

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice (the United States), and International Business Machines Corporation (IBM) (hereafter collectively referred to as "the Parties"), through their authorized representatives.

RECITALS

A. IBM is a New York corporation and has its principal place of business in Armonk, New York. IBM provides products and services to the United States through contracts with the federal government.

B. The United States contends that it has certain civil claims against IBM arising from what the United States contends was IBM's knowing submission of false claims and knowingly making false statements to the United States as follows: as a federal contractor, IBM was required to comply with anti-discrimination requirements as set forth in Title VII of the Civil Rights Act of 1964, as incorporated into its federal contracts, and the Federal Acquisition Regulation, including at FAR clause 52.222-26. The United States contends IBM certified compliance in its federal contracts with these requirements while knowingly maintaining practices described below that the United States contends discriminated against employees during employment and applicants for employment because of race, color, national origin, or sex, and failed to treat employees during employment without regard to race, color, national origin, or sex. In addition, the United States contends IBM allocated costs to its federal government contracts relating to these practices and sought payment and reimbursement under its federal government contracts for such costs. The United States contends the practices included:

1. Modifications or adjustments to pay, bonus, or other compensation that caused employees to take race, color, national origin, or sex into account when making employment decisions, including a diversity modifier that tied bonus compensation to achieving demographic targets;
2. Taking race, color, national origin, or sex into account as part of decisions to hire, transfer, or promote through the use of “diverse interview slates,” “diverse sourcing,” and other related employment practices, including by altering interview eligibility criteria based on race, color, national origin, or sex;
3. Developing race and sex demographic goals for business units and taking race, color, national origin, or sex into account when making employment decisions to achieve progress towards those demographic goals;
4. Offering certain training, partnerships, mentoring, leadership development programs, educational opportunities or resources, and/or similar opportunities only to certain employees, with eligibility, participation, access or admission limited on the basis of race, color, national origin, or sex

during the period from January 1, 2019 through the Effective Date of this Agreement.

The conduct described in this Paragraph B is referred to below as the Covered Conduct.

C. IBM has been credited in this settlement under the Department of Justice’s Guidelines for Taking Disclosure, Cooperation and Remediation into Account in False

Claims Act Matters, Justice Manual § 4-4.112 for cooperation provided by IBM. The cooperation IBM provided included disclosing facts early that were relevant to the government's investigation and gathered during its independent investigation; providing information to assist in the determination of damages and penalties arising from the alleged conduct; and taking voluntary remedial measures, including the termination and/or modification of various programs, policies, or other activities described in the Covered Conduct.

D. This Agreement is neither an admission of liability by IBM nor a concession by the United States that its claims are not well founded.

E. IBM denies that it engaged in the Covered Conduct.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. IBM shall pay to the United States \$17,077,043, inclusive of civil penalties (Settlement Amount). Of that amount, \$8,204,348 is restitution. The Settlement Amount shall be paid by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice. Payment shall be made no later than 14 days after the Effective Date of this Agreement.

2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and conditioned upon the United States' receipt of the Settlement Amount, the United States releases IBM, together with its current and former parent corporations;

direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; and the corporate successors and assigns of any of them, from any civil claim or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Notwithstanding the release given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, or any administrative remedy, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals.

4. IBM waives and shall not assert any defenses IBM may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the

Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

5. IBM fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that IBM has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of IBM, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) IBM's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment IBM makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by IBM, and IBM shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, IBM shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by IBM or any of its subsidiaries or affiliates from the United States. IBM agrees that the United States, at a minimum, shall be entitled to recoup from IBM any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine IBM's books and records and to disagree with any calculations submitted by IBM or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by IBM or the effect of any such Unallowable Costs on the amount of such payments.

7. This Agreement is intended to be for the benefit of the Parties only.

8. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

9. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

10. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the Southern District of New York. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

11. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

12. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

13. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

14. This Agreement is binding on IBM's successors, transferees, heirs, and assigns.

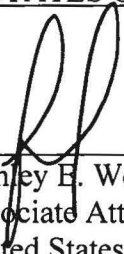
15. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

16. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

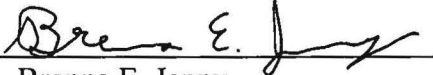
DATED: 04.10.26

BY: _____


Stanley E. Woodward, Jr.
Associate Attorney General
United States Department of Justice

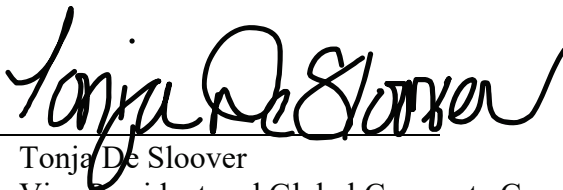
DATED: 4/10/2026

BY: _____


Brenna E. Jenny
Deputy Assistant Attorney General
Jamie Ann Yavelberg
Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

INTERNATIONAL BUSINESS MACHINES CORPORATION

DATED: 4/10/26

BY: 
Tonja De Sloover
Vice President and Global Corporate Counsel
IBM