

§2E5.1

<i>Historical Note</i>	Effective November 1, 1987.
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§2E5.1. Offering, Accepting, or Soliciting a Bribe or Gratuity Affecting the Operation of an Employee Welfare or Pension Benefit Plan; Prohibited Payments or Lending of Money by Employer or Agent to Employees, Representatives, or Labor Organizations

- (a) Base Offense Level:
 - (1) **10**, if a bribe; or
 - (2) **6**, if a gratuity.
- (b) Specific Offense Characteristics
 - (1) If the defendant was a fiduciary of the benefit plan or labor organization, increase by **2** levels.
 - (2) If the value of the prohibited payment or the value of the improper benefit to the payer, whichever is greater (A) exceeded \$2,500 but did not exceed \$6,500, increase by **1** level; or (B) exceeded \$6,500, increase by the number of levels from the table in §2B1.1 (Theft, Property Destruction, and Fraud) corresponding to that amount.
- (c) Special Instruction for Fines — Organizations
 - (1) In lieu of the pecuniary loss under subsection (a)(3) of §8C2.4 (Base Fine), use the greatest of: (A) the value of the unlawful payment; (B) if a bribe, the value of the benefit received or to be received in return for the unlawful payment; or (C) if a bribe, the consequential damages resulting from the unlawful payment.

Commentary

Statutory Provisions: 18 U.S.C. § 1954; 29 U.S.C. § 186.

Application Notes:

1. “**Bribe**” refers to the offer or acceptance of an unlawful payment with the specific understanding that it will corruptly affect an official action of the recipient.
2. “**Gratuity**” refers to the offer or acceptance of an unlawful payment other than a bribe.