



## US IMMIGRATION AND NATIONALITY LAW

**Lisa E. Rios**

SENIOR ASSOCIATE IN THE IMMIGRATION DEPARTMENT  
COX, SMITH, MATTHEWS, INC.

221 N. Kansas  
Suite 2000

El Paso, TX 79901

Phone: 915-545-4716

Fax: 915-532-5139

**Q: What recent changes have affected how I should sign and store I-9s at my company?**

**a:** In late July 2010, the Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE") issued a final rule regarding electronic signature and storage of the Form I-9, Employment Eligibility Verification, which is effective August 23, 2010. This rule deals with the preparation and storage of actual I-9 forms. This final rule does not affect the basic I-9 process or the usage of the e-Verify system. The final rule makes minor modifications to an interim rule promulgated in 2006 (the Interim Rule). Since the Interim Rule went into effect, employers have been able to complete, sign, scan, and store I-9s electronically, but the Interim Rule did not specify any particular format or software. The final rule sets forth performance requirements for electronic storage systems. These requirements include: a retrieval system with indexing, retention of an audit trail for I-9 forms, government access (upon request), and access record creation. An employer is also required to provide a printed copy of the electronic I-9 transaction if requested by an employee. Employers must complete Section 2 within three business days. Employers may use paper, electronic systems, or a combination of both to store I-9s. Employers may change electronic storage systems as long as the systems meet the performance requirements of the regulations. Employers are not required to retain I-9 Instructions or the List of Acceptable Documents. Employers must only retain those pages of the Form I-9 on which employers and employees enter data.