

Kathi Vidal Discusses Trump Administration's Hiring Freeze and Return to Office Mandate with Law360



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Winston & Strawn partner and former U.S. Patent and Trademark Office (USPTO) Director Kathi Vidal spoke with Law360 to discuss President Trump's executive order mandating employees return to office. In a memo building on the executive order instituting a governmentwide hiring freeze, the Office of Personnel Management said the administration is trying to "increase the efficiency and accountability" of the workforce by calling for a return to in-person work following remote work during the pandemic. The USPTO has a nearly 30-year history of telework, with employees spread across all 50 states, Washington, D.C., and Puerto Rico. As of the 2023 telework report by the USPTO, 99.8% of the agency's positions were eligible for teleworking, and 96.2% of employees were teleworking.

"The USPTO has excelled in attracting top talent — including in-demand technical talent — nationwide, thanks in large part to its flexible remote work policies," Kathi said. In July, Kathi stated that the agency hired 644 patent examiners in the prior fiscal year and that it planned to hire more than 850 the next year (and more than 1600 this year). These hires are necessary to address a backlog of patent applications, which started to grow linearly with decisions made by the office in 2019.

Kathi commented optimistically to Law360, saying the back-to-work order "allows USPTO leadership to make necessary exceptions." The Department of Commerce has since issued a memorandum noting that "[t]he Department of Commerce no longer permits regular and recurring telework and remote work," and that "[e]mployees should work full time at their respective worksites/duty stations." The DOC memorandum made clear, however, that President Trump's Return to In-Person Work memorandum would not supersede existing collective bargaining agreements and did not apply to the USPTO.

Kathi has subsequently noted that "[t]hough there has been a reprieve on the back-to-work order, there are other Trump measures in the works that warrant similar reprieves so as not to impact the USPTO's ability to recruit and retain the talent it needs to effectively do its job and serve the U.S. innovation and entrepreneurship economy."

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