

(c) Cross References

- (1) If the offense was committed for the purpose of facilitating the commission of another criminal offense, apply the offense guideline applicable to a conspiracy to commit that other offense, if the resulting offense level is greater than that determined above.
- (2) If the offense was committed for the purpose of concealing, or obstructing justice in respect to, another criminal offense, apply §2X3.1 (Accessory After the Fact) or §2J1.2 (Obstruction of Justice), as appropriate, in respect to that other offense, if the resulting offense level is greater than that determined above.
- (3) If the offense involved a threat of physical injury or property destruction, apply §2B3.2 (Extortion by Force or Threat of Injury or Serious Damage), if the resulting offense level is greater than that determined above.

(d) 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) the value of the benefit received or to be received in return for the unlawful payment; or (C) the consequential damages resulting from the unlawful payment.

Commentary

Statutory Provisions: 15 U.S.C. §§ 78dd-1, 78dd-2, 78dd-3; 18 U.S.C. §§ 201(b)(1), (2), 226, 227, 371 (if conspiracy to defraud by interference with governmental functions), 872, 1341 (if the scheme or artifice to defraud was to deprive another of the intangible right of honest services of a public official), 1342 (if the scheme or artifice to defraud was to deprive another of the intangible right of honest services of a public official), 1343 (if the scheme or artifice to defraud was to deprive another of the intangible right of honest services of a public official), 1951. 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.

“**Payment**” means anything of value. A payment need not be monetary.

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

- (A) “Public official” as defined in 18 U.S.C. § 201(a)(1).