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INQ 16-64

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**From:** Murawski, Michael P. (COE)  
**Sent:** Friday, March 04, 2016 2:20 PM  
**To:** Payne, Melvin (Aviation); Singer, Miriam (ISD)  
**Cc:** Centorino, Joseph (COE); Perez, Martha D. (COE)  
**Subject:** INQ 16-64 Melvin Payne OCA - RFQ No. 08  
**Importance:** High

Dear Mr. Payne and Ms. Singer:

Based on the information you have provided, I do not see a conflict with Mr. Payne sitting on the selection committee for OCA- RFQ No. 8.

First of all, under 2-11.1 (b) "definitions"... "brother-in-law" is not included in the definition of "immediate family" such that it would create a voting conflict, nor is "sister" included in that definition. Moreover, you have advised that Mr. Payne's brother-in-law has retired from FP&L and will have no involvement or oversight over the subject contract should FP&L be the successful bidder.

You have advised that Mr. Payne left the employment of FP&L more than two years ago so 2-11.1 (x) (the so called "reverse two year rule" is not applicable. In order to have a voting conflict under 2-11.1(v) Mr. Payne's action on the selection committee would have to DIRECTLY affect him AND he would have to have one of the prohibited relationships with FP&L, in this case, a stockholder.

However, based on your representation, Mr. Payne's stock in FP&L is significantly less than 5% so he has no controlling financial interest in FP&L. Any increase in the price of FP&L stock that might possibly occur as a direct result of FP&L securing this contract with the County would leave Mr. Payne in no substantially better position than the average FP&L stock holder and would not affect him in a manner distinct from the manner it would affect all FP&L stockholders, (a rather large class of individuals.)

The Ethic's Commission has long-held that officials be free of even the potential for entangling interests that will erode the public trust. Thus, an apparent conflict is sufficient to recommend that a public official disqualify themselves from acting on a matter of public interest if his action would contribute to the perception that official decisions were being made based on personal interests. A public servants conscience and judgment must ultimately guide the official actions of those entrusted with the public welfare. Based on the information you provided me, however, I do not find that Mr. Payne's service on the selection committee would be violative of the Conflict of Interest and Code of Ethics ordinance.

This opinion is based on the Miami-Dade County Ethics Code only and on the facts as provided by you.

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**From:** Payne, Melvin (Aviation) [<mailto:MPAYNE@miami-airport.com>]  
**Sent:** Friday, March 04, 2016 11:52 AM  
**To:** Murawski, Michael P. (COE); Singer, Miriam (ISD)  
**Subject:** RE: OCA - RFQ No. 08

5 or 10% would be wishful thinking, and yes my employment with FP&L has been more than two years ago.

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**From:** Murawski, Michael P. (COE) [<mailto:MURAWSK@miamidade.gov>]  
**Sent:** Friday, March 04, 2016 11:49 AM  
**To:** Payne, Melvin (Aviation); Singer, Miriam (ISD)  
**Subject:** RE: OCA - RFQ No. 08

Do you know what percentage of stock you own in FP&L? is it more than 5%? More than 10%? (if you own more than 5% of FP&L stock...congratulations, that would be quite a substantial holding) , was your employment with FP&L more than two years ago?

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**From:** Payne, Melvin (Aviation) [<mailto:MPAYNE@miami-airport.com>]  
**Sent:** Friday, March 04, 2016 11:46 AM  
**To:** Singer, Miriam (ISD)  
**Cc:** Murawski, Michael P. (COE)  
**Subject:** RE: OCA - RFQ No. 08

I think I have a conflict because as a former employee of FP&L I own stock in the company. My brother-in-law is now retired from FP&L.

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**From:** Singer, Miriam (ISD) [<mailto:SINGER@miamidade.gov>]  
**Sent:** Friday, March 04, 2016 11:36 AM  
**To:** Payne, Melvin (Aviation)  
**Cc:** Murawski, Michael P. (COE)  
**Subject:** RE: OCA - RFQ No. 08

Melvin: Please advise. Thanks

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**From:** Murawski, Michael P. (COE)  
**Sent:** Friday, March 04, 2016 11:35 AM  
**To:** Singer, Miriam (ISD); Payne, Melvin (Aviation)  
**Subject:** RE: OCA - RFQ No. 08

Also.....will Mr. Payne's brother-in-law be involved in any way with the management or oversight of the subject contract if FP&L were awarded it?

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**From:** Singer, Miriam (ISD)  
**Sent:** Friday, March 04, 2016 11:16 AM  
**To:** Payne, Melvin (Aviation)  
**Cc:** Murawski, Michael P. (COE)  
**Subject:** FW: OCA - RFQ No. 08

Good Morning Melvin.

Please provide responses to the questions received from the COE below.

Thank you,

Miriam

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**From:** Murawski, Michael P. (COE)  
**Sent:** Friday, March 04, 2016 10:38 AM

**To:** Singer, Miriam (ISD)

**Subject:** RE: OCA - RFQ No. 08

Miriam:

So, assuming that Mr. Payne is not prohibited from serving because he has past the “reverse two-year rule” time period; now the question is does he have a prohibited conflict because of A: his own stock ownership in FP&L and B: the fact that his brother-in-law is employed by FP&L .

These questions require a different analysis and are very fact specific, for instance how much stock in FP&L does Mr. Payne own? Basically, under 2-11.1 (v) if Mr. Payne is a stock holder and will be directly affected by his actions, he can't vote.

As far as his brother's employment, what's the nature of the employment? Is he an executive? How is his compensation structured? Will his brother benefit if FP&L gets this contract?