DEEPWATER HORIZON
CLAIMS CENTER
ECONOMIC & PROPERTY DAMAGE CLAIMS

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business [redacted]	First		Middle
Claimant ID	[redacted]	**Claim ID**		[redacted]
Claim Type	Business Economic Loss			
Law Firm	[redacted]			

II. DECISION

Select the Compensation Amount set forth in either BP's Final Proposal or the Claimant's Final Proposal as the final outcome on the claim and check the appropriate box to signify your decision.

☐ **BP's Final Proposal**	**Compensation Amount**	**$42,031**
	Risk Transfer Premium	**.25**
	Prior Payment Offset	**$0**
☒ **Claimant's Final Proposal**	**Compensation Amount**	**$62,997.15**
	Risk Transfer Premium	**.25**
	Prior Payment Offset	**$0**

III. PRIMARY BASIS FOR PANELIST DECISION

Please select the primary basis for your decision. You may also write a comment describing the basis for your decision.

☐ **Error in documentation review.**

☐ **Error in calculation.**

☐ **Error in RTP multiplier.**

☐ **Error in Prior Spill-Related Payment Amount.**

☒ **No error.**

Comment *(optional)*:

[redacted] - Claim ID [redacted]

BP appeals this BEL award of $62,997.15 pre-RTP to a dermatology practice and research center in [redacted] Louisiana. The thrust of BP's appeal is that the Claims Administrator failed to comply with the court-mandated matching requirement embodied in Policy 495. BP's argument is that the Claimant often receives payments for services (mostly insurance) several months after the services are performed. Because the Claimant's P&Ls demonstrate revenue spikes in some months in 2009, BP asserts that the Claims Administrator failed, as a threshold matter, to restate Claimant's revenue and expenses. BP concludes that at least some of Claimant's revenues were not properly matched with expenses because it was recorded in the wrong month under the cash basis of accounting.

In response, Claimant argues that the mere fact that it utilizes the cash basis of accounting does not alone trigger application of any part of Policy 495. Claimant argues that the Settlement Program properly followed Policy 495 and that its P&Ls for 2007-2011 do not demonstrate a mismatch of revenue and variable expenses.

This panelist has reviewed the P&Ls and the summary of their analysis in the Accountant's Compensation Calculation Schedules. As BP points out, there are revenue spikes in four months in 2008 and 2009. However, there are at least as many, if not more, dips or declines depicted in the same time frame. BP's argument seems to be that the Claims Administrator is required to pre-identify claims in which the submitted financials are not properly matched and restate them ***prior*** to applying the seven criteria that are the hallmark of Policy 495. However, the methodology set out in Policy 495 is to the contrary. In order to identify unmatched claims, the Settlement Program only attempts to identify "errors" which are defined as accounting transactions that were inappropriately recorded in the Claimant's P&Ls such as duplicate entries, oversights, calculation errors, etc. Then, the Settlement Program applies the restated P&Ls to the seven step criteria for further matching analysis. If one or more of these criteria are triggered, the Claims Administrator's accounting vendors will adjust the financials as set forth in Paragraph II of Policy 495. However, if none of the seven criteria are triggered, the accounting records "shall be presumed to be sufficiently matched."

A close review of the record demonstrates that the accounting vendor appropriately subjected Claimant's P&Ls to the filter of Policy 495. In the process, none of the seven threshold criteria were triggered. Neither the Fifth Circuit nor the District Court has required exact matching in BEL claims. The purpose of Policy 495 was to insure sufficient matching of revenue and variable expenses to comply with the Settlement Agreement as interpreted by the courts. Accordingly, BP's appeal is denied and the award is affirmed.