



**APPEAL PANEL DECISION FORM**

2014-572

**I. CLAIMANT AND CLAIM INFORMATION**

<b>Claimant Name</b>	Last/Name of Business [REDACTED]	First	Middle
<b>Claimant ID</b>	[REDACTED]	<b>Claim ID</b>	[REDACTED]
<b>Claim Type</b>	Business Economic Loss		
<b>Law Firm</b>	[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.

<input type="checkbox"/> <b>BP's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$0</b>
	<b>Risk Transfer Premium</b>	<b>.25</b>
	<b>Prior Payment Offset</b>	<b>\$0</b>
<input checked="" type="checkbox"/> <b>Claimant's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$242,002.47</b>
	<b>Risk Transfer Premium</b>	<b>.25</b>
	<b>Prior Payment Offset</b>	<b>\$0</b>

**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)*:

On this BEL claim, a Zone D crop dusting service was awarded \$242,002.47. The basis of BP's single issue appeal is that the Claims Administrator should have applied the Agriculture Methodology rather than the Annual Variable Margin method in its restatement of Claimant's P&Ls. Because it uses the NAICS Code 115112 (Crop Dusting, Crop Spraying), BP argues that application of the Agriculture Methodology was mandated by the provisions of Attachment D of Policy 495.

The Claimant responds that its financials did not trigger any of the criteria listed in Policy 495. Therefore, no matching restatement was required. As to this argument, the record reflects that the Claimant is incorrect. In fact, four of the seven criteria were triggered when Claimant's financials were subjected to the required analysis. However, this is not to say that BP's position is correct.

Footnote 7 of Attachment A provides:

A Claimant with a given NAICS Code will not automatically be assigned to a given methodology by virtue of the NAICS Code if, in the judgment of the Claims Administrator's office, there are factors that indicate that revenues and expenses would be more sufficiently matched by applying an alternate methodology. As a result, some businesses within a certain three digit NAICS Subsector may be treated under a different methodology from others within the same Subsector.

Further, Section II (A) of Policy 495 reserves to the Claims Administrator and its accounting vendors the right to exercise professional judgment in the assignment of a methodology to achieve sufficient matching. Moreover, the terminology utilized in the Agriculture Methodology is at odds with BP's argument. Attachment D makes repeatedly refers to "crops," "crop season," "bulk purchases," "harvesting," and "crop types." With the exception of "crop season," none of these terms is germane to the operation of a crop dusting service. Stated another way, it is clear to this panelist that the Agriculture Methodology was intended for application to traditional agriculture-related operations involving the planting, harvesting and sale of crops. Since the Claimant has no

crops and reaps no harvest, the Claims Administrator's accounting vendor was well within its professional judgment in applying the Annual Variable Margin method.

Accordingly, the award of compensation was correct and must be affirmed.