



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

September 8, 2026

Greg Jones
Tehama County Supervisor
P.O. Box 250
Red Bluff, CA 96080

**Re: Your Request for Advice
Our File No. A-26-068**

Dear Mr. Jones:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (“Act”) and Government Code Section 1090, *et seq.*¹ Please note that we are only providing advice under the Act and Section 1090, not under other general conflict of interest prohibitions such as common law conflict of interest.

Also, note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General’s Office and the Tehama County District Attorney’s Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice “is not admissible in a criminal proceeding against any individual other than the requestor.” (See Section 1097.1(c)(5).)

QUESTION

Does the Act or Section 1090 prohibit you, as a Board Member for the Tehama County Air Pollution Control District (the “District”), from taking part in, or the District from acting on, a Carl Moyer Grant application submitted by Jones & Son where you are a paid employee?

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

CONCLUSION

Yes, under the Act, you have a financial interest in Jones & Son as your employer and are prohibited from taking part in governmental decisions regarding Jones & Son. Additionally, the District is prohibited from acting on the Carl Moyer Grant application submitted by Jones & Son because Section 1090 prohibits the entire governing body from participating and entering into a contract when one member has a prohibitive financial interest.

FACTS AS PRESENTED BY REQUESTER

You are a Tehama County Supervisor and a member of the District's Board (the "Board"), which administers Carl Moyer Grants to qualifying agricultural applicants.

During the primary funding cycle for Carl Moyer Grants, the District conducts competitive solicitation for eligible project categories such as off-road equipment repowers, replacements, and infrastructure projects. The District reviews all complete applications received by the deadline and ranks them based on cost-effectiveness. Projects are funded in descending order of cost-effectiveness until all available funds are committed. After the initial application process, any remaining funds will be distributed on a first-come, first-served basis to all applications that meet the criteria and requirements while funds last. The Board has final approval of all individual grant awards and may direct the District on which project categories to fund.

Your father owns and operates a farming business, Jones & Son, which submitted an application for a Carl Moyer Grant. You are employed by Jones & Son as a chemical applicator and receive a wage for that work. Your Statement of Economic Interest indicates your position title is "General Manager." You have no ownership interest in Jones & Son, and you are not a partner, shareholder, or co-owner in any capacity.

ANALYSIS

The Act

The Act's conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) An official's financial interests that may give rise to a disqualifying conflict of interest under the Act are identified in Section 87103 and include:

- An interest in a business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- An interest in a source of income to the official, including promised income, which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).)

- The official's interest in their personal finances and those of their immediate family members (Section 87103.)

As an employee of Jones & Son, you have a financial interest in Jones & Son as a business entity and a source of income. Additionally, an official always has an interest in their personal finances.² Therefore, you may not take part in any governmental decision where it is reasonably foreseeable that the decision would have a material financial effect on your financial interests.

Foreseeability and Materiality

For a financial interest explicitly involved in a governmental decision, the "financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of a governmental decision" before the official or their agency. (Regulation 18701(a).) "A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest[.]" (*Id.*) Regulation 18702.1 provides the materiality standard for a business and a business as a source of income. Regulation 18702.1(a)(1)(A) provides, in relevant part, that the reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity, including a business entity that is also a source of income to the official, is material if the entity "is a named party in, or the subject of, the decision," including any decision in which the entity initiates the proceeding by filing an application with the official's agency.

Since Jones & Son is your employer and a source of income to you, it is reasonably foreseeable that consideration of Jones & Son's application for a Carl Moyer Grant will have a material financial effect on your financial interest. You may not make, participate in making, or influence this decision.³ As you note in your request, to properly recuse, you must publicly identify your interest in the decision and leave the room at the beginning of the agenda item, in accordance with Regulation 18707.⁴

² "If the decision would have a reasonably foreseeable financial effect on the official's financial interest in a business entity or real property, any related effect on the official's personal finances is not considered separately." (Regulation 18702.5(c).) Therefore, we do not further analyze the financial effect of the decision on your personal finances.

³ Regulation 18704 defines these terms. Generally, a public official makes a decision if they authorize, direct action, vote, appoint, obligate their agency, or enter into contracts. A public official participates if they provide information, opinions, or recommendations to influence a decision without significant review. A public official influences a decision if they contact or appear before officials in their agency or another agency to sway a decision, acting or purporting to act within their authority or on behalf of their agency.

⁴ When a public official has a disqualifying financial interest in an agenda item noticed for consideration at a public meeting, the official must publicly disclose the financial interest. For an interest in a business entity, the

Section 1090

Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is “concerned with any financial interests, other than perhaps a remote or minimal interest, which would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of their respective agencies.” (*Stigall v. Taft* (1962) 58 Cal.2d 565, 569.)

Section 1090 applies to officials who participate in any way in the making of the contract, including preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications, and solicitation of bids. (*People v. Superior Court (Sahlolbei)* (2017) 3 Cal.5th 230, 239, citing *Stigall, supra*, at p. 569.) Also, Section 1090 applies to grants an agency wishes to make to an entity. (See *People v. Honig* (1996) 48 Cal.App.4th 289 [rejecting a claim that a grant was not a contract within the meaning of Section 1090].) Importantly, when Section 1090 applies to one member of a governing body of a public entity, the prohibition cannot be avoided by having the interested board member abstain. Instead, the entire governing body is typically precluded from entering into the contract. (*Id.*; see also *Stigall, supra*, at p. 569; 86 Ops.Cal.Atty.Gen. 138, 139 (2003); 70 Ops.Cal.Atty.Gen. 45, 48 (1987).)

As a member of the Board, you are subject to the provisions of Section 1090, and you are presumed to be involved in all contracts made by the District. (*Thomson, supra*, 38 Cal.3d at pp. 645, 649.) The determinative question is whether you have a financial interest under Section 1090 in Jones & Son, which would prohibit the District from acting upon Jones & Son’s Carl Moyer Grant application.

Under Section 1090, the prohibited act is the making of a contract in which the official has a financial interest. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) Although Section 1090 does not specifically define the term financial interest, case law and Attorney General opinions state that prohibited financial interests may be indirect as well as direct, and may involve financial losses, or the possibility of losses, as well as the prospect of pecuniary gain. (*People v. Vallergera* (1977) 67 Cal.App.3d 847, 867, fn. 5; *Terry v. Bender* (1956) 143 Cal.App.2d 198, 207-208; 85 Ops.Cal.Atty.Gen. 34, 36-38 (2002); 84 Ops.Cal.Atty.Gen. 158, 161-162 (2001).)

As an employee of Jones & Son, you have a financial interest in your employer’s business and its financial health. As such, Section 1090 prohibits you from taking part in, and the District from acting on, the Carl Moyer Grant application submitted by Jones & Son.

Exceptions

The Legislature has created various statutory exceptions to Section 1090’s prohibition where the financial interest involved is deemed to be a “remote interest,” as defined in Section 1091, or a “noninterest,” as defined in Section 1091.5. If a “remote interest” is present, the

public official must disclose the name of the business entity, a general description of the business entity’s activities, and any position held. (Regulation 18707(a)-(a)(1)(A)(i).)

contract may be made if the officer fully discloses the interest, the interest is noted in the agency's official records, and the officer abstains from any participation in the making of the contract. (Section 1091(a).) If a "noninterest" is present, the contract may be made without the officer's abstention, and a "noninterest" generally does not require disclosure. (*City of Vernon v. Central Basin Mun. Water Dist.* (1999) 69 Cal.App.4th 508, 514-515.)

The "remote interest" exception under Section 1091 that warrants some consideration here is:

That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of the contracting party for at least three years before the officer initially accepting their office and the officer owns less than 3 percent of the shares of stock of the contracting party; and the employee or agent is not an officer or director of the contracting party and did not directly participate in formulating the bid of the contracting party.

(Section 1091(b)(2).)

You have stated only that you are an employee and chemical applicator for Jones & Son, and you have not identified the size of the business. However, you have identified the name of the business as Jones & Son, and your Statement of Economic Interests (Form 700) indicates that you are the General Manager of the business. Accordingly, it appears you are a chief executive or operational manager at Jones & Son and therefore an officer of the contracting party. Accordingly, it does not appear that this exception applies.

The "noninterest" exception that also warrants some consideration here is the exception for public services generally provided by the public body or board the official is a member of. A public official shall not be deemed to be interested in a contract if the official's interest is "[t]hat of a recipient of public services generally provided by the public body or board of which he or she is a member, on the same terms and conditions as if he or she were not a member of the body or board." (Section 1091.5(a)(3).)

The term "public services" under this exception is not limited to services provided to the general public or the public at large; "[p]ublic agencies provide many kinds of 'public services' that only a limited portion of the public needs or can use. This does not derogate from their characterization as 'public services' according to the ordinary meaning of those words." (*City of Vernon v. Central Basin Mun. Water Dist.* (1999) 69 Cal.App.4th 508, 514.) The public service must not be intentionally designed to limit the class of recipients and must be broadly available to all those potentially within it. (*Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1087.) Application of Section 1091.5(a)(3) also depends on the second key phrase: "on the same terms and conditions as if he or she were not a member of the body or board." In *Lexin*, the California Supreme Court explained, "There can be no special tailoring of a contract's terms, no discretion in determining what consideration a particular official must relinquish or may receive." (*Id.*, at p. 1088)

Based on these facts, the Board has final approval of Carl Moyer Grants and may provide direction to the District regarding the types of projects to fund. Accordingly, the “noninterest” exception under Section 1091.5(a)(3) does not apply, and Section 1090 prohibits the District from acting on the Carl Moyer Grant application submitted by your employer, Jones & Son.

If you have other questions on this matter, please contact me at mroeckl-navazio@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Margaret L. Roeckl-Navazio

By: Margaret L. Roeckl-Navazio
Counsel, Legal Division

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