



**DEPARTMENT OF THE ARMY**  
UNITED STATES ARMY LEGAL SERVICES AGENCY  
901 NORTH STUART STREET  
ARLINGTON VA 22202-1837

REPLY TO  
ATTENTION OF

JALS-KFLD-PF

3 April 2008

MEMORANDUM FOR Office of the Assistant Secretary of the Army, Acquisition Logistics and Technology, U.S. Army Contracting Agency, Falls Church, Virginia

SUBJECT: Request for Compelling Reasons Determination

1. On 1 April 2008, IBM was temporarily suspended from contracting with any agency in the Executive branch of the United States Government in accordance with Section 9.407 of the Federal Acquisition Regulations ("FAR"). This action was taken by the Environmental Protection Agency (EPA) based on an investigation by the EPA of possible violations of the Procurement Integrity provisions of the Office of Federal Procurement Policy Act regarding a bid for business with the EPA originally submitted in March 2006.
2. Agencies shall not renew or otherwise extend the duration of current contracts, or consent to subcontracts, with the contractors debarred, suspended or proposed for debarment, unless the agency head or a designee with authorized representative status, states in writing the compelling reasons for renewal or extension in accordance with the provisions of the FAR 9.405-1(c) and 9.405-2.
3. IBM is the prime Contractor providing a wide range of services to satisfy the operational requirements of Soldier civilian voluntary education programs and services in support of the Army Continuing Education System (ACES). The contract is an Indefinite Delivery Indefinite Quantity (IDIQ) type contract with Task Orders awarded on either a Firm Fixed Priced (FFP) or a Time & Materials (T&M) basis. The contract's Period of Performance is One Base Period of 06 September 2007 thru 31 March 2008 plus Nine (9) One Year Option Periods beginning 01 April 2008 thru 31 March 2017. The total estimated value is \$312M. A task order was scheduled to be issued on 1 April 2008.
4. Upon notification of the EPA's temporary suspension of IBM, the Contracting Center of Excellence (CCE) issued a letter to IBM informing them of a contract suspension for GoArmyEd support services to the Army (Encls 1 and 2). Due to the contract suspension order, the GoArmyEd portal (<https://www.earmy.com/Login.aspx>) has been shut down and all associated support services supported by ACES have ceased until a resolution can be achieved (Encl 3).
5. On 3 April 2008, the U.S. Army Contracting Agency, Falls Church, Virginia submitted a request for a compelling reasons determination to continue to do business with IBM and its affiliated companies for the purpose of the company's participation in the operations and maintenance support activities for the GoArmyEd portal (Encl 4). This

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request was referred to the Chief, Procurement Fraud Branch, U.S. Army Legal Services Agency, Contract and Fiscal Law Division consistent with Section 5109.405 of the Army Federal Acquisition Regulations Supplement. The Chief, Procurement Fraud Branch recommended approval of the request.

6. I have determined that the U.S. Army Contracting Agency has provided compelling reasons to continue to do business with IBM to exercise the 1 April 2008 option for the following reasons:

a. The immediate operational need and continuity of the GoArmyEd portal.

b. As the designer, developer, integrator and supplier of the GoArmyEd programs and services, IBM is currently the only contractor who can provide the required support to GoArmyEd.

7. Pursuant to Section 209.405 of the Defense Federal Acquisition Regulation Supplement, written notification of this compelling reasons determination will be provided to the General Services Administration.

8. Questions regarding this action should be addressed to: U.S. Army Legal services Agency Procurement Fraud Branch, ATTN: [REDACTED], 901 North Stuart, Suite 700, Arlington, Virginia, 22203-1837. [REDACTED]

[REDACTED]

[REDACTED]

ROBERT N. KITTEL  
Army Suspension and Debarment Official

3 Encls

1. Notice from CCE to IBM of Contract Suspension
2. 31 March 2008 Government Executive Article, "IBM Suspended from New Federal Contracts"
3. Notice from IBM to CCE Re: Contract Suspension
4. Request for Compelling Reasons Determination and HCA Concurrence dated 3 April 2008