

Hypothetical

- A State Agency (Agency) has determined that it needs to procure widgets that should result in energy efficiency savings. It issues a press release in August announcing that it plans to release a solicitation in early October.
- During September, a potential bidder, the CEO of Company Blue, calls the head of the purchasing office (Agency Purchasing Officer) at the Agency to inquire whether the solicitation will include product specifications for a newer version of widgets that has been on the marketplace for the past year and which is manufactured by Company Blue (as well as Companies Green and Red).
- Agency Purchasing Officer informs the CEO of Company Blue that the draft solicitation does not contain those specifications. The CEO then forwards information to assist the Agency in reconsidering its technical specification requirements. In early October, the Agency advertises the opportunity in the Contract Reporter and issues the solicitation for widgets. It estimates spending \$500,000 on widgets.
- The specifications had been revised so that the newer version of the widgets, such as those manufactured by Companies Blue, Green and Red, meet the solicitation's technical specifications.
- The solicitation provides a period of 10 calendar days for the companies to respond to the bid. Bids must be received at Room 133 of the Agency by October 31 at 2:00pm.
- The solicitation indicates that the contract will be awarded based on lowest price to a responsive and responsible bidder.
- Potential bidders are advised in the solicitation that there will be a conference call to address any questions they may have. It is a non-mandatory conference call.
- The solicitation also provides that a potential bidder may schedule an individual interview with the Agency Purchasing Officer to obtain answers to questions that are not satisfactorily answered on the conference call.
- Jeremy B., who works in the Agency's Purchasing Office but is not the Agency Purchasing Officer, is named as the designated contact for the widget bid. Jeremy B. is unfamiliar with this particular procurement.

- The Agency's Purchasing Officer is contacted twice by telephone, after the solicitation is issued, by the CEO of Company Blue, who seeks further information as to how his company can best present its response to meet the Agency's specifications. The Agency Purchasing Officer is not a Designated Contact. The Purchasing Officer speaks generally with the CEO about the solicitation but declines to provide any specific information.
- Five responses are submitted to the Purchasing Office. Two are received after 3:00 pm on October 31st.
- Company Blue is selected by the Agency as the lowest responsive and responsible bidder on the widget solicitation.
- Company Red protests that award decision to OSC in writing and by phoning the Bureau of Contracts at OSC.
- In reviewing the procurement record from the Agency, OSC finds no Record of Contact in the procurement record regarding a Contact by the CEO of Company Blue.