

of interest under Section 112.313(7)(a) if his or her business received a façade grant from the CRA. Similarly, in CEO 12-14, a city's CRA offered redevelopment incentive grants to allow property owners and lessees to make residential, commercial, and business façade improvements and other improvements. The grant program was administered by the staff of the city's Development Services Department, who could approve the grant applications without a vote from the city council or the CRA, and the grants were processed on a first-come, first-served basis. Once again, we opined that the CRA board member would have a conflict of interest if he or she, individually or through his or her businesses, received the grant offered by the CRA.

However, we find the situation you present to be distinguishable from these prior opinions because of the particular nature of the grant program in the context of a water management district. We find that Section 112.316, Florida Statutes, applies to exempt any conflict of interest for the two WMD board members because the narrow and specific circumstances that form the basis of their inquiry indicate the public trust is not jeopardized by allowing their businesses or tenants to apply for the cost-share reimbursement grant.

In coming to that conclusion we rely upon all of the following circumstances, the absence of any one of which would result in our finding of a conflict and also our declining to apply Section 112.316 to negate the conflict.

First, we note that, by its nature, a WMD encompasses many, many thousands of acres of agricultural land and many, many farmers who are similarly situated, some of whom very often are members of the governing board of WMDs, no doubt, in great part due to their familiarity with land and agriculture irrigation and related matters. We do not believe it to be the intent of the law to preclude participation by such farmer-WMD board members in programs available to all other farmers in the WMD, especially where, as here, there is no history of denial of participation or lack of funding for any who apply.

Second, we note that the program's history is void of denial of participation or lack of funding because the program has been structured to accept every eligible application, as judged only by objective criteria, rather than discretionary criteria. There are no discretionary criteria by which to judge the applications and, thus, there is no risk that a WMD board member could leverage the application process to achieve a personal benefit not available to similarly-situated applicants.²

Third, we note that the program is not a competitive environment among applicants. The program is budgeted such that there are ample funds to admit all foreseeable applicants in the geographic jurisdiction of the WMD without risking the program's solvency.

Fourth, we recognize that the public benefit from applicants achieving participation in this program is substantial. The program aims to achieve water conservation by making agricultural producers more efficient in their water usage; to preclude landowning WMD board members from participation would materially reduce the water conservation by reducing substantial amounts of acreage from the program.

Lastly, we note the circumstances unique to a program administered by a water management district. Unlike, for example, a situation involving someone who is both an attorney

² While the WMD board's decision making in the application process is not discretionary, its involvement in the setting of the terms of the program, such as the reimbursement rates or the maximum reimbursement amount, is entirely discretionary. If the WMD board changes any of the program terms, the board members should no longer rely on this opinion and should seek a new opinion.