

IBM' suspension was lifted after one week only

April 4th, 2008: IBM officially announced an **agreement with the Environmental Protection Agency (EPA)** to **terminate the temporary suspension order** barring IBM from participating in new Federal government business. **Effective immediately**, IBM will resume participating in new business with all federal agencies, ending a suspension that began March 27, 2008. **IBM will continue to cooperate** with the EPA's ongoing investigation of possible violations of the Procurement Integrity provisions of the Office of Federal Procurement Policy Act regarding a bid for business with the EPA, and with a related investigation by the U.S. Attorney's Office for the Eastern District of Virginia.

IBM spokesman Fred McNeese declined to comment beyond the material in the company's press release. The EPA did not immediately have any comment

Just one day before the suspension was lifted, the **General Services Administration** released a statement **retracting prior assertions** that the IBM suspension from new federal contracts stemming from an action taken by the Environmental Protection Agency would extend to the sales of IBM products by resellers.

"One of the underlying issues resulting from the suspension has been **the impact on the purchase from resellers of IBM products**," said GSA spokesman Michael Collins. "Based upon information just provided by EPA, the suspension does not relate to the integrity of IBM products. That is, if the authorized reseller of IBM products is performing under its own contract, the [Federal Acquisition Regulation] Subpart 9.4 restrictions regarding contracting with a suspended party do not apply."

The EPA's decision likely means the **incident being investigated is isolated**, and that the agency acted so as not to "*adversely affect a whole multinational corporation*," said Ray Bjorklund, senior vice president at market research firm Federal Sources Inc. If the company being probed was smaller and the potential violations touched most of its officials and employees, the government would have been less inclined to lift such a ban, Bjorklund said.

Name	IBM 
Classification	Firm
Exclusion Type	Reciprocal
Description	none
Address	New Orchard Rd., Armonk, NY, 10504
DUNS	001368083
CT Action(s) --	
Action Date	27-Mar-2008
Termination Date	Indef.
CT Code	S
Agency	EPA
Agency POC	EPA Contacts
EPLS Create Date	27-Mar-2008
EPLS Modify Date	
Action Status	Deleted (03-Apr-2008)

The decision of lifting the ban on the company's government contracts **came out of the blue**, and was not accompanied by any explanation. Right after the company got blacklisted, IBM stated that the U.S. attorney's office for the eastern district of Virginia **fired up a lawsuit** that investigates the interactions between its employees and the EPA. Richard Colven, an analyst at market research firm Input in Reston says that it would be difficult to predict the effects of the ban on the future interactions between IBM and the United States government, but he predicts some negative consequences. "*But I would think that IBM's reputation across the government and in general will be able to overcome this*," he continued.

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IBM is back, but what happened?

The Environmental Protection Agency **lifted its weeklong suspension** of IBM from government work after the information technology mainstay agreed to **concessions** with agency officials.

The suspension's end calms concerns rampant throughout the government IT and acquisition communities. EPA's suspension startled chief acquisition officers, senior procurement officials and chief information officers. Some agency officials and procurement experts had worried that EPA's action could seriously disrupt agency projects.

"EPA did not inform GSA before suspending the company", said David Drabkin, senior procurement official and acting chief acquisition officer at the General Services Administration. Furthermore, many in government and industry learned about the suspension April 1st — April Fool's Day — and some thought it was a prank.

Agreement terms:

The two sides on Thursday April 3rd signed **an agreement**. The document was signed by Robert Meunier, the EPA debaring official, and Richard Kaplan, vice president and assistant general counsel for IBM.

Richard Kaplan said the company **agreed to withdraw its offer and protest of an \$84 million EPA financial management modernization contract**, which the agency awarded to CGI Federal in 2007.

According to the text of the agreement, EPA suspended the company because IBM employees allegedly obtained protected source-selection information from an EPA employee and then used it to their advantage in contract negotiations with the agency. As part of the deal, **IBM has placed five employees on administrative leave** until investigations by the company and government are finished.

Besides withdrawing from competition for the modernization contract, **IBM agreed to examine its compliance program and correct it as needed**.

IBM pledged to cooperate with the investigations by EPA and the U.S. Attorney's Office for the Eastern District of Virginia. In addition, **IBM will reimburse the government for the costs of the investigation and costs associated with the protest** it filed at the Government Accountability Office, the agreement states.

Why was the ban lifted after one week only?

Here is what **Mike Abramowitz** thinks (The Pro Con Group): *"The estimate of IBM sales to the government of only \$1.5 billion are somewhat misleading.*

That figure is direct sales only. It does not include the sales of products and services provided by IBM in the role of subcontractor to hundreds of primes and other subcontractors.

Would IBM sales to state and local governments been covered under this suspension given that many state and local procurements require and are based on the General Services Administration schedule that exists for a vendor?

*I do believe that **the impact would have been far greater than the \$1.5 billion** provided by GSA.*

*I think **the decision to lift the suspension was a wise move** on the part of the parties. It is being investigated, and action would be appropriate after all the facts have been gathered.*

The question regarding the suspension should have addressed the sales through others as well as direct IBM sales. Would all IBM products and services been excluded regardless of from whom the product was purchased?

*The bigger question should be: **Why would employees make such a big alleged mistake?** Is it the lack of corporate training, or is it ignorance of the difference between right and wrong?"*