

## §2E5.1

*Historical Note*

Effective November 1, 1987.

---

### §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.