

(c) Special Instruction for Fines — Organizations

- (1) In lieu of the pecuniary loss under subsection (a)(3) of §8C2.4 (Base Fine), use the value of the unlawful payment.

Commentary

Statutory Provisions: 18 U.S.C. §§ 201(c)(1), 212–214, 217. For additional statutory provision(s), *see* Appendix A (Statutory Index).

Application Notes:

1. **Definitions.**—For purposes of this guideline:

“Government identification document” means a document made or issued by or under the authority of the United States Government, a State, or a political subdivision of a State, which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

“Public official” shall be construed broadly and includes the following:

- (A) “Public official” as defined in 18 U.S.C. § 201(a)(1).
- (B) A member of a state or local legislature. “State” means a State of the United States, and any commonwealth, territory, or possession of the United States.
- (C) An officer or employee or person acting for or on behalf of a state or local government, or any department, agency, or branch of government thereof, in any official function, under or by authority of such department, agency, or branch of government, or a juror.
- (D) Any person who has been selected to be a person described in subdivisions (A), (B), or (C), either before or after such person has qualified.
- (E) An individual who, although not otherwise covered by subdivisions (A) through (D): (i) is in a position of public trust with official responsibility for carrying out a government program or policy; (ii) acts under color of law or official right; or (iii) participates so substantially in government operations as to possess de facto authority to make governmental decisions (*e.g.*, which may include a leader of a state or local political party who acts in the manner described in this subdivision).

2. **Application of Subsection (b)(1).**—Related payments that, in essence, constitute a single gratuity (*e.g.*, separate payments for airfare and hotel for a single vacation trip) are to be treated as a single gratuity, even if charged in separate counts.

3. **Application of Subsection (b)(3).**—

- (A) **Definition.**—**“High-level decision-making or sensitive position”** means a position characterized by a direct authority to make decisions for, or on behalf of, a government department, agency, or other government entity, or by a substantial influence over the decision-making process.
- (B) **Examples.**—Examples of a public official in a high-level decision-making position include a prosecuting attorney, a judge, an agency administrator, a law enforcement officer, and