**10.5 Receiving Bribe by Witness**

**(18 U.S.C. § 201(b)(4))**

 The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with soliciting a bribe in violation of Section 201(b)(4) of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

 First, the defendant was to be a witness under oath at a [*specify proceeding*];

 Second, the defendant [solicited] [received] [agreed to receive] something of value, [*specify the thing of value*], in return for being [influenced in the defendant’s testimony] [absent from the proceeding]; and

 Third, the defendant acted corruptly, that is, in return for [being influenced in [his] [her] testimony] [absenting [himself] [herself] from the proceeding].

**Comment**

 It is recommended that the instruction specifically describe the thing of value just as it is described in the indictment to avoid a variance. *See* Comment to Instruction 10.2 (Bribery of Federal Public Official).

 Depending on the facts in evidence, it may be appropriate to amend this instruction with language requiring specific jury unanimity (*e.g.*, “with all of you agreeing as to what the witness intended to do in return for the bribe”). *See* Instruction 6.27 (Specific Issue Unanimity).

*Revised Apr. 2019*