

8-K 1 g97411e8vk.htm IVAX CORPORATION FORM 8-K

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 OR 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) September 19, 2005

IVAX Corporation

(Exact name of registrant as specified in its charter)

Florida

(State or other jurisdiction of
incorporation)

1-09623

(Commission file number)

16-1003559

(I.R.S. Employer
Identification Number)

**4400 Biscayne Boulevard,
Miami, Florida**

(Address of principal executive offices)

33137

(Zip Code)

(305) 575-6000

(Registrant's telephone number, including area code)

Not Applicable

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instructions A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement

On September 19, 2005, IVAX Corporation, a Florida corporation (“IVAX”), entered into Amendments (the “Amendments”) to its change in control employment agreements (the “Employment Agreements”) with certain officers, including Dr. Frost, Mr. Flanzraich, Dr. Hsiao and Dr. Henein. Pursuant to the Amendments, the Employment Agreements have been amended to (i) change the definition of “Change in Control” so that a “Change in Control” occurs upon the closing of a merger, rather than upon shareholder approval of such merger, and (ii) change the accountant to be used to perform any calculations required under the excise tax of Section 4999 of the Internal Revenue Code of 1986, as amended (as described in Section 9(b) of each of the Employment Agreements) from either Arthur Anderson LLP or Ernst & Young LLP, as the case may be, to Deloitte & Touche LLP. All other terms of the Employment Agreements remain the same.

The foregoing description does not purport to be complete and is qualified in its entirety by reference to the form of Amendment, which is attached as Exhibit 10.1 hereto and is incorporated herein by reference.

Item 8.01 Other Events

IVAX has scheduled its special meeting of shareholders for 10 a.m., local time, on October 27, 2005 to vote on the previously announced merger with Teva Pharmaceutical Industries Limited. IVAX shareholders of record at the close of business on Friday, September 23, 2005 will be entitled to notice of the special meeting and to vote on the proposal.

IVAX will send a definitive joint proxy statement/prospectus to shareholders of record, which will contain important information about the merger with Teva. Shareholders are urged to read the definitive joint proxy statement/prospectus when it becomes available. The definitive joint proxy statement/prospectus will also include the location of the special meeting.

Item 9.01 Financial Statements and Exhibits

(c) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	Form of amendment to Employment Agreement (Change in Control) between IVAX Corporation and certain officers.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

IVAX CORPORATION

By: /s/ Thomas E. Beier

Name: Thomas E. Beier

Title: Senior Vice President-Finance,
Chief Financial Officer

Date: September 21, 2005

EX-10.1 2 g97411exv10w1.htm AMENDMENT TO EMPLOYMENT AGREEMENT

Exhibit 10.1

IVAX CORPORATION

FORM OF AMENDMENT TO EMPLOYMENT AGREEMENT (Change in Control)

This Amendment to the Employment Agreement (Change in Control) (the "**Amendment**") is made as of September 29, 2005, by and between IVAX Corporation, a Florida corporation (the "**Company**") and [_____] ("**Executive**").

WHEREAS, the Company has entered into an Agreement and Plan of Merger among the Company, Teva Pharmaceutical Industries Limited ("**Teva**"), Ivory Acquisition Sub, Inc. and Ivory Acquisition Sub II, Inc. (the "**Merger Agreement**"), pursuant to which, at the effective time of the proposed merger, Ivory Acquisition Sub, Inc. would merge with and into the Company, with the Company continuing as the surviving corporation, and immediately thereafter, the Company would merge with and into Ivory Acquisition Sub II, Inc. (each merger, taken together, constituting the "**Merger**") and as a result of the Merger, Teva would acquire all of the issued and outstanding stock of the Company;

WHEREAS, the Company entered into the Employment Agreement (Change in Control) (the "**Employment Agreement**") with Executive on [Date];

WHEREAS, the Employment Agreement provides for certain retention and severance benefits in the event of a Change in Control of the Company (as defined in the Employment Agreement);

WHEREAS, the Company and the Executive desire to amend the definition of a Change in Control, so that a Change in Control occurs on the consummation of a merger rather than shareholder approval of a merger; and

WHEREAS, the Company and the Executive desire to amend the Employment Agreement to replace Arthur Andersen LLP or Ernst & Young LLP as the accountant for the golden parachute calculations with Deloitte & Touche LLP.

NOW, THEREFORE, the parties agree as follows:

1. Change in Control. Section 2(c) of the Employment Agreement is hereby amended in its entirety as follows:

"The effective date or date of consummation of a reorganization, merger or consolidation, in each case, unless, following such reorganization, merger or consolidation, (i) more than 70% of, respectively, the then outstanding shares of common stock of the corporation resulting from such reorganization, merger or consolidation and the combined voting power of the then outstanding voting securities of such corporation entitled to vote generally in the election of directors is then beneficially owned, directly or indirectly, by all or substantially all of the individuals and

entities who were the beneficial owners, respectively, of the Outstanding Company Common Stock and Outstanding Company Voting Securities immediately prior to such reorganization, merger or consolidation in substantially the same proportions as their ownership, immediately prior to such reorganization, merger or consolidation, of the Outstanding Company Common Stock and Outstanding Company Voting Securities, as the case may be, (ii) no Person (excluding the Company, any employee benefit plan (or related trust) of the Company or such corporation resulting from such reorganization, merger or consolidation and any Person beneficially owning, immediately prior to such reorganization, merger or consolidation, directly or indirectly, 20% or more of the Outstanding Company Common Stock or Outstanding Company Voting Securities, as the case may be) beneficially owns, directly or indirectly, 40% or more of, respectively, the then outstanding shares of common stock of the corporation resulting from such reorganization, merger or consolidation or the combined voting power of the then outstanding voting securities of such corporation entitled to vote generally in the election of directors and (iii) at least a majority of the members of the board of directors of the corporation resulting from such reorganization, merger or consolidation were members of the Incumbent Board at the time of the execution of the initial agreement providing for such reorganization, merger or consolidation; or”

2. Accountants. Section 9(b) is hereby amended by replacing all references to “Arthur Andersen LLP” or “Ernst & Young LLP” with “Deloitte & Touche LLP”.

3. Employment Agreement. To the extent not amended hereby, the Employment Agreement shall continue with full force and effect in accordance with its terms.

4. Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned. Execution and delivery of this Amendment by exchange of facsimile copies bearing the facsimile signature of a party shall constitute a valid and binding execution and delivery of the Amendment by such party. Such facsimile copies shall constitute enforceable original documents.

5. Headings. All captions and section headings used in this Amendment are for convenient reference only and do not form a part of this Agreement.

6. Governing Law. This Agreement will be governed by the laws of the State of Florida (with the exception of its conflict of laws provisions).

IN WITNESS WHEREOF, this Amendment has been entered into as of the date first set forth above.

IVAX CORPORATION

EMPLOYEE

By:

Signature

Title

Printed Name

Signature Page of Amendment To Employment Agreement (Change In Control)