



Debarment and Enjoinment Procedures for Construction



DGS Debarment and Enjoinment Procedures for Construction

- Issued in DEB Notice 091010
- Authority in § 2.2-4321 and Executive Order 88 (01)
- Establishes procedures by which contractors may be debarred from construction projects with all Commonwealth agencies





Enjoinment

- Purpose is to impose bidding restrictions on a contractor
- An enjoinment is issued when a contractor fails to fulfill its obligations
- An enjoinment is used for issues that can be corrected





Reasons for Enjoinment

- Failure to Meet SWaM Requirements
- Delinquent in excess of 10% on the approved project schedule



- Unwillingness or Inability to Fulfill Contract
- Failure to comply with the CPSM and General Conditions





Enjoinment Punishment

- Prohibition of bidding on Commonwealth construction contracts
- For a period not to exceed one year
- Corrective action may result in reinstatement

Enjoinment Process

- Same as debarment
 - covered later





Debarment

- Exclude individuals or firms from contracting for construction and related professional and non-professional services with all state agencies
- Does not relieve existing obligations
- Purpose is to protect the Commonwealth from risks
- Applies to any successor company





Reasons for Debarment

- Performance Related Causes
- &
- Non-Performance Related Causes





Reasons for Debarment

Performance Related Causes

- Breach of contract
- Unwillingness or inability to honor a binding bid
- Falsifying or misrepresenting manufacturer's specifications
- Using abusive or obscene language or a threatening manner





Reasons for Debarment

Non-Performance Related Causes

- Criminal offense involving public contracting
- Conviction of any offenses indicating a lack of moral, ethical, or business integrity
- Conferring any gift, favor, or advantage upon a state employee

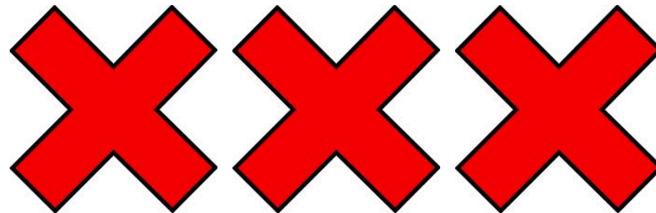




Reasons for Debarment

Non-Performance Related Causes (continue)

- Failing to disclose a conflict of interest
- Violation of antitrust laws
- Failure to pay re-procurement costs
- Other reasons...





Debarment Punishment

- Disqualified from contracting with the Commonwealth
- For a period from 90 days up to 3 years
 - Set at the discretion of the Debarring Official
 - Exceptions:
 - Criminal offenses require 3 years
 - Failure to pay re-procurement costs is 1 year or until paid, whichever is longer



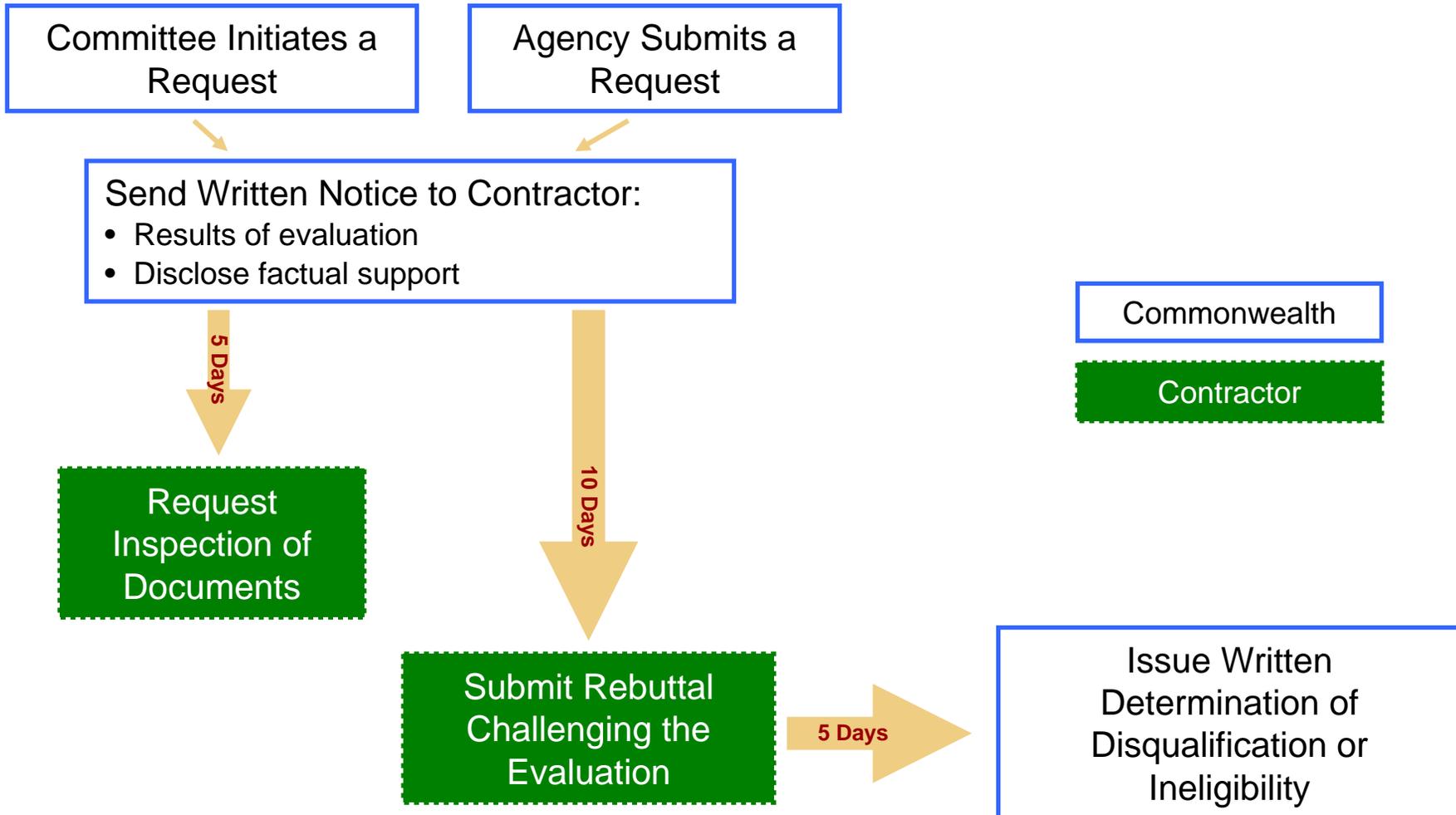


Submit an Initial Debarment or Enjoinment Request

- Can be initiated by the Committee or by an appropriate agency personnel making a request of the DEB Director.
- A request for debarment or enjoinment must be in writing and state:
 - (a) That a request for either debarment or enjoinment is being submitted
 - (b) The agency or institution of the Commonwealth involved in the dispute
 - (c) The contract number and other identification of the contract
 - (d) The basis for the debarment or enjoinment action
 - (e) The relief sought



Initial Process





Initial Process (continue)

Issue Written Determination:

If determine the contractor should be allowed to participate, the proposed disqualification action will be canceled



Issue Written Determination:

If determine the contractor should be disqualified from participation, a notice shall be sent stating the basis for determination



Initiate an Appeal
to the DGS
Director

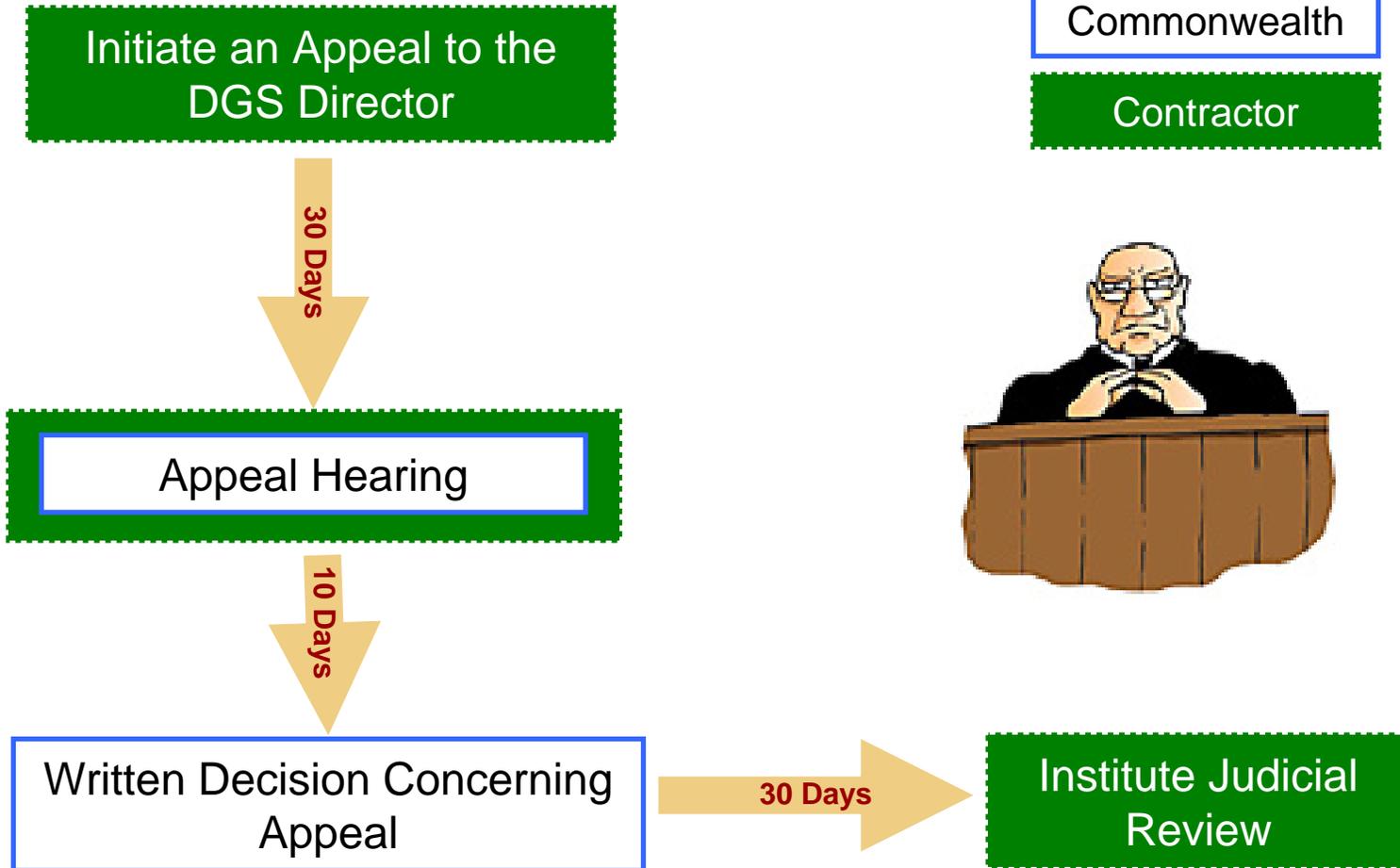


Submit an Appeal

- Submitted to the DGS Director
- A request for an appeal must be in writing and state:
 - (a) That an appeal is being filed
 - (b) The agency or institution of the Commonwealth involved in the dispute
 - (c) The decision from which the appeal is being taken
 - (d) The contract number and other identification of the contract
 - (e) The basis for the appeal
 - (f) The relief sought



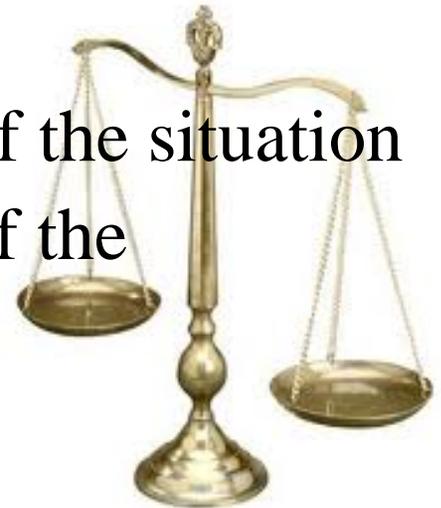
Appeals Process





Reinstatement

- The Commonwealth may lift or suspend a debarment or enjoinder at any time
- Contractor can apply for reinstatement at any time by writing the Committee explaining:
 - Actions taken to remedy the situation
 - Actions taken to prevent recurrence of the situation
 - Why it would be in the best interest of the Commonwealth





Additional Information

- The Debarment and Enjoinment Procedures for Constructions:
 - Were issued in DEB Notice 091010
 - Are posted at www.dgs.virginia.gov/DEB
- Debarred and enjoined firms will be included in the list posted on the eVA homepage (www.eva.virginia.gov)

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