ALAN WILSON
ATTORNEY GENERAL

October 15, 2025

Connie D. Munn, MSW
Director
Department on Aging
1301 Gervais Street
Suite 350
Columbia, SC 29201

Dear Director Munn:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You seek an opinion on whether there are circumstances under which state general funds may be expended prior to federal funds, particularly when both funding sources are designated for the same programs and objectives.

South Carolina Code Ann. § 11-9-125 governs the order of use for funds when there are both appropriations from the state general fund and a federal source which may be expended by a state entity. It reads:

> **Federal and other funds must be expended before funds appropriated from the general fund of the State**, to the extent possible, and any excess balances in accounts resulting from matching fund programs must be remitted to the general fund of the State. Federal or other funds generated by the expenditure of state funds, including refunds from prior year general fund expenditures, must be remitted to the general fund of the State if there is no federal or state requirement governing the specific use of the funds. In order to permit identification of these funds, state agencies shall:
>
> (1) **draw down and expend federal and other funds before spending state general fund appropriations whenever possible**;
>
> (2) maintain separate accounting records for each grant for cash, revenues, and expenditures to insure a proper audit trail;
>
> (3) reconcile federal and other fund accounts at the end of each state fiscal year and maintain those records for audit purposes;
>
> (4) submit federal financial reports to the grantor agency as required.

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> State agencies shall remit to the general fund of the State any funds found to exist in agency accounts. If an agency believes funds have been inappropriately identified as the funds defined in this section, the agency may appeal through the process provided in Sections 2-65-30 and 2-65-40. A report of the amount of funds credited to the general fund of the State pursuant to this section must be made by the Comptroller General at the time of each official state revenue forecast. This report must be provided to the Executive Budget Office and the Revenue and Fiscal Affairs Office, the Senate Finance Committee, and the House Ways and Means Committee. Research and student aid grants, including indirect cost recoveries, are exempt from this provision.

S.C. Code Ann. § 11-9-125 (Rev. 2011 & Supp. 2025) (emphasis added).

The first sentence of § 11-9-125 provides that federal and other funds must be expended before state general fund appropriations. Id. Additionally, subsection (1) specifies that federal and other funds must be drawn down and expended before spending state general fund appropriations whenever possible. Id. § 11-9-125(1). Thus, if there are federal or other funds available, they must be expended prior to using state general fund appropriations. Notably, these clauses do not restrict funding to only federal sources, so if there are no federal or other funds available, state general funds may be used.

Sincerely,

David Leggett
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General Emeritus