

From: [Miller, Carla](#)
To: [Rhode, Lynne C. \(City of Jacksonville\)](#)
Cc: [Gabriel, Jason](#); [Hodges, Lawsikia](#); [Oberdorfer, Kirby](#)
Subject: JEA
Date: Wednesday, October 23, 2019 3:55:36 PM

TO: Lynne, Jason and Lawsikia
FROM: Carla and Kirby

Hello Lynne,

Kirby and I have been discussing the conflict analysis today. We have identified some issues that need clarification. Since we had less than one day to work with this, the outline may be incomplete.

Initially, to clarify a point made in the memos, state ethics laws prohibit two different types of conflicts: (1) prohibitive conflicts of interest and (2) voting conflicts. Prohibitive conflicts of interest can potentially arise for JEA employees under either section 112.313(3) and/or 112.313(7) if the employees have certain business relationships. An employee acting in his/her employment capacity does not in and of itself negate any prohibitive conflict of interest.

To determine if any JEA officer or employee has a prohibitive conflict of interest or voting conflict takes time and several back and forth communications. It is hard (if not impossible) to adequately address conflict issues in a 1-2 day time frame. Sometimes, issues have to be submitted to the State Ethics Commission for opinions. We have started the conversation, at least, in response to your conflict memos for the prospective members of the JEA Negotiation Team. There needs to be a more in depth look at the issues.

For example, much of the review in the memo and conclusions drawn relate to past interactions between the prospective members of the Negotiation Team and the Respondents to the ITN. As prohibitive conflict of interest and voting conflicts laws address only existing relationships, more information needs to be obtained and analyzed with respect to the prospective members' of the Negotiation Team current relationships, if any, to the various Respondents to the ITN.

Additionally, some or all of the Respondents may not currently be engaged in business with JEA, but a prohibitive conflict of interest and/or voting conflict could arise in the future if JEA were to award a contract to any of the Respondents. The conflict analysis evolves over time, depending on the current status of the negotiations.

The Ethics Office recommends the following additional information be obtained from the prospective Negotiation Team members in a signed, written declaration to allow for a full and complete analysis to be performed of the state law prohibitive conflict of interest and voting conflict prohibitions.

1. Whether the prospective Negotiation Team member is an officer, partner, director or owner (of more than a 5% interest) in any of the Respondents to the ITN? If the prospective Negotiation Team member is a director for a Respondent(s), is the prospective Negotiation Team member compensated for serving as a director? The answer to these questions is probably no, since

the Respondents had to reply to a Conflict statement covering this; but the Team member should also confirm it from their end.

2. Whether the spouse or any child of a prospective Negotiation Team member is an officer, partner, director or owner (of more than a 5% interest) in any of the Respondents to the ITN?
3. Whether the prospective Negotiation Team member owns any stock or has any stock holdings in any of the Respondents to the ITN? If so, the amount of stock or stock holdings owned or held by the prospective Negotiation Team member, and the overall amount of stock or stock holdings issued by the Respondent?
4. Whether the prospective Negotiation Team member has any **current** contractual or employment relationships with any of the Respondents, including, but not limited to, work as an independent contractor, consultant or contract work?
5. Whether the prospective Negotiation Team member has any **current** contractual or employment relationships with any of the former employers discussed in the "Summary of Interactions with Respondents" section of each conflict memo, including, but not limited to, work as an independent contractor, consultant or contract work?
6. Whether the prospective Negotiation Team member has any **current** contractual or employment relationships with any of the officers or directors of the Respondents to the ITN, including, but not limited to, work as an independent contractor, consultant or contract work?
7. Whether the prospective Negotiation Team member is **currently** engaged in a business enterprise (partner, joint venture, corporate shareholder or co-owner of property) with any officers or directors of any of the Respondents to the ITN?
8. Whether the prospective Negotiation Team member would receive any compensation if JEA were to be sold?

Additional Ethics Provisions:

As to the Jacksonville Ethics Code, the prospective Negotiation Team members should also be aware of these additional prohibitions:

Jacksonville Ethics Code section 602.404 prohibits the acceptance or solicitation of other employment or compensation if the employment or compensation could reasonably be expected to impair independence in judgment or performance of City duties.

Jacksonville Ethics Code section 602.405 prohibits employees from negotiating, supervising or managing contracts with former employer from two (2) years prior to termination of prior employment.

After the team is assembled, there still needs to be a continual follow up on any potential conflicts that could arise as the process evolves. And I also note that we have addressed questions that will

pick up conflicts that violate state ethics laws. There are other areas that would not violate state ethics laws but still generate appearance issues. Any connections between the Respondents and the Negotiation Team members will be highly scrutinized and it is best that those connections are known at the front end.

Best,

Carla