**10.7 Receiving Illegal Gratuity by Public Official**

**(18 U.S.C. § 201(c)(1)(B))**

 The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [soliciting] [receiving] [agreeing to receive] an illegal gratuity in violation of Section 201(c)(1)(B) 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 [*specify public official*]; and

 Second, the defendant [[solicited] [received] [agreed to receive]] something of value, [*specify the thing of value*], personally for or because of an official act [performed] [to be performed] by the defendant.

**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).

 *See* Comment to Instruction 10.6 (Illegal Gratuity to 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 public official intended to do in return for the gratuity”). *See* Instruction 6.27 (Specific Issue Unanimity).

 “Public official” is defined in 18 U.S.C. § 201(a)(1); § 201(c)(1)(B) also applies to a former public official and a person selected to be a public official.

 If there is any question in the case about the “official” character of the action sought by the defendant, give Instruction 10.1 (Official Act—Defined).

*Revised Apr. 2019*