1. **Guiding Policy**: [https://www.portseattle.org/sites/default/files/2019-08/CC-2-Ethics and Conflict of Interest.pdf](https://www.portseattle.org/sites/default/files/2019-08/CC-2-Ethics%20and%20Conflict%20of%20Interest.pdf)
2. **Definition**: Conflict of Interest means because of other activities or relationships with other persons or entities, a person or entity:
3. Is unable or potentially unable to render impartial assistance or advice to the Port.
4. Is or might be otherwise impaired in its objectivity in performing the contract work; or
5. Has an unfair competitive advantage.

Parent and subsidiary entities shall be considered as the same entity. The conflict rules apply to the individual entities that make up a joint venture in the same manner as they apply to the joint venture.

These conflict rules apply to entities resulting from acquisitions and mergers. An entity with an real, potential, or perceived conflict of interest carries the real, potential, or perceived conflict of interest with them to the newly formed entity after an acquisition or merger.

The conflict rules apply to employees of consultants who move from one firm to another. A consultant employee with an real, potential, or perceived conflict of interest carries the conflict of interest with them to the new employer after changing firms.

1. Conflict of Interest Determination Process:

Per the Port’s policy, the Port’s Director of the Central Procurement Office makes the determination with concurrence from the Port’s Workplace Responsibility Office, or delegate.

Should your firm need a determination request on an existing agreement, contact your project manager or contract administrator. If this is during an active solicitation, contact the contract administrator listed in the solicitation.

1. **Considerations:**
	1. Conflict of interest may generally fall under three categories:
		1. Unequal access to information: May occur when a consultant obtains access to nonpublic information as part of its contract performance giving it an advantage in a future competition for a Port contract.
		2. Impaired objectivity: May arise where a consultant outside business relationships creates an economic inventive to provide biased advice under a Port contract.
		3. Biased ground rules: May occur when, as part of its work under one Port contract, the consultant has helped set the procurement’s ground rules, such as writing the scope of work or developing specifications, for a Port procurement.
	2. The Port analyzes the situation/ facts and asks the following 4 questions:
2. Is there a real or perceived conflict?
3. If yes, does the policy allow it to be waived?
4. If yes, are there appropriate fire walls in place if waived?
5. If yes, will the Port waive the conflict?
6. **Perceived or Real Conflict of Interest Analysis – Project or Part of a Project**

If you were involved in developing basis of design, project definition document, or designed past 15% then there is a perceived or actual conflicted out of design, design build (DB), Building Engineering System (BES), project management (PM), project controls (PC), Construction management (CM), and construction [Major Construction (MC), Job Order Contracting (JOC), General Contractor Construction Manager (GCCM), Building Engineering Systems (BES].

**Unless the services have been purposefully procured under 1 procurement/1 contract:**

1. If performing or will perform any PM or PC, there is a conflict for Design, CM, MC, JOC, GCCM, DB BES.
2. If performing or will perform any design, there is a conflict for PM, PC, DB, CM, MC, JOC, GCCM, BES.
3. If performing or will perform an assessment of the site/project, there is a conflict for performing Design, DB, MC, JOC, GCCM, BES.
4. If performing or will perform any CM, there is a conflict for PM, PC, Design, DB, BES, MC, JOC, GCCM.
5. **For Planning & Environmental Work**

We need to assess issues related to:

1. Creation of Future Work:
	* 1. Involvement in development of the scope/work that is involved in the procurement (scope, estimates, evaluation criteria, and other factors).
		2. Did their prior work create the work/scope related to the procurement/contract?  Concern:  creating your own future work.
2. Duty of Independence, Divided Loyalty (Impaired objectivity):
3. Is it possible that prior work on the project, site, or with other entities impact their services, independence, advice?  Will the firm/individual be able to provide advice without being influenced (consciously or unconsciously) by prior work they have done for the Port or other entities? Concern:  Duty of Independence; Divided loyalty.
4. Is it possible, the firms or individual be involved in parties that may be in dispute later in the project?
5. Is it possible, the firm have someone involved on both sides of an issue directly or indirectly (in formulating strategy or negotiations)?
6. Is it possible the firm has or will gain confidential information that would benefit another party who does business with the Port, is in a dispute, or matter that is not or may not be aligned with the Port?
7. Does the firm or individual have a financial interest in a matter or business that may impact, consciously or subconsciously, their ability to provide independent advice and services?
8. **Waiver Process: Determining if the Port will issue a waiver if a perceived or real conflict exists**

The Port will assess the following:

* 1. Does the Port’s policy prohibit a waiver?
	2. If a waiver is in the best interest to the Port, what are the firewalls in place? Is there limited competitive market for the services? The Port will contact the firm to the obtain their feedback regarding a mitigation plan for the Port’s review and approval before final decision on waiver.
1. Determination Notification

The Port issues a written determination to the requesting firm. If relating to an upcoming opportunity, the Port may include any determinations relating to the procurement in the solicitation document.