

### **DOJ Settlement Highlights False Claims Act Exposure for Certain DEI Practices**

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On April 10, 2026, [the U.S. Department of Justice announced](#) that IBM agreed to pay approximately \$17 million to resolve allegations that certain DEI-related employment practices violated federal anti-discrimination requirements applicable to federal contractors. This represents the first settlement under the DOJ's Civil Rights Fraud Initiative, which was launched in May 2025 as an enforcement tool for Executive Order 14173's directive that federal agencies and contractors eliminate "illegal" DEI policies and "all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements."

**The Civil Rights Fraud Initiative is highly relevant for employers because it expands the risk landscape for companies that receive federal funds, hold government contracts, or certify compliance with federal civil rights laws. The initiative signals that the government intends to use the False Claims Act — traditionally associated with financial fraud — as a tool to police allegedly discriminatory employment and DEI-related practices.**

The DOJ's Civil Rights Fraud Initiative is specifically tasked with utilizing the False Claims Act to investigate and pursue claims against federal contractors that engage in "illegal" DEI. Any person who submits false claims to the government is liable for three times the government's damages, so the potential damages for federal contractors are astronomical.

According to the DOJ, IBM engaged in the following practices in violation of the False Claims Act:

1. Tying bonus or incentive compensation to demographic representation goals;
2. Adjusting hiring or interview processes based on race or sex, including the use of "diverse interview slates" and "diverse sourcing";
3. Using workforce demographic goals to inform hiring or promotion decisions; and

4. Restricting eligibility for certain mentorship, training, or leadership programs based on protected characteristics.

The settlement included no admission of liability, but the multi-million-dollar settlement amount confirms both that the current DOJ is actively enforcing its approach to DEI initiatives, and that the consequences of suspected non-compliance are costly.

DEI initiatives have long been recognized as a mechanism to fill the gap between equality and equity, but this settlement underscores the fundamental problem: anti-discrimination laws are grounded only in equality, and certain equity-based decisions, like considering race or sex in employment decisions, are unlawful, regardless of good intent.

On these same grounds, and in a unanimous decision, the U.S. Supreme Court recently reversed long-standing Sixth Circuit precedent that subjected “reverse discrimination” claims to a heightened evidentiary burden, reinforcing for employers that all protected classes (marginalized or not) are due equal protection under the law. ([Ames v. Ohio Department of Youth Services \(2025\)](#))

#### **Employers should:**

1. Ensure employment decisions are based on legitimate, job-related, neutral criteria;
2. Avoid tying compensation or advancement to demographics;
3. Provide equal access to training and development opportunities; and
4. Periodically review DEI programs for alignment with anti-discrimination laws and contractual certifications.

**Bottom line:** The IBM settlement confirms that DEI compliance is a current enforcement priority and not a hypothetical risk, especially for federal contractors, which face elevated risk, including potential False Claims Act exposure.

**Bodman’s Workplace Law Group is available to assist employers in reviewing DEI programs, assessing federal contract risk, and aligning workplace initiatives with current legal expectations.** Please contact one of the authors, [Cameron D. Ritsema](#) or [Rebecca Sequin-Skrabucha](#), [Jennifer M. Oertel](#), or any member of Bodman’s [Workplace Law Group](#) if you have questions regarding any of the information above. Bodman cannot respond to your questions or receive information from you without establishing an attorney-client relationship and clearing potential conflicts with other clients. Thank you for your patience and understanding.

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