

Promulgated on April 24, 2009, Effective on July 1, 2009

② Crimes of Bribery

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Acceptance of Bribe (Criminal Act, Article 129, paragraph 1), Acceptance of Bribe in Advance (Criminal Act, Article 129, paragraph 2), Improper Conduct After Acceptance of Bribe (Criminal Act, Article 131, paragraph 1), Acceptance of Bribe After Improper Conduct (Criminal Act, Article 131, paragraph 2, paragraph 3), Acceptance of Bribe under Aggravated Punishment Act (Aggravated Punishment Act, Article 2, paragraph 1), Offering Bribe (Criminal Act, Article 133, paragraph 1) or Third party Bribery (Criminal Act, Article 133, paragraph 2).

I. TYPES OF OFFENSE AND SENTENCING PERIODS

01 | ACCEPTANCE OF BRIBE

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Less Than 10 Million Won	- 6 months	4 months - 1 yr	8 months - 2 yrs
2	More Than 10 Million Won But Less Than 30 Million Won	8 months - 2 yrs	1 yr - 3 yrs	2 yrs - 4 yrs
3	More Than 30 Million Won But Less Than 50 Million Won	2 yrs 6 months - 4 yrs	3 yrs - 5 yrs	4 yrs - 6 yrs
4	More Than 50 Million Won But Less Than 100 Million Won	3 yrs 6months - 6 yrs	5 yrs - 7 yrs	6 yrs - 8 yrs
5	More Than 100 Million Won But Less Than 500 Million Won	5 yrs - 8 yrs	7 yrs - 10 yrs	9 yrs - 12 yrs
6	More Than 500 Million Won	7 yrs - 10 yrs	9 yrs - 12 yrs	More Than 11 yrs or Life Imprisonment

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Cases where the Extent of the Offender's Participation and the Actual Gain is Exceptionally Insignificant ● Cases where the Offender is a Candidate for a Public Official or an Arbitrator ● Cases where the Offense Ended Only with a Demand or a Promise to Accept the Bribe 	<ul style="list-style-type: none"> ● Engaging in Improper Conduct Related to Bribe ● Active Demand of Bribe ● Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> ● Those with Hearing and Visual Impairments ● Bribe Returned Before the Commencement of an Investigation ● Those with Mental Incapacity ● Voluntary Surrender to Investigative Agencies or Cases of Whistle-Blowing of Corruption 	<ul style="list-style-type: none"> ● Repeated Offenses under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Cases where the Extent of the Offender's Participation and the Actual Gain is Insignificant ● Cases where the Offender is Deemed as a Public Official Under the Aggravated Punishment Act, Article 4 	<ul style="list-style-type: none"> ● Commission of the Offense Prolonged for More than Two years ● Closely Related to the Duties of the Offender
	Actor /Etc.	<ul style="list-style-type: none"> ● Expresses Sincere Remorse ● No Prior Criminal History 	<ul style="list-style-type: none"> ● Offender is Grade 3 or Higher Public Official ● Prior Criminal History of the Same Offense which does not Fall within the Repeated Offenses under the Criminal Act and Records of Disciplinary Action Against Violation of the Same Offense

02¹ OFFER OF BRIBES

Type	Classification	Mitigated Sentencing Range	Standard Sentencing Range	Aggravated Sentencing Range
1	Less Than 30 million won	- 6 months	4 months - 10 months	6 months - 1 yr 6 months
2	More Than 30 million won, But Less Than 50 million won	6 months - 1 yr	10 months - 1 yr 6 months	1 yr - 3 yrs
3	More Than 50 million won, But Less Than 100 million won	1 yr - 2 yrs	1 yr 6 months - 2 yrs 6 months	2yrs - 4 yrs
4	More Than 100 million won, But Less Than 100 million won	2 yrs - 3 yrs	2 yrs 6 months - 3 yrs 6 months	3yrs - 5 yrs

Classification		Mitigating Factor	Aggravating Factor
Special Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Offering Bribes to a Person who is a Candidate for Public Official or an Arbitrator ● Passive Yielding to the Recipient's Active Demand of Bribe ● Cases where the Offense Ended Only With a Promise or Expression of Intent to Offer the Bribe 	<ul style="list-style-type: none"> ● Active Offer of Bribe ● Engaging in Conduct in Return for the Bribe that Constitutes as an Illegal or Wrongful Performance of Duties ● Instigating the Subordinate Person to Commit the Offense
	Actor /Etc.	<ul style="list-style-type: none"> ● Those with Hearing and Visual Impairments ● Those with Mental Incapacity ● Voluntary Surrender to Investigative Agencies or Cases of Whistle-Blowing of Corruption 	<ul style="list-style-type: none"> ● Repeated Offenses of the Same Type Under the Criminal Act
General Sentencing Determinant	Conduct	<ul style="list-style-type: none"> ● Passive Participation ● Delivery of a Bribe ● Cases where the Offender is Deemed as a Public Official Under the Aggravated Punishment Act, Article 4 	<ul style="list-style-type: none"> ● Closely Related to the Duties of the Offender
	Actor /Etc.	<ul style="list-style-type: none"> ● Expresses Sincere Remorse ● No Prior Criminal History 	<ul style="list-style-type: none"> ● Offender is a Grade 3 or Higher Public Official ● Repeated Offenses of Different Type Under the Criminal Act , Prior Criminal History of the Same Offense which does not Fall within the Repeated Offenses under the Criminal Act

[DEFINITION OF OFFENSES]

01 | ACCEPTANCE OF BRIBES

1. TYPE 1

- This means cases where the amount of bribe involved does not exceed 10 million won.
- The amount of the bribe indicates the monetary value of the bribe received, demanded or promised to accept (This definition applies throughout the guideline).

2. TYPE 2

- This means cases where the amount of a bribe involved exceeds 10 million won but is less than 30 million won.

3. TYPE 3

- This means cases where the amount of a bribe involved exceeds 30 million won but is less than 50 million won.

4. TYPE 4

- This means cases where the amount of a bribe involved exceeds 50 million won but is less than 100 million won.

5. TYPE 5

- This means cases where the amount of a bribe involved exceeds 100 million won but is less than 500 million won.

6. TYPE 6

- This means cases where the amount of a bribe involved exceeds 500 million won.

02¹ OFFER OF BRIBES

1. TYPE 1

- This means cases where the amount of a bribe involved does not exceed 30 million won.
- The amount of the bribe indicates the monetary value of the bribe offered, promised to offer or expressed to offer (This definition applies throughout the guideline).

2. TYPE 2

- This means cases where the amount of a bribe involved exceeds 30 million won but is less than 50 million won.

3. TYPE 3

- This means cases where the amount of a bribe involved exceeds 50 million won but is less than 100 million won.

4. TYPE 4

- This means cases where the amount of a bribe involved exceeds 100 million won.

[DEFINITION OF SENTENCING FACTORS]

01 | ACCEPTANCE OF BRIBES

1. ENGAGING IN IMPROPER CONDUCTS RELATED TO BRIBE

- This means cases of improper conduct after acceptance of bribe or acceptance of bribe subsequently engaging in improper conduct.

2. ACTIVE DEMAND OF BRIBE

- “Active demand of bribe” means one or more of the following factors apply:
 - When the offender demanded bribery in a conspicuous manner
 - When the offender demanded bribery by implying that with the exercise of the offender’s authority, the briber or the family member of the briber will be treated unfairly if the bribe is not offered.
 - Other cases with comparable factors.

3. BRIBE RETURNED BEFORE THE COMMENCEMENT OF AN INVESTIGATION

- This means the offender voluntarily returned the bribe to the briber before the investigative agency began its investigation.
- However, this excludes cases where the offender made an attempted to conceal the offense after returning the bribe.

4. CASES OF WHISTLE-BLOWING OF CORRUPTION

- This means the investigation was initiated with a voluntary report by a former participant of a structural corruption with the intent to end the offense.

5. CLOSELY RELATED TO THE DUTIES OF THE OFFENDER

- This means the offender, regardless of their position, had the decision-making authority regarding the demanded conduct of the briber.

02¹ OFFER OF BRIBES

1. PASSIVE YIELDING TO THE RECIPIENT'S ACTIVE DEMAND OF BRIBE

- This means the offender offers a bribe to meet the recipient's active demand as stated above in *Acceptance of Bribes* of 2. *Active Demanding of the Bribe*.

2. ACTIVE OFFER OF BRIBE

- This means the offender made an active demand with regards to his or her duties in return of the bribe.

3. CASES OF WHISTLE-BLOWING OF CORRUPTION

- This means the investigation was initiated with a voluntary report by a former participant of a structural corruption with the intent to end the offense.

4. DELIVERY OF A BRIBE

- This means the offender delivers money or the valuables to a third person as a bribe or when the third person knowingly receives the delivered money or the valuables.

5. CLOSELY RELATED TO THE DUTIES OF THE OFFENDER

- This means the offender offers bribe to a person who has the decision-making authority regarding the demanded conduct.

[ASSESSING PRINCIPLES APPLICABLE TO THE SENTENCING FACTORS]

01 | DETERMINING APPROPRIATE SENTENCING RANGE

- In determining the appropriate sentencing range, the judge must only consider the special sentencing determinants.
- However, in cases involving more than two special sentencing determinant, the applicable sentencing range is adjusted after assessing the factors as set forth below:
 - ① The same number of conduct factor shall be considered with greater significance than the actor/etc. factor.
 - ② Each factor within the relevant categories of conduct or actor/etc. factors should be treated as equal.
 - ③ If the applicable sentencing range is unable to be determined by the aforementioned principles ①, ②, the judge is to decide the applicable sentencing range through a comprehensive comparison and assessment based on the principles set forth in ①, ②.
- It is recommended that when the assessment reveals greater aggravating factors to select the aggravated zone, the mitigating factors is greater to select the mitigating zone, and the same number of aggravating factors and mitigating factors to select the standard zone as a sentencing range

02 | DETERMINING THE APPLICABLE SENTENCE

- The judge should select the proper point within the sentencing range as assessed in accordance with the above principles, along with the special sentencing determinant and general sentencing determinant taken together.
- When the maximum of the sentencing range exceeds twenty-five years, the judge may impose a life imprisonment.

[GENERAL APPLICATION PRINCIPLES]

01 | SPECIAL ADJUSTMENTS TO THE SENTENCING RANGE

- ① In cases where the aggravating factor is selected and the assessment of the special sentencing determinant reveals only two or more special aggravating factors or the special sentencing determinant outnumbers the special mitigating determinant by two or more, then the sentencing range should be increased up to 1/2 from the maximum level.
- ② For cases where the mitigating factor is selected as a result of assessment of the special sentencing determinant, and there are two or more special mitigating determinant or the special mitigating determinant outnumbers the special aggravating determinant by two or more, the sentencing range should be decreased up to 1/2 from the minimum level.

02 | RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE GUIDELINES AND APPLICABLE SENTENCING RANGE BY LAW

When the sentencing range under this guideline conflicts with the range drawn in accordance with the aggravation and mitigation of applicable law, the sentencing range prescribed by applicable law governs.

03 | APPLICATION OF STATUTORY MITIGATING FACTORS AS DISCRETIONARY

When the judge declines to apply the optional mitigation factor under the applicable law as listed in the sentencing table of this guideline, this shall be considered as the discretion for mitigation.

[GUIDELINE ON MULTI-COUNT CONVICTIONS]

01 | APPLICABLE SCOPE

- This part on multi-count convictions applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act as set forth in this sentencing guideline. However, in cases of this article's concurrent crimes where offenses that fall within and outside of the sentencing guidelines are involved, the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

02 | DETERMINING BASE OFFENSE

- The "base offense" means the most severe offense that results after the selection of penalty and statutory aggravation and mitigation as prescribed in Criminal Act, Article 50. However, in cases where the maximum sentencing range is lower than that of the maximum sentencing range of the other counts as provided in this guideline, then such other count becomes the base offense.

03 | CALCULATING SENTENCING RANGE OF MULTI-COUNT CONVICTION OF THE SAME OFFENSE

- For purposes of calculating sentencing range for multi-count conviction cases with the same offense, the judge shall apply the following principles:
 - ① In setting sentencing range, take into account the total amount of bribe accepted, demanded, promised to accept or offered, promised to offer, expressed the intent to offer, and select the appropriate sentencing range by considering all relevant factors.
 - ② However, as a result of total summation, if the applicable offense type is one level higher than the most severe single offense among the multi-count, then reduction of 1/3 is made to the minimum sentencing range. If the applicable offense type is

two or more levels higher than the most severe single offense among the multi-count, then reduction of 1/2 is made to the minimum sentencing range by applying the minimum sentencing range of the most severe single offense among the multi-count.

04 | CALCULATING SENTENCING RANGE OF MULTI-COUNT CONVICTION OF DIFFERENT OFFENSES

- For purposes of calculating sentencing range for multi-count conviction cases with the different offense, the judge shall apply the following principles unless the offenses are deemed as a single offense under the sentencing guideline:
 - ① In setting sentencing range for an offender convicted of two counts, the sentencing range should be the total sum of the maximum sentencing range of the base offense and the 1/2 of the maximum sentencing range of the second count.
 - ② In setting sentencing range for an offender convicted of three or more counts, the sentencing range should be the total sum of the following: (1) maximum sentencing range of the base offense, (2) 1/2 of the maximum sentencing range of the count with the highest sentencing range, and (3) 1/3 of the maximum sentencing range of the remaining count with the second highest sentencing range.
 - ③ For cases where the minimum sentencing range of the other count is higher than that of the base offense, the minimum sentencing range resulting from the multi-count offense should be the minimum sentencing range of the other count.
- However, when the multi-count conviction of bribery includes same offenses, first set the sentencing range for multi-count conviction of the same offense and then use the resulted point range to calculate the sentencing range for multi-count conviction with different offenses.

II. GUIDELINE ON SUSPENSION OF SENTENCE

01¹ ACCEPTANCE OF BRIBES

Classification	Adverse	Affirmative
Primary Consideration Factor	<ul style="list-style-type: none"> ● Active Demand of Bribe ● Engaging in Conduct in Return for the Bribe which Constitutes Illegal or Wrongful Performance of Duties 	<ul style="list-style-type: none"> ● Cases where the Amount of Bribe Involved is Less Than 10 million won ● Expressing Significant Remorse (e.g., Voluntary Surrender to Investigative Agencies, Confession, Whistle-Blowing Corruption, etc.)
General Consideration Factor	<ul style="list-style-type: none"> ● Commission of the Offense Prolonged for More than Two Years ● Offender is Grade 3 or Higher Public Official ● Prior Criminal History of the Same Offense and Records of Disciplinary Action Against Violation of the Same Offense ● Destroying Evidence or Attempting to Conceal Evidence After Commission of the Offense ● Engaging in Improper Conduct Related to Bribe 	<ul style="list-style-type: none"> ● Passive Participation As an Accomplice ● Bribe Returned Before the Commencement of an Investigation ● Faithful Long-Term Serving of Duties ● Cases of Physically-ill Offenders ● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender's Dependent Family Member ● Cases of Old-age Offenders ● No Prior Criminal History

► Factors that should not be considered in deciding suspension of sentence are as follows:

- ① Loss of position or damage to one's reputation
- ② Confiscation of improper gains
- ③ Disciplinary actions concerning the offense

02¹ OFFER OF BRIBES

Classification	Adverse	Affirmative
<p style="text-align: center;">Primary Consideration Factor</p>	<ul style="list-style-type: none"> ● Cases where the Amount of Bribe Involved Exceeds 50 million won ● Criminal History of the Same Offense (for Suspension of Sentence or Penalty Within Ten Years) ● Active Offer of Bribe ● Engaging in Conduct in Return for the Bribe which Constitutes Illegal or Wrongful Performance of Duties 	<ul style="list-style-type: none"> ● Cases where the Amount of Bribe Involved is Less Than 10 million won ● Passive Participation (e.g., Following Superior's Instructions, etc.) ● Passive Yielding to the Recipient's Active Demand of a Bribe ● Expressing Significant Remorse (e.g., Voluntary Surrender to Investigative Agencies, Confession, Whistle-Blowing Corruption, etc.)
<p style="text-align: center;">General Consideration Factor</p>	<ul style="list-style-type: none"> ● Two or More Criminal Record on Suspension of Sentence or Greater Offense ● Offender is Grade 3 or Higher Public Official ● Offering Bribe Concerning Significant Benefits ● Destroying Evidence or Attempting to Conceal the Evidence ● Lack of Social Ties ● Prolonged Duration of Offering of Bribe 	<ul style="list-style-type: none"> ● No Criminal History of Suspension of Sentence or Imposing of Other Sentences More Severe ● Cases of Physically-ill Offenders ● Cases where the Arrest of the Offender would Cause Severe Hardship to the Offender's Dependent Family Member ● Cases of Old-age Offenders

[DEFINITIONS OF CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- In cases where the consideration factors for suspension of sentence of sentencing and the sentencing factors are identical, refer to the definitions set forth in the *Definition of Sentencing Factors*.

- Determining Criminal History
 - Prior criminal history is calculated as follows: In cases involving suspension of sentence, calculate from the date the defendant’s suspension of sentence was affirmed up to the date of the commission of the offense. In cases imposing imprisonment, calculate from the final date of the completion of the sentence up to the date of the commission of the offense.

- Faithful Long-Term Serving of Duties
 - This means cases where the offender has faithfully served the duties of a public official or an arbitrator for more than 20 years without receiving any disciplinary action or criminal conviction.

[ASSESSING PRINCIPLES APPLICABLE TO THE CONSIDERATION FACTORS FOR SUSPENSION OF SENTENCE]

- For cases where the imposing penalty is imprisonment, in deciding whether the suspension of sentence is appropriate, the primary consideration factor should be taken into account with greater importance than the general consideration factors. This is further specified as follows:
 - ① In cases where only two or more primary affirmative factors exist or when primary affirmative factors outnumber the major adverse factor by two or more, suspension of sentence is recommended.
 - ② In cases where two or more primary adverse factors exist or when primary adverse factors outnumber the primary affirmative factor by two or more, imprisonment is recommended.
 - ③ In cases other than ①, ②, or even if cases of ①, ②, if the difference between the number of general adverse(affirmative) factors and general affirmative (adverse) factors is greater than that of adverse and affirmative factors of the primary consideration, then the judge shall decide whether to suspend the sentencing after assessing and comprehensively taking into account the factors listed under the suspension of sentence section.

