



U.S. Department of Justice

*United States Attorney
Southern District of New York*

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February 16, 2025

BY ECF

The Honorable Jeannette A. Vargas
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *State of New York et al. v. Trump et al.*, No. 25 Civ. 1144 (JAV)

Dear Judge Vargas:

This Office represents the defendants in the above-captioned matter, in which the Court held oral argument on the plaintiffs’ motion for a preliminary injunction on February 14, 2025. We write, first, to provide an answer to one of the Court’s questions during argument. The Court inquired as to the statutory basis underlying Thomas H. Krause, Jr.’s initial hiring¹ as a consultant at the Treasury Department, pursuant to 5 U.S.C. § 3109. The relevant authorizing statute was 31 U.S.C. § 332(1), which provides that the Treasury Secretary “may to the extent provided in advance by appropriation acts . . . contract for the temporary or intermittent services of experts or consultants as authorized by” Section 3109.²

Second, we write to bring to the Court’s attention a relevant supplemental authority. On February 14, 2025, the district court in *A.F.L.-C.I.O. et al. v. Dep’t of Labor et al.*, Civil Action No. 25-339 (JDB) (D.D.C.), denied the plaintiffs’ motion for a temporary restraining order that would restrain the Department of Labor, Department of Health and Human Services, Consumer Financial Protection Bureau, and United States DOGE Service “from providing any person outside the three agencies—namely, DOGE

¹ As the government noted during argument, Mr. Krause has since been appointed a Temporary Transitional Schedule C employee of the Treasury Department. *See* ECF No. 58.

² The relevant appropriation is section 113 of Division B of Pub. L. No. 118-47 (“Appropriations to the Department of the Treasury in this Act shall be available for . . . services authorized by 5 U.S.C. § 3109”).

personnel—with access to records systems containing personal information or data.” *See* Ex. A.

We thank the Court for its consideration of this submission.

Respectfully,

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Encl.