

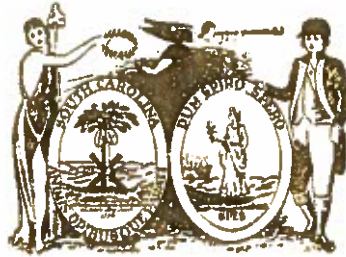
State of South Carolina

Executive Department

FILED

JUL 06 2016

Mark Hammond
SECRETARY OF STATE



Office of the Governor

EXECUTIVE ORDER NO.

2016-16

WHEREAS, each year, public dollars are allocated to private entities through earmarked appropriations to various state agencies that have generally been made without request or consultation from the agency; and

WHEREAS, such appropriations are often expressed as line items with vague names that are not accompanied by specific provisions or instructions as to the intended public use of such funds; and

WHEREAS, the State Constitution provides that "[m]oney shall be drawn from the treasury of the State . . . only in pursuance of appropriations made by law" and that "[b]ills appropriating money out of the Treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections" pursuant to Article X, Section 8 and Article IV, Section 21, respectively; and

WHEREAS, state law provides that "[i]t shall be unlawful for any moneys to be expended for any purpose or activity except for which it is specifically appropriated", and as the governing authority of the agency, the secretary or director is "vested with the duty of overseeing, managing, and controlling the operation, administration, and organization of the department" pursuant to Sections 11-9-10 and 1-30-10(D) of the South Carolina Code of Laws, respectively; and

WHEREAS, despite clear statutory language vesting directors with the sole authority to manage their respective agencies, to include determining the appropriate use of its appropriated funds, agency directors are instructed through informal means by members or agents of the General Assembly to pass these earmarked funds through to other entities or individuals to fund private entities, businesses, and projects; and

WHEREAS, it has long been held that public funds must be used for public and not private purposes and that, as creatures of statute, state agencies only possess those powers which are specifically delineated and may only deploy public resources in the manner prescribed by statutes or appropriations.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby order that any funds appropriated to any agency in my Cabinet must be expended in strict compliance with the purposes specified in the General Appropriations Act for a public and not private purpose and only for a purpose allowed by the agency's enabling legislation to further the functions of that agency as determined by its director.

BE IT FURTHER ORDERED, that where an agency has been appropriated monies in a manner that is vague or lacks specific instruction through statute or appropriation provisions, the agency director must, prior to expending these funds: (1) certify, in writing, that all expenditures made from this appropriated line further the goals and purposes of the agency and the appropriation; and (2) require a written grant or contract with the fund recipient that specifies the anticipated deliverables or outcomes within a specified timeframe. Nothing in this order should be construed to alter provisions of the General Appropriations Act or any supplemental provision, nor should the provisions of this order be construed to conflict with those of the South Carolina Consolidated Procurement Code or Administrative Procedures Act.

BE IT FURTHER ORDERED, the Executive Budget Office, in coordination with all state agencies, shall prepare by November 1st of each year a report, which shall be made public of all grants and contracts awarded with funds appropriated through a hidden earmark in the previous fiscal year.

This Order shall take effect immediately.



GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 6TH DAY OF
JULY, 2016.


NIKKI R. HALEY
Governor

ATTEST



MARK HAMMOND
Secretary of State