluntary users.

Although there was no change in reported indirect costs between 2008 and 2010, mandated employers reported indirect costs to be more burdensome than voluntary users in 2010. The evaluation team hypothesized that higher percentages of mandated employers would lead to increases in the burden level associated with indirect costs. Although no significant differences were found between reports of indirect costs between 2008 and 2010, mandated users in the 2010 survey did report indirect setup costs to be a greater burden than voluntary users. Indirect setup costs were reported being a slight, moderate, or extreme burden by 36 percent of mandated users compared to only 26 percent of voluntary users in 2010. Indirect maintenance costs were reported to be a slight, moderate, or extreme burden by 23 percent of mandated users compared to only 18 percent of voluntary users.

2.5. Variation in Cost by Employer Type for 2010

2.5.1. Size

Large employers spend more in total setup and maintenance costs than other employers. Employers with more than 150 workers spent a median of \$300 in total setup costs and \$500 annually to maintain E-Verify, substantially more than the overall median costs of \$100 for setup costs and \$200 for maintenance costs.

2.5.2. Industry

Temporary/employment agencies reported higher total setup and maintenance costs than employers in other industries. These employers specialize in hiring temporary and permanent workers for other companies. Since temporary/employment agencies have high hiring levels, it is reasonable to expect that they have higher setup costs, especially costs for training staff. Temporary/employment agencies reporting direct costs spent a median of \$200 to set up E-Verify and \$500 annually to maintain E-Verify as compared to \$100 and \$200, respectively, for all industries.

2.5.3. Federal Contractors

Federal contractors reported higher setup and maintenance costs than other employers. Employers that reported having a Federal contract requiring E-Verify participation reported a median setup cost of \$200 and an annual maintenance cost of \$500 compared to the overall median costs of \$100 and \$200, respectively. These higher costs may reflect training costs and wages for verification specialists for Federal contractors who opted to use E-Verify for all existing employees instead of only workers who were assigned to Federal contracts.

⁵²The designation of employers as either mandated or voluntary is based on their self-reported motivations for participating in E-Verify. Mandated employers refers to employers reporting that a Federal and/or state/local mandate is the *only* reason they are participating in E-Verify. Voluntary employers refers to employers reporting other reasons for participation, including some employers that may be required to participate under a Federal and/or state mandate.

CHAPTER VI. EMPLOYER COMPLIANCE

1. BACKGROUND

This chapter explores the extent to which employers are complying with the requirements of the E-Verify Program. Understanding the extent of employer compliance is important because high employer compliance strengthens the overall Program, and lack of compliance with requirements can reduce the Program's effectiveness in reaching key goals such as reducing unauthorized employment and avoiding discrimination. Furthermore, to the extent that noncompliance is the result of employers not understanding the Program's requirements, noncompliance may also point to weaknesses in the Program's implementation and the need for specific program improvements.

This chapter also explores how employer compliance has changed since 2008 and the potential causes of change including both program changes and changes to the E-Verify user population. Also examined in this chapter is variation in compliance by employer characteristics.

It is worth reiterating that the information presented in this report is based on employers' self-reported behavior. Although employers were given assurances that information provided would be kept confidential, it is likely that noncompliant employers were especially unlikely to participate in the evaluation. Furthermore, some participating employers were probably not totally candid.

2. FINDINGS

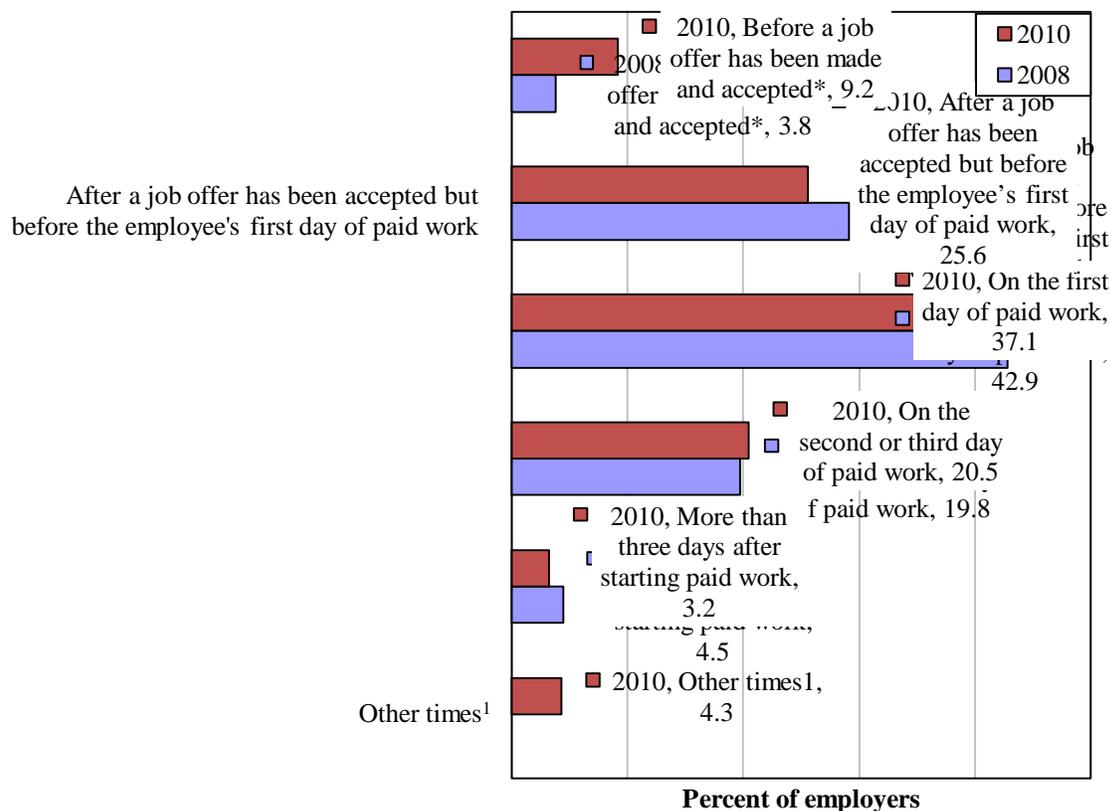
2.1. General Findings

2.1.1. Types of Cases Submitted to E-Verify

Almost all employers reported that they use E-Verify to verify work authorization for all newly hired employees. As in 2008, the large majority of employers (97 percent) reported they use E-Verify for all new hires.

There was an increase in the percentage of employers that are prescreening. The U.S. Citizenship and Immigration Services (USCIS) specifies that E-Verify should be used only for new hires, and defines a "new hire" as someone who has both been offered *and* accepted employment. When asked when E-Verify is typically used to verify work authorization, 9 percent of 2010 employers reported practices that constitute prescreening: 5 percent of employers reported using E-Verify before a job offer was made, and 4 percent reported using E-Verify after a job offer was made but before the offer was accepted (Exhibit VI-1). This is a significant increase since 2008 when only 4 percent of employers reported using E-Verify prior to the job offer being accepted.

Exhibit VI-1. Percent of Employers Reporting When They Use E-Verify to Determine the Work-Authorization Status of Their Workers: 2008 and 2010



*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.

¹There was no comparable item in the 2008 survey.

NOTE: Sum does not add to 100 percent because of rounding.

SOURCE: E-Verify Web Surveys.

Despite the overall increase in prescreening, reports of prescreening at temporary/employment agencies decreased. In 2008, 41 percent of temporary/employment agencies reported using E-Verify to verify work authorization before making a job offer. In 2010, only 26 percent of temporary/employment agencies reported using E-Verify before a job offer was made *and* accepted by the worker. This significant decrease in prescreening practices by temporary/employment agencies could reflect a better understanding among these employers of the correct procedures for using E-Verify.

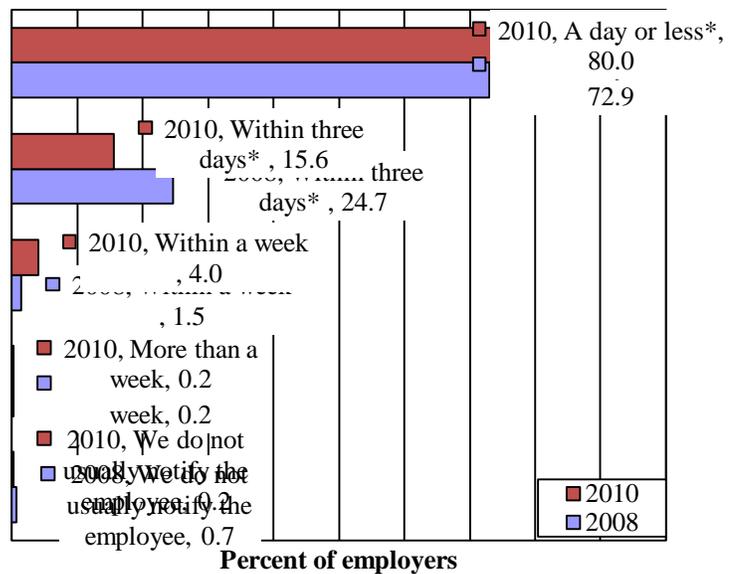
There was also an increase in the percentage of employers using E-Verify to verify work authorization of existing employees. Employers that do not have Federal contracts requiring them to use E-Verify for work authorization should not use E-Verify for workers who were employed by the company prior to the company's institution of E-Verify. However, 13 percent of employers not exempt from this prohibition reported using E-Verify for existing employees. This is a significant increase since 2008, when only 4 percent of employers reported using E-Verify for existing employees. In 2010, employers not permitted to use E-Verify for existing employees also reported improperly using E-Verify for workers

who have work-authorization documents that are about to expire (30 percent) and for workers not believed to be employment authorized (14 percent).

2.1.2. TNC Procedures

Employers continue to notify workers of Tentative Nonconfirmation (TNC) findings promptly. The percentage of employers notifying workers of TNC findings within a day or less increased to 80 percent in 2010, compared with 73 percent in 2008 (Exhibit VI-2). However, the percentage of employers notifying workers of TNC findings within three days (but not within a day or less) decreased from 25 percent in 2008 to 16 percent in 2010. Overall, this results in little difference between 2008 and 2010 in the percentage of employers reporting that they notify workers within three days of receiving the TNC finding (96 percent in 2010 compared to 98 percent in 2008).

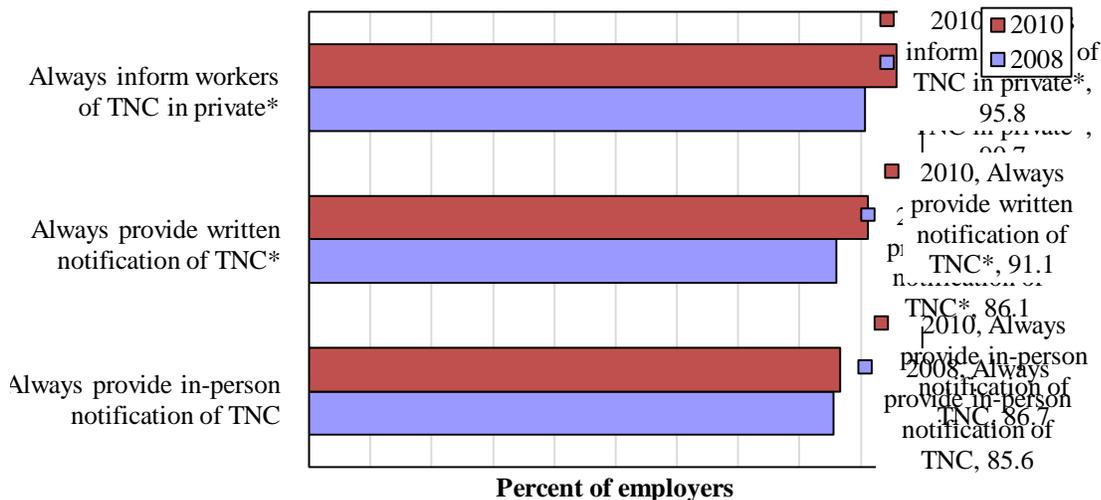
Exhibit VI-2. Percent of Employers Reporting How Soon They Notify Workers of TNC Findings: 2008 and 2010



*Statistically significant difference between 2010 and 2008 E-Verify users at p < 0.05.
SOURCE: E-Verify Web Surveys.

Employers showed increased compliance with E-Verify procedural requirements regarding how to notify workers about TNCs. The percentage of employers that reported always notifying workers about TNC findings in private increased from 91 percent in 2008 to 96 percent in 2010 (Exhibit VI-3). The percentage of employers that reported always providing workers with written notification of TNC findings also increased, from 86 percent in 2008 to 91 percent in 2010. Reports of always providing in-person notification increased slightly from 86 percent to 87 percent, but this change was not statistically significant.

Exhibit VI-3. Employer Compliance With Procedural Requirements Regarding How to Notify Workers About TNC Findings: 2008 and 2010



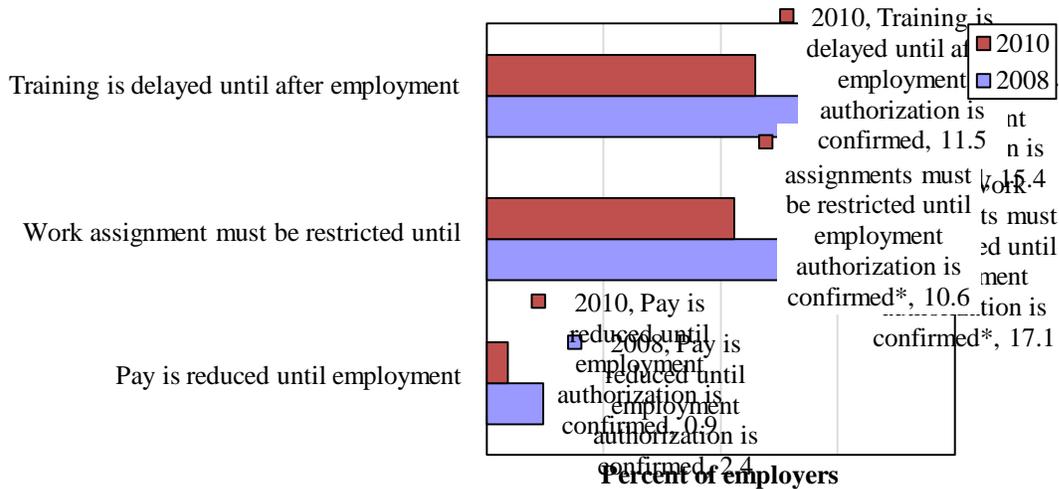
*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.
 SOURCE: E-Verify Web Surveys.

A small number of E-Verify employers continue to report discouraging workers from contesting TNC findings. As in 2008, 4 percent of employers reported that contesting a TNC is not encouraged because the process requires so much time. In addition, 5 percent of employers also reported in 2010 that contesting a TNC was not encouraged because employment authorization is rarely the outcome.

2.1.3. Taking Adverse Actions Against Workers

In 2010, employers reported fewer adverse actions against workers with TNC findings than they did in 2008. There was a statistically significant decrease in the percentage of employers that reported they restrict work assignments until employment authorization is confirmed, from 17 percent in 2008 to 11 percent in 2010 (Exhibit VI-4). Fewer employers also reported delaying training (from 15 percent in 2008 to 12 percent in 2010) or reducing pay (from 2 percent in 2008 to 1 percent in 2010) for workers with TNCs, but these changes were not statistically significant.

Exhibit VI-4. Percent of Employers Reporting Adverse Actions Against Workers With TNCs: 2008 and 2010



*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.

NOTE: Sum does not add to 100 percent because the exhibit includes only responses that relate to adverse actions.

SOURCE: E-Verify Web Surveys.

2.1.4. Photo Matching

Almost all employers who had used Photo Matching reported comparing the picture provided by the Photo Matching response to the documents provided by the worker. Slightly less than half (42 percent) of 2010 employers reported having used Photo Matching. Of these employers, almost all (95 percent) reported that when prompted to use Photo Matching, they compare the picture provided by the Photo Matching response to the picture on the document provided by the worker. This was a significant increase from the 71 percent of 2008 employers that had used Photo Matching and reported properly performing this same comparison. However, there was also a significant increase in the percentage of employers that compare the picture provided by the Photo Matching response to the actual person (from 60 percent in 2008 to 76 percent in 2010). This is not the proper use of Photo Matching. The employer should compare the document photo to the worker during the I-9 process to determine that the document belongs to the worker.

As reported in Chapter IV, Section 2.1.8, almost three-quarters (76 percent) of employers that used it reported that Photo Matching reduced their responsibility to be certain that the person presenting the document is the right person. This finding indicates Photo Matching reduces employer burden, thereby increasing employer satisfaction, but also raises some concern that employers might be relying too heavily on Photo Matching and thus not identifying documents that might be clearly counterfeit or modified.

There was a slight decrease in the percentage of employers that asked noncitizen workers to submit documents that would trigger Photo Matching. Employers are prohibited by statute from asking workers for specific documents in the Form I-9 process. However, 19 percent of employers reported that, with the advent of Photo Matching, they are more likely to ask noncitizens for immigration documents during the verification process. Similarly, in 2008, 20 percent of employers reported that they were more likely to ask noncitizens for immigration documents.

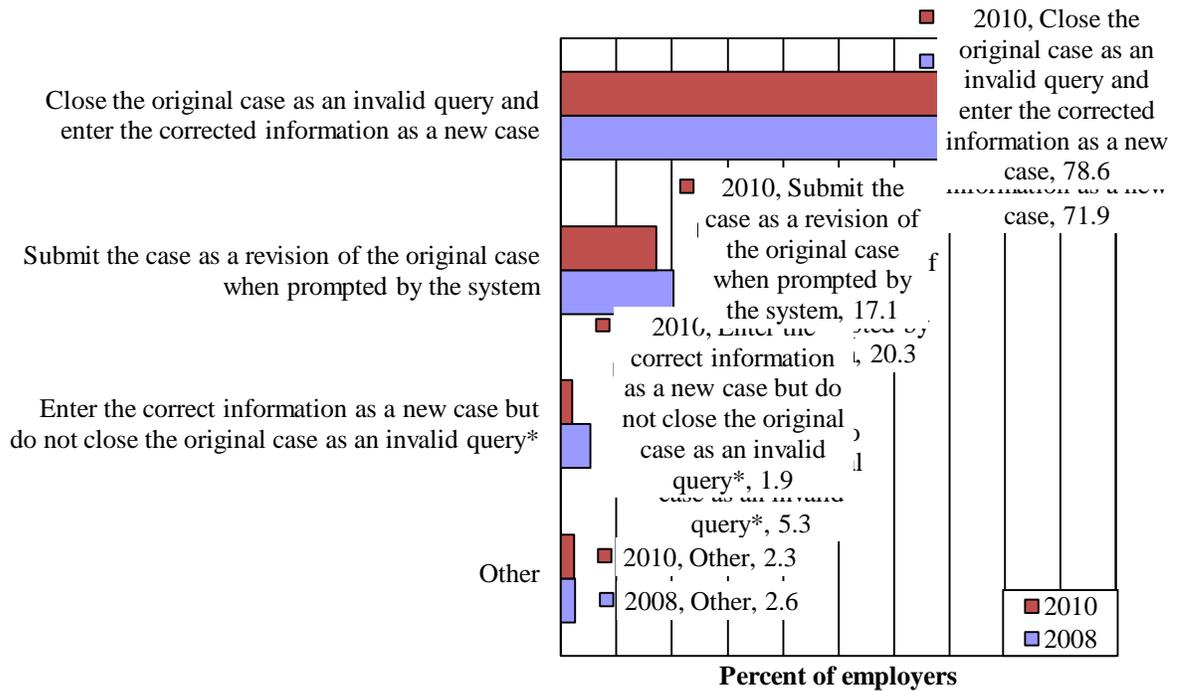
2.1.5. Other E-Verify Procedures

Employers reporting that they received TNC findings due to data entry mistakes were less common in 2010 than in 2008. Since 2008, USCIS has made an effort to reduce the chances of making data entry errors by streamlining the data entry process in Usability Release 3.0. Indeed, the percentage of employers reporting that their company had received TNC findings as a result of a data entry mistake when entering Form I-9 information into E-Verify decreased significantly from 77 percent in 2008 to 25 percent in 2010. As in 2008, most of these employers (79 percent of employers reporting data entry errors) reported that they at least sometimes had found the data entry errors themselves but were able to correct them without telling the worker. Compared to 2008, a larger percentage of employers in 2010 (33 percent in 2010 compared to 20 percent in 2008) reported having experienced situations where the worker found the error, but the employer was still able to correct the error without the worker having to contest the finding.

Employers reported increased compliance with the E-Verify procedural requirements regarding closing TNC findings that resulted from data entry mistakes. Cases resulting in TNC findings due to data entry errors should be closed as Invalid Queries; however, the E-Verify system does not force the user to enter closure codes, making it possible for the employer not to close cases as Invalid Queries. When asked what they do when a data entry error is found, more employers (79 percent) in 2010 correctly reported closing the original case as an invalid query and entering the corrected information as a new case (compared to 72 percent in 2008) (Exhibit VI-5). Furthermore, significantly fewer employers (2 percent) reported that they enter the correct information as a new case without closing the original case as an invalid query (compared to 5 percent in 2008). A few employers commented that it would be beneficial to be able to edit queries when a TNC results from a data entry error rather than having to close the case and start a new one.

This increase in compliance regarding closure codes is a positive development for E-Verify evaluation and monitoring. Although failure to input codes has little consequence for workers, it reduces available information about case outcomes in the Transaction Database and therefore impedes evaluation and monitoring.

Exhibit VI-5. Employer Compliance With Procedural Requirements for Closing Cases With Data Entry Errors: 2008 and 2010

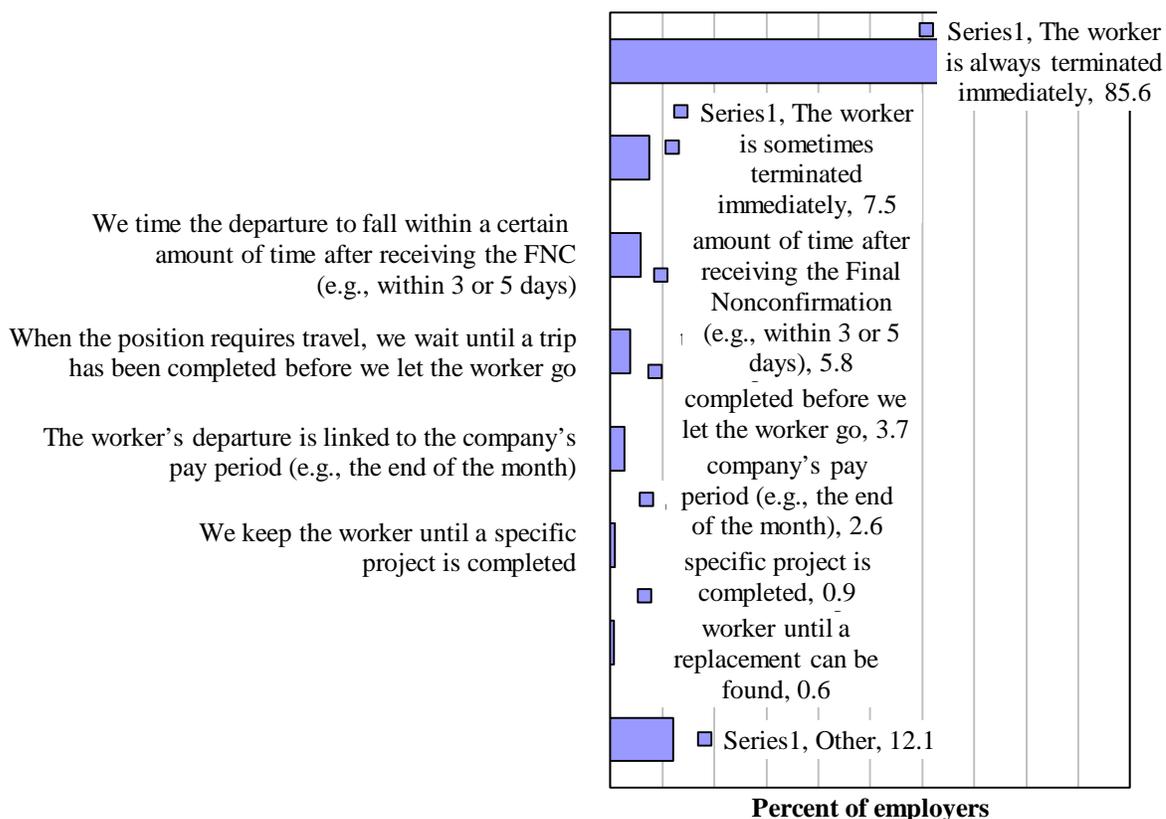


*Statistically significant difference between 2010 and 2008 E-Verify users at $p < 0.05$.
 NOTE: Sum does not add to 100 percent because of rounding.
 SOURCE: E-Verify Web Surveys.

Most employers reported prompt termination of workers with Final Nonconfirmation (FNC) findings.

On average, in 2010, employers reported they terminated the employment of workers 0.7 work days after receiving an FNC finding. Most employers (86 percent) reported that employment of workers with FNC findings is always immediately terminated (Exhibit VI-6). An additional 8 percent reported that employment of workers with FNC findings is sometimes immediately terminated. Some employers reported that they time the worker’s departure to occur within a certain amount of time after receiving the FNC finding (e.g., within 3 or 5 days) (6 percent), that the worker’s departure is linked to the company’s pay period (3 percent), or that when the position requires travel, they wait until the trip has been completed before letting the worker go (4 percent). However, there were a small number of employers (6 percent) that reported not terminating the employment for workers with FNCs (not shown in exhibit). This is a slight increase from the 4 percent of employers that reported not terminating employment for workers with FNCs in 2008. Among the 12 percent of employers reporting “other” procedures for how long workers could remain on the job after receiving FNCs, a few employers reported that workers with FNCs quit before they were able to terminate the workers’ employment. Other employers reported that they did not terminate workers with FNCs because the FNCs had been the result of a data entry error or the worker following improper procedures for contesting the finding, or that the employer had worked with USCIS and/or SSA to have the FNC overturned.

Exhibit VI-6. Employer Compliance With Requirements for Terminating Workers With FNC Findings: 2010



NOTE: Sum does not add to 100 percent because respondents could choose more than one response.
 SOURCE: E-Verify Web Survey.

As in 2008, most employers reported that E-Verify made them neither more nor less willing to consider hiring job applicants who appear to be foreign born. Approximately 87 percent of employers in 2010 reported that using E-Verify neither increased nor decreased their willingness to hire job applicants who appear to be foreign born, an increase from 81 percent in 2008. However, it appears that discrimination based on foreign appearance increased slightly between 2008 and 2010, as the percentage of employers reporting that they were more willing to hire foreign-born job applicants decreased by 7 percent (from 17 percent to 10 percent), and the percentage reporting that they were less willing to hire foreign-born job applicants increased by 2 percent (from 1 percent to 3 percent).⁵³

Employers reporting that E-Verify made them more willing to consider hiring foreign-born job applicants were significantly more likely to agree that E-Verify makes it easier to tell who is work authorized (94 percent), takes the guesswork out of determining the validity of documents presented (96 percent), and reassures them that they are not hiring unauthorized workers (100 percent). In contrast, employers reporting that E-Verify made them less willing to consider hiring foreign-born workers were significantly

⁵³ The difference in these percents is not equal to the total because of rounding.

more likely to agree that E-Verify is more difficult to use with foreign-born applicants (40 percent), and that E-Verify creates extra work when someone is not work authorized (41 percent).

2.2. Potential Causes of Changes in Compliance Between 2008 and 2010

Improvements in E-Verify user training likely led to increases in employer compliance with several E-Verify requirements. The evaluation team hypothesized that the addition of new vehicles for training, including webinars and videos, and improvements to the E-Verify user's manual, Quick Reference Guides, and online tutorial, would lead to increased compliance with E-Verify requirements. In particular, compliance related to protecting worker rights was expected to increase as a result of USCIS's Employee Rights Initiative. Survey results supported these expectations:

- Employers always notifying workers of TNC findings in private increased 5 percentage points.
- Employers always notifying workers of TNC findings in writing increased 5 percentage points.
- Employers always notifying workers of TNC findings in person increased 1 percentage point.
- Employers restricting work assignments for workers with TNC findings decreased 6 percentage points.
- Employers delaying training for workers with TNC findings decreased 4 percentage points.
- Employers reducing pay for workers with TNC findings decreased 2 percentage points.
- Employers correctly closing invalid cases due to data entry errors increased 7 percentage points.
- Employers following correct procedures for comparing the picture provided in the worker's documentation to the picture provided by Photo Matching increased by 24 percent.

Prescreening increased despite improvements to training materials. The evaluation team hypothesized that USCIS's efforts to improve training materials, especially through the Employee Rights Initiative, would lead to increased compliance with respect to who has their work authorization verified using E-Verify and when the employer uses E-Verify for them. The larger population of mandated users, particularly Federal contractors at risk of losing Federal support if they do not follow E-Verify procedures, also supported the hypothesis that instances of prescreening would decrease in 2010. However, survey findings showed that the overall percentage of employers prescreening job applicants increased from 4 percent in 2008 to 9 percent in 2010. Aside from temporary/employment agencies (in which 26 percent reported prescreening, a significant *decrease* from 2008), approximately 8 percent to 10 percent of several different types of E-Verify users reported prescreening practices. For example, 8 percent of mandated users, 9 percent of voluntary users, 8 percent of Federal contractors, and 10 percent of employers without Federal contracts reported prescreening practices. Mandated employers were just as likely as voluntary employers to prescreen job applicants in 2010.

General increases in compliance might be linked to an increase in mandated employers that showed higher levels of compliance with several aspects of E-Verify than voluntary employers.⁵⁴ The evaluation team hypothesized that employers reporting that a mandate (either Federal or state/local) was the only reason they participated in E-Verify would report lower compliance than voluntary users since E-Verify requirements and procedures have been imposed upon these companies rather than the company

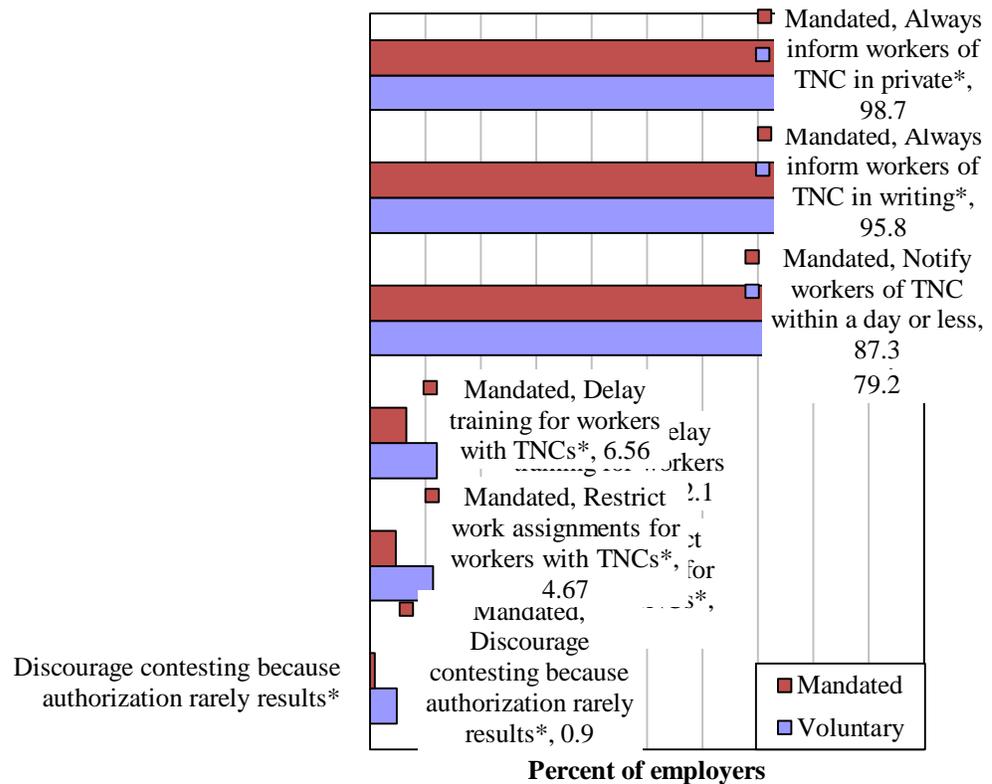
⁵⁴The designation of employers as either mandated or voluntary is based on their self-reported motivations for participating in E-Verify. Mandated employers refers to employers reporting that a Federal and/or state/local mandate is the *only* reason they are participating in E-Verify. Voluntary employers refers to employers reporting other reasons for participation, including some employers that may be required to participate under a Federal and/or state mandate.

having voluntarily adopted them. However, survey results were inconsistent with this expectation. Overall, employers that reported participating in E-Verify only because they were mandated to do so were more compliant with E-Verify rules than voluntary users.

- Mandated users were more likely than voluntary users to always notify workers in private (99 percent compared to 97 percent for voluntary users), and to always provide written notification (96 percent compared to 91 percent for voluntary users). Although not statistically significant, mandated users also were more likely than voluntary users to notify workers of TNC findings within a day or less (87 percent compared to 79 percent for voluntary users (Exhibit VI-7).
- Mandated users were less likely than voluntary users to report that they discourage workers from contesting a TNC (1 percent compared to 5 percent for voluntary users).
- Mandated users were less likely than voluntary users to restrict assignments or delay training for workers that received a TNC finding (5 percent compared to 12 percent for voluntary users). Although not statistically significant, mandated users were also less likely than voluntary users to delay training for these workers (7 percent for mandated users compared to 12 percent for voluntary users).

Employers participating in E-Verify only because they are required by mandate might have been more compliant than voluntary users due to a sense of obligation to fulfill the mandate requirements or to a greater concern of possible loss of public contracts or legal prosecution. As discussed below, Federal contractors as a whole were neither more nor less compliant with E-Verify requirements than general employers.

Exhibit VI-7. Employer Compliance With E-Verify Requirements: Mandated and Voluntary Users



*Statistically significant difference between mandated and voluntary users at $p < 0.05$.
 SOURCE: E-Verify Web Survey: 2010.

Federal contractors under the Federal Acquisition Regulation (FAR) did not show higher compliance than other employers. The evaluation team hypothesized that Federal contractors would be more compliant with E-Verify procedures than non-Federally mandated employers, because Federal contractors risk losing Federal funding if they do not comply with the FAR mandate and E-Verify requirements. However, there were no significant differences in compliance between Federally mandated employers, state/locally mandated employers, and non-mandated employers (Exhibit VI-8).

Exhibit VI-8. Employer Compliance With E-Verify Requirements, by Type of Mandate

Employer action	Federal and state/local mandates	Federal mandate	State/local mandate	No mandate
Use E-Verify to verify work authorization before a job has been offered and accepted	8.5	8.2	8.4	10.1
Notify workers of TNC within a day or less	61.7	74.1	80.3	84.0
Always inform workers of TNC in private	85.6	98.4	96.4	96.4
Always provide written notification of TNC	88.1	94.2	90.1	92.5
Always provide in-person notification of TNC	72.7	83.5	90.7	87.7
Discourage contesting because it is too time-consuming	4.2	3.8	6.3	1.2
Discourage contesting because authorization rarely results	19.9	1.8	3.9	2.5
Reduce pay until employment authorization is confirmed	1.2	0.0	1.1	0.6
Delay training until employment authorization is confirmed	10.2	4.4	16.2	11.9
Do not immediately terminate workers with FNCs	5.8	16.6	6.1	3.4

SOURCE: E-Verify Web Survey: 2010.

It is possible that a pattern of lower compliance might be developing among employers required by both Federal and state/local mandates to participate in E-Verify. As reported in Chapter 3, Section 2.4.1, 12 percent of employers reported on the 2010 user survey that they were required to use E-Verify by both Federal and state/local mandates. Although the differences were not statistically significant, these employers were less likely than all other employers to notify workers of TNC findings within a day or less (62 percent compared to 74 to 84 percent of other employers), in private (86 percent compared to 96 to 98 percent of other employers), in person (73 percent compared to 84 to 91 percent of other employers), or in writing (88 percent compared to 90 to 94 percent of other employers). Furthermore, 20 percent of these employers discouraged workers from contesting TNC findings because authorization rarely results (compared to 2 to 4 percent of other employers). Analyses showed that employers required to participate in E-Verify by both Federal and state/local mandates did not differ from other employers in terms of industry, size, or percent immigrant workers.

2.3. Variation in Compliance by Employer Type

2.3.1. Federal Contractors

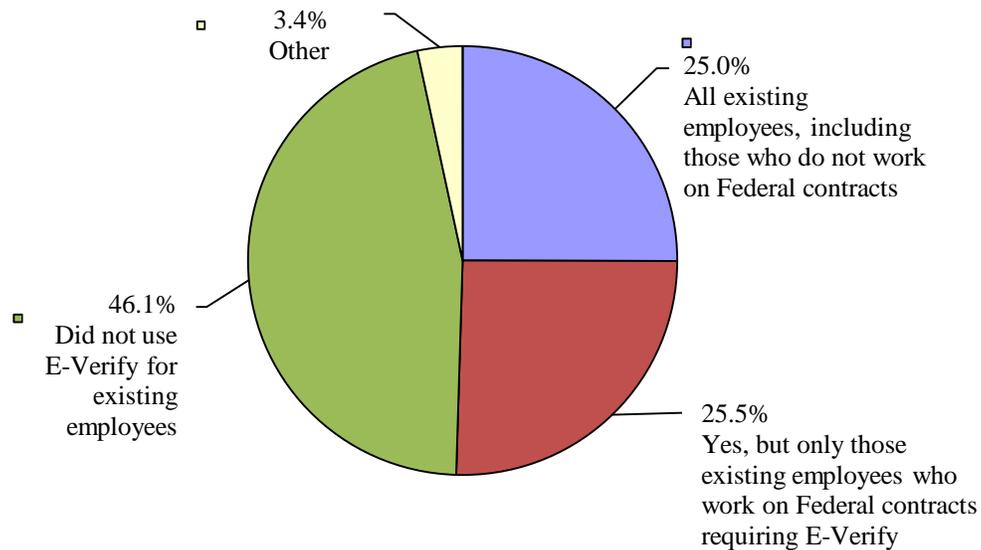
The 2010 user survey included several new items related to the practices of Federal contractors required to participate in E-Verify under the FAR rule. The following sections present important general information about Federal contractor behavior to provide some context for understanding compliance-related issues.

Approximately half of Federal contractors took advantage of the option under FAR to use E-Verify to verify the work authorization of their entire workforce, including existing employees.

Although using E-Verify for existing employees is prohibited for general E-Verify users, Federal contractors required to use E-Verify under FAR are permitted to verify work authorization of employees who were working for the company prior to when the company began using E-Verify. Approximately half of Federal contractors reported using E-Verify to determine the work-authorization status of their existing employees; 25 percent chose to use E-Verify for all existing employees, including employees who are not

required to have their work authorization checked under FAR (e.g., because they do not work on Federal contracts), and 26 percent chose to use E-Verify for only those existing employees who work on Federal contracts (Exhibit VI-9).

Exhibit VI-9. Percent of Federal Contractors That Chose to Use E-Verify for Existing Employees



SOURCE: E-Verify Web Survey: 2010.

Most Federal contractors that chose to use E-Verify for all existing employees notified these employees through posters and memos. USCIS provides no guidance to Federal contractors about how to notify existing employees of their intention to use E-Verify to verify their work authorization other than clearly displaying both the English and Spanish Notice of E-Verify Participation and the Right to Work posters (required of all E-Verify users). Most Federal contractors (86 percent) reported that they displayed posters in areas where they would be seen by existing employees, and half (50 percent) sent a memo to each existing employee. Several employers (18 percent) also reported other methods of notifying existing staff of the verification process, including using internal meetings to brief supervisors, managers, and/or all employees; e-mail communication; and verbal, face-to-face notifications.

When using E-Verify for existing employees, approximately one-third of Federal contractors did not ask workers to either complete a new Form I-9 or update their old forms. Guidance for Federal contractors choosing to use E-Verify for existing employees states that these employers may either complete new Forms I-9 for their existing employees or update their employees’ existing Forms I-9.⁵⁵ However, 33 percent of employers did not ask workers to either complete new Forms I-9 or update their old Forms I-9. Approximately one-quarter (26 percent) of Federal contractors using E-Verify for existing employees asked those workers to complete new Forms I-9, while 37 percent asked some workers to complete new Forms I-9 and other workers to update old Form I-9s. A small number (4 percent) asked all existing employees to update their old Forms I-9.

⁵⁵ See Supplemental Guide for Federal Contractors: http://www.uscis.gov/USCIS/Verification/E-Verify/E-Verify%20from%20Controlled%20Vocabulary/FAR_Supplemental_Guide_REVISIED_FINAL.pdf.

Federal contractors received very few negative reactions from existing employees in response to the verification process. A few employers (8 percent) reported that some existing employees expressed concern about the requirement, and 5 percent of employers reported that some existing employees left the company rather than have their work-authorization status verified. Almost no employers (1 percent) reported that existing employees complained about being teased or harassed about the possibility they would not be found work authorized.

2.3.2. Employer Size

Prescreening was more prevalent among small employers. Small employers (with up to 25 workers) were more likely than larger employers to report that E-Verify was typically used to verify work authorization either before a job offer was made or after a job offer was made but before the worker has accepted (17 percent compared to 5 percent of larger employers).

Small employers were more likely to report that the TNC process was a burden on staff. Not surprisingly, small employers were also more likely to report that providing assistance to workers who contest TNCs is an excessive burden on staff (36 percent compared to 16 percent of larger employers). Similarly, small employers were slightly more likely to agree that contesting TNC findings is not encouraged because it is too time-consuming (6 percent compared to 3 percent of larger employers).

Small employers reported greater discrimination against workers with TNC findings. Small employers were more likely to report that work assignments must be restricted until work authorization is confirmed (15 percent compared to 10 percent of larger employers), and that training is delayed until after authorization is confirmed (22 percent compared to 10 percent of larger employers).

2.3.3. Industry

Most temporary/employment agencies require that at least some job candidates be found work authorized by E-Verify before referral to clients. E-Verify procedures require that all employers, including temporary/employment agencies, use E-Verify to verify work authorization of only newly hired employees (i.e., those who have been offered and accepted the job), not job applicants. However, in 2010 only 11 percent of temporary/employment agencies reported that they do not require any job applicants to be found work authorized before referring them to their clients. The percentage of temporary/employment agencies that require at least some job candidates to receive a work-authorized finding from E-Verify before referral to clients increased from 76 percent in 2008 to 89 percent in 2010 (approximately 73 percent reported in 2010 that they require all job applicants to be found work authorized before referral, and an additional 17 percent reported that they require some job applicants to be found work authorized before referral). Approximately half (47 percent) of temporary/employment agencies indicated that at least some of their clients have requested they only refer potential employees who have been found work authorized by E-Verify. This suggests that most temporary/employment agencies are violating E-Verify requirements by effectively prescreening workers before they are hired.

Temporary/employment agencies reported lower compliance with E-Verify requirements for notifying workers of TNC findings. Temporary/employment agencies were also less likely than general employers to always inform workers of TNC findings in private (89 percent compared to 96 percent of other employers), in writing (80 percent compared to 91 percent of other employers), or in person (64 percent compared to 88 percent of other employers). Furthermore, they were more likely to agree that work assignments must be restricted until work authorization is confirmed (20 percent compared to 11 percent of other employers).

Employers in industries with high percentages of undocumented workers⁵⁶ were more likely than other employers to report that the E-Verify process is burdensome to their staff and that contesting TNCs is not encouraged. Employers in industries with high percentages of undocumented workers were more likely to agree that providing assistance to workers who contest TNCs is an excessive burden on staff (25 percent compared to 16 percent of other employers), and that establishing work authorization has become a burden because there are so many TNCs (6 percent compared to 2 percent of other employers). These employers were also more likely to agree that contesting TNC findings is not encouraged because it is too time-consuming (6 percent compared to 2 percent of other employers), and that contesting is in fact discouraged because authorization rarely results (6 percent compared to 2 percent of other employers).

2.3.4. Percentage of Foreign-born Workers

Employers with large percentages of foreign-born workers discriminated less against workers with TNC findings, but also reported less stringent practices for terminating workers with FNCs. Employers that self-reported that 20 percent or more of their workers are immigrants were less likely to restrict work assignments until work authorization was confirmed (8 percent compared to 12 percent of employers with fewer foreign-born workers); however, they were also less likely to report that they always immediately terminated workers with FNCs (80 percent compared to 89 percent of employers with fewer foreign-born workers).

⁵⁶These industries were Agriculture, Forestry, Fishing, and Hunting, excluding farm labor contractors and crew leaders; Construction; Food Manufacturing; Services to Buildings and Dwellings; Food Services and Drinking Places; and Personal and Laundry Services. The definition of this category is based on the following report: Jeffrey S. Passel, Senior Demographer, Pew Hispanic Center, and D’Vera Cohn, Senior Writer, Pew Research Center, *A Portrait of Unauthorized Immigrants in the United States*, 4.14.2009 (<http://pewhispanic.org/reports/report.php?ReportID=107>).

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CHAPTER VII. FINDINGS AND RECOMMENDATIONS

This chapter presents key findings and related recommendations for changes to the E-Verify Program based on the Web survey results. Some of the recommendations were presented in previous reports or evaluations. Findings and recommendations are grouped into the following broad and somewhat overlapping categories: E-Verify outreach and training; employer satisfaction and burden; and employer compliance and data entry accuracy, and each section is preceded by an introduction.

Some of the recommendations in this chapter are for initiatives that can be implemented easily and with little cost by Federal agencies. Other recommendations would be more difficult and/or more expensive to implement (e.g., recommendations that require regulatory or even statutory changes to implement). Although the evaluation team has tried to form recommendations for cost-effective ways to alleviate employer burden and improve compliance with program requirements and overall program effectiveness, a complete analysis of how the recommendations should be implemented and/or potential implementation challenges are beyond the scope of this study.

1. E-VERIFY GROWTH AND OUTREACH

1.1. Introduction

Rapid program growth is, of course, generally considered a sign of a program's success. In the case of E-Verify, such growth is especially important, since the major program goal is to decrease unauthorized employment and, thereby, decrease undocumented immigration. Although a small program can decrease unauthorized employment at participating employers, its overall effectiveness is limited by how easy it is for the workers to obtain employment with non-participating employers.

1.2. Findings

Use of E-Verify continued to increase rapidly between the time of the 2008 user survey and the 2010 user survey, indicating that many employers and jurisdictions view E-Verify to be a successful program. Since E-Verify's inception, there has been a strong upward trend in the number of cases transmitted to the Program.⁵⁷ The nearly 4.6 million cases submitted to E-Verify in April through June 2010 represent more than 2.5 times the 1.7 million cases submitted in April through June 2008 at the time of the administration of the 2008 E-Verify user survey.

Professional and business associations and state and local governments often act as intermediaries in distributing information about E-Verify to employers. Most employers first learned about E-Verify from a state or local government office or from a business/professional association with fewer employers reporting they learned about it through the U.S. Citizenship and Immigration Services (USCIS) website and other USCIS or Social Security Administration (SSA) materials or publications.

1.3. Recommendation

USCIS should strengthen and/or establish formal relationships with professional employer organizations (e.g., U.S. Chamber of Commerce, National Association of Small Businesses, National Federal Contractors Association, National Association of Small Business Contractors, American

⁵⁷ Findings of the E-Verify Program Evaluation, December 2009.

Hotel and Lodging Association) and with state and local governments that mandate use of E-Verify to enhance communication with these entities, increase awareness of E-Verify, and make USCIS aware of the unique needs of different types of employers. Strengthening ties with associations serving employers is key to USCIS effectively leveraging its outreach efforts. At the same time, it should provide USCIS with information and specific strategies on how best to modify the Program to make it attractive to different types of employers. Some possible strategies to explore include stakeholder meetings and working groups that could be convened periodically to address these issues and to help pretest new versions of the Program.

2. EMPLOYER BURDEN AND SATISFACTION

2.1. Introduction

The E-Verify authorizing legislation requires E-Verify to avoid undue employer burden. Since burden and satisfaction with the Program are strongly related, it should be noted that, as long as the Program is voluntary for many employers, employer satisfaction is also an important component to the growth of the Program. It is also reasonable to speculate that employer dissatisfaction contributes to employers not using E-Verify when it is mandated, or perhaps not using it correctly.

2.2. Findings

The results of the Web survey show that employers are for the most part very satisfied with the E-Verify Program. The findings also suggest that recent improvements to the E-Verify Program, many of which were recommended by previous evaluations, have increased employer satisfaction with the Program, though this latter finding is not found for all of the satisfaction questions. More specifically:

- Employers continued to express high levels of satisfaction with E-Verify in 2010. The large majority of employers continued to report that E-Verify is a highly accurate (94 percent) and effective tool for employment verification (94 percent). These results are similar to the findings of the 2008 survey in which 92 percent agreed that E-Verify is highly accurate and 96 percent agreed that E-Verify is an effective tool for employment verification.
- Fewer employers in 2010 than in 2008 reported that E-Verify was burdensome to the employer. Employers in 2010 were significantly more likely to disagree with the statement that it is impossible to fulfill all company obligations required by the E-Verify verification process. In 2010, 86 percent of employers disagreed with this statement, compared to only 80 percent of employers that disagreed with it in 2008.
- Many employers are more satisfied with the tutorial in 2010 and have needed less assistance from the USCIS Help Desk and Customer Service.

Although most employers reported being very satisfied with E-Verify, some subgroups of employers reported that E-Verify is burdensome.⁵⁸

- **Small employers** were more likely to report that the Tentative Nonconfirmation (TNC) process was a burden on staff.

⁵⁸Over the long-term, the implementation of the E-Verify self-check should help minimize employer burden.

- **Employers in industries with high percentages of undocumented workers** were more likely than other employers to report that the E-Verify process is burdensome to their staff and that it was impossible to fulfill E-Verify obligations, and were less satisfied with E-Verify than employers in other industries.
- **Mandated users** found E-Verify training materials more burdensome and less helpful than voluntary users.⁵⁹ Employers that reported a mandate as their only reason for using E-Verify were more likely to report that the tutorial takes too long to complete and that it is a burden to pass the mastery test before submitting cases through E-Verify. Mandated employers were also less likely to agree that the online tutorial was helpful.
- Not surprisingly, many **prior E-Verify users** also reported they stopped using it because the system was too burdensome. As in 2008, the most frequently reported reason that employers stopped using E-Verify was the lack of new hires in the past six months (65 percent). However, 20 percent of employers that had previously used E-Verify reported they no longer used the system because it was too burdensome.

Employers also pointed to specific problems or requested changes to E-Verify that would increase their satisfaction and/or decrease their burden:

- **Several employers find that assisting workers who contest TNC findings is burdensome to their staff.** The percentage of employers reporting that establishing work authorization has become a burden because there are so many TNCs dropped from 10 percent in 2008 to 4 percent in 2010. However, 20 percent of employers continue to report that providing assistance to workers who contest a TNC finding is an excessive burden on staff, perhaps due to the time it takes to complete the TNC paperwork, explain the finding to the worker, and guide them through the contesting process.
- **Many employers would like to use E-Verify for job applicants and existing employees.** The majority of employers supported the recommendation for E-Verify to allow prescreening of job applicants (73 percent). Furthermore, 9 percent of employers reported in 2010 that they were, in fact, screening job applicants—an increase from 4 percent in 2008. Both findings are consistent with it being burdensome for employers to train workers they hire and then have to terminate their employment if they receive Final Nonconfirmations (FNCs). The majority of employers supported the recommendation for E-Verify to allow using the system for existing employees (i.e., workers hired by the company prior to when the company started using E-Verify), but the percentage supporting this change is lower than in 2008 (73 percent compared to 77 percent).
- **Although most employers found the three-day rule for entering worker information into E-Verify to be a reasonable timeframe, about a fifth of employers still found it difficult to meet this deadline.** This was especially true for small employers with limited staff, and for employers that must submit numerous E-Verify submissions during peak hiring seasons.
- **Some employers commented that updates to the tutorial were also burdensome, as they could cause difficulty with meeting the three-day deadline for entering new hire information.** When updates are made to the tutorial, users are required to complete the new portion of the tutorial upon next logging into E-Verify and are not permitted to perform verification until the tutorial is complete.

⁵⁹The designation of employers as either mandated or voluntary is based on their self-reported motivations for participating in E-Verify. Mandated employers refers to employers reporting that a Federal and/or state/local mandate is the *only* reason they are participating in E-Verify. Voluntary employers refers to employers reporting other reasons for participation, including some employers that may be required to participate under a Federal and/or state mandate.

Users recommended that E-Verify provide advance notification, perhaps via email, when new tutorial updates are required.

- **Employers recommended adding a formal appeal process that employers or their workers could use if they disagreed with the final case finding.** This recommendation was endorsed by 83 percent of 2010 respondents.
- **Employers would also like to see additional types of documents used with Photo Matching.** This recommendation was agreed to by 82 percent of 2010 respondents.
- **Eliminating the paper Form I-9 was also endorsed by a majority of employers.** Although the study did not specifically ask employers about their preference in using an electronic or paper Form I-9, the recommendation to eliminate the paper I-9 was of interest to 59 percent of employers in 2010.

2.3. Recommendations

Test and evaluate a pilot program requiring E-Verify users to verify that workers are employment authorized prior to allowing them to start work. Conducting a pilot program to determine the advantages and disadvantages of requiring employers to confirm potential employees work authorization prior to start of work was recommended in the December 2009 report.⁶⁰ Although legislative changes may be necessary to implement this recommendation, it also should be possible to implement this pilot using the demonstration project authority to test alternative verification systems allowed in the Immigration Reform and Control Act of 1986.

Expand the three-day requirement to five days. Although expanding the rule to five days would require a change in implementing legislation, more employers are choosing to outsource E-Verify, and the work environment is becoming more complex (e.g., use of offsite, temporary, and part-time workers), making it more likely that the Form I-9 documents would need to be transferred to another location. Such an expansion of the three-day requirement would be likely to make the program more appealing to small employers and other types of employers such as universities and E-Verify Employer Agents (EEAs) and their clients.

The Department of Homeland Security (DHS) needs to continue efforts to improve the accuracy of E-Verify findings for employment-authorized workers. Resolving TNCs and replacing workers who are not hired or whose employment is terminated after they receive FNCs create considerable burden for employers. Although this is an inherent part of the Program when workers are not employment authorized, decreasing the extent to which employment-authorized workers receive such findings should continue to be a high priority for E-Verify.⁶¹

Continue to work on increasing the types of documents that can be used with Photo Matching. USCIS has recently added U.S. passports and passport cards to available documents in Photo Matching and is working on establishing a pilot program with one state to add drivers' licenses to Photo Matching. This initiative should be pursued with some urgency.

⁶⁰ Findings of the E-Verify Program Evaluation, December 2009.

⁶¹ See the report *Evaluation of the Accuracy of E-Verify Findings*, June 2011.

Consider adding a formal appeal process that employers or their workers could use if they disagree with the final E-Verify finding. A formal appeal process would have the advantage of formalizing a process that is now used informally and would decrease the negative impact of E-Verify on employment-authorized workers who are not aware of the informal procedures. However, it would likely require additional legislation and has the potential disadvantage of prolonging the time that unauthorized workers can be employed by a given employer.

USCIS should continue to identify the specialized needs of different subgroups. In conjunction with its outreach efforts to business and professional associations, USCIS should identify the needs of groups such as small employers or hospitality and/or construction industry groups. Other strategies such as stakeholder meetings should also be explored as ways to establish ongoing, systematic communication between USCIS and professional organizations.

USCIS should create materials targeted to subgroups of employers and should consider their needs in modifying E-Verify procedures. The increase in the use of E-Verify results in increases in the size of many employer subgroups, making such targeting more cost-effective than it was in the past. Subgroups most in need of attention are:

- **Small employers:** Developing means of providing succinct just-in-time training for handling cases, such as pop-up notifications providing immediately relevant instructions or referring users to the appropriate videos or documents, would be an initiative that would be particularly helpful to small employers. Since this group of employers tends to be less satisfied with E-Verify and finds it difficult to fulfill all their obligations, specialized training to help them understand E-Verify may increase their satisfaction with the Program. It is also likely that they would benefit from greater knowledge about EEAs.⁶²
- **Employers in industries with high percentages of undocumented workers:** Employers in industries employing a relatively high percentage of undocumented workers presumably have relatively large numbers of workers receiving TNCs and FNCs—types of cases that are most burdensome to employers. This situation would be alleviated if employers were permitted or required to screen workers prior to their starting work.
- **Mandated employers:** USCIS needs a systematic approach for notifying employers of the mandate and how they can enroll in E-Verify when they become required to use the Program. This may be done in conjunction with states or localities that impose the mandate.

It would be helpful if USCIS provided advance notification when refresher tutorials or tutorial updates on new features are required. In addition to providing advance notice of tutorial updates, as requested by some employers, it would seem reasonable to permit them to complete the tutorial updates prior to the implementation date to ensure that taking the tutorial will not affect the employers' ability to adhere to the three-day requirement⁶³.

USCIS should develop software that allows employers to complete the Form I-9 electronically without completing a paper Form I-9. The USCIS software should extract the information needed for E-Verify and translate it into the proper format for electronic submission to E-Verify.

⁶² See the report *Findings of the Case Study of E-Verify Employer Agents and Their Clients*, June 2011.

⁶³ USCIS is addressing this issue through a news articles feature in E-Verify, which was implemented in June 2010, and the planned bulk e-mail feature.

3. EMPLOYER COMPLIANCE AND DATA ENTRY ACCURACY

3.1. Introduction

Employer compliance with E-Verify procedures is critical to program success. Employer noncompliance limits the effectiveness of E-Verify in reducing unauthorized employment and makes it more likely that employment-authorized workers will receive FNCs.

3.2. Findings

Employer compliance with E-Verify procedures related to the Form I-9 continues to be a challenge for E-Verify. Specific examples of employer noncompliance include:

- About a fifth of employers reported that they are more likely to ask noncitizens for specific immigration documents during the Form I-9 process, which is prohibited by the statute.
- When verifying existing employees, about one-third of Federal contractors required to use E-Verify under the Federal Acquisition Regulation (FAR) did not require workers to either complete a new Form I-9 or update their old forms.
- Although almost all employers reported comparing the picture provided by the Photo Matching response to the documents provided by the worker, there was a significant increase in the percentage of employers that compare the picture provided by the Photo Matching response to the actual person (from 60 percent in 2008 to 76 percent in 2010).

The accurate entry of data was also a challenge for some employers, increasing the chances of inaccurate findings. Approximately 40 percent of employers agreed that they are unsure how to enter certain types of names in E-Verify, including single names, compound or hyphenated last names, or very long names.

3.3. Recommendations

Adapt and/or supplement current training materials, tutorials, webinars, and on-screen help to place further emphasis on instructing employers about procedures known to lead to violations of E-Verify and Form I-9 requirements (e.g., 3-day rule, prescreening). Additionally, supplemental materials, such as question and answer documents similar to the one USCIS developed for Federal contractors, should also be developed and maintained.

Provide additional guidance and instruction to employers for entering names.⁶⁴ The Form I-9 and instructions for completing it need to be improved to help workers and employers enter names correctly (e.g., expanded help to employers for workers with single names, compound or hyphenated last names, or very long names, and discrepancies between compound names listed on documents from SSA and the Department of Homeland Security). Additional instructions available in a pull-down menu would also be helpful in providing guidance on how to enter specific types of unusual names into E-Verify.

⁶⁴See the report *Evaluation of the Accuracy of E-Verify Findings*, June 2011.

Evaluate the impact of the E-Verify self-check on prescreening to determine what, if any, effect this new initiative has on reducing the practice of prescreening.⁶⁵

USCIS may wish to explore the feasibility of developing software and making it available without charge to employers to produce electronic Form I-9s and encourage them to use this service.

Congress approved the use of electronic Form I-9s in 2004. While several commercial companies have developed electronic I-9s meeting the regulatory standard, USCIS has not yet developed one that would be available free of charge to any employer. Electronic Form I-9s are beneficial in that they reduce illegible or ambiguous handwriting and provide an opportunity for review for accuracy prior to completion and submission of information to E-Verify. It is also likely that at least in some cases the worker's electronic Form I-9 information would be part of general human resources data input for new hires and would be checked more closely for accuracy.

USCIS should enforce a strong monitoring and compliance program. Although some employer noncompliance is attributable to employer misunderstanding of procedures and can be best addressed through improved education and training, it is also necessary to have a way of identifying and acting upon serious program violations that occur for reasons other than a lack of knowledge. Without a monitoring and compliance effort that is stronger and more targeted than the current effort, intentional employer noncompliance with program procedures is likely to continue and increase, diluting the ability of the Program to meet its goals.

4. FUTURE RESEARCH

The evaluation team believes that the following recommendations should be given priority in light of the findings of the user survey:

USCIS should evaluate the results of the E-Verify self-check service to assess its cost-effectiveness and its impact on employer prescreening. The self-check service has the potential to protect workers against employers not hiring them because of errors in their records. However, it is possible that unintended consequences will result, such as some employers believing that the self-check program justifies the use of prescreening. Therefore, it needs to be evaluated to determine its impact on cost-effectiveness as well as prescreening. USCIS's decision to implement the program in pilot states makes the implementation of such an evaluation in the near future critical to assist in determining its future use and expansion.

Test and pilot a program permitting or requiring prescreening once the self-check service has been fully implemented. Employers have often requested that they be permitted to prescreen job applicants. Their continued dissatisfaction with the current prohibition on prescreening is reflected in the reported increase in this practice from 4 percent in 2008 to 9 percent in 2010. The major argument against prescreening has been the need to protect employment-authorized workers from not being hired without the opportunity to correct their records. The self-check program provides an opportunity for workers to correct their records before applying for a job. Conducting a pilot program in which the self-check program is widely publicized among potential job applicants would permit an assessment of the feasibility of permitting or requiring prescreening. Although legislative changes would be necessary to fully implement this recommendation, this pilot would be possible, presumably using the demonstration

⁶⁵For more information, see:

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=9feb59984b9de210VgnVCM100000082ca60aRCRD&vgnextchannel=8a2f6d26d17df110VgnVCM1000004718190aRCRD>.

project authority to test alternative verification systems allowed in the Immigration Reform and Control Act of 1986.

USCIS, in conjunction with professional or similar associations, should conduct focus groups and/or surveys of employer subgroups to better understand their unique E-Verify needs. These small-scale studies would be helpful in increasing the awareness of E-Verify among associations as well as individual employers and will be helpful to USCIS in targeting their informational and training materials to meet the unique needs of these employers. Both E-Verify users and nonusers should be consulted. One approach to this effort would be to develop targeted materials based on the information in this report and then have focus groups comprised of specific groups react to them.

Add a formal appeal process that employers or their workers could use if they disagree with the final E-Verify finding. A formal appeal process is consistent with E-Verify's goals of protecting workers' rights. Implementing such a process would require additional legislation, and would need to take into consideration the potential disadvantage of prolonging the time that unauthorized workers can be employed by a given employer. However, developing, testing, and evaluating a pilot program would help determine how best to balance the advantages and disadvantages.

USCIS should continue its practice of evaluating E-Verify periodically as long as major changes continue to be made. Among other things, these evaluations should look specifically at trends in employer satisfaction and compliance resulting from implementation of any of this report's recommendations and other significant program changes.