



**APPEAL PANEL DECISION FORM**

2014-790

**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 type="checkbox"/> <b>Claimant's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$214,323</b>
	<b>Risk Transfer Premium</b>	<b>.25</b>
	<b>Prior Payment Offset</b>	<b>\$0</b>
<input checked="" type="checkbox"/> <b>Remand to Claims Administrator</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):**

Reasons uploaded

**CLAIMANT:**  
**CLAIM ID:**



This matter involves a BEL Claim filed by a Baton Rouge, Louisiana commercial and residential insulation contractor. The Claims Administrator ran the Claimant's financial records through the seven tests of Policy 495 and determined that at least one of the seven triggers of Policy 495 was activated. The Claims Administrator then applied the AVM Framework to Claimant's financials and issued an award of \$86,235.57 (pre-0.25 RTP). BP appealed. BP's Initial and Final Proposals were \$0.00. Claimant's Initial Proposal was \$86,235.57 (pre-0.25 RTP). Interestingly, Claimant's Final Proposal was \$214,323.00 (pre-0.25 RTP).

BP's focus on appeal is the fact that the Claims Administrator utilized the AVM Framework of Policy 495 instead of the Construction Framework. Claimant's NAICS Code used on its tax returns and claim form is 238220 - "Plumbing, Heating and Air-Conditioning Contractors". After reviewing the records, the Claims Administrator applied NAICS Code 238310 - "Drywall and Insulation Contractors". Both codes clearly are in the group delineated by Policy 495 as falling under the Construction Methodology. BP points out, and this Panelist concurs, that there is nothing in the record which explains why the Claims Administrator applied the AVM Methodology instead of the Construction Methodology.

BP further posits that if Claimant's financials are analyzed under the Construction Methodology of Policy 495, the Claimant does not pass the Exhibit 4B V-Test and thus Claimant is entitled to no award. Hence, BP's Final Proposal of \$0.00.

Claimant chose not to respond to BP's appeal assertion, but instead only filed worksheets and Profit & Loss Statements and asserts that Claimant is entitled to an award over twice what it was deemed eligible for by the Claims Administrator.

The record in this matter, the terms of the Settlement Agreement and the dictates of Policy 495 support BP's position. Further, it is BP's position that Claimant's financials (when analyzed through the Construction Methodology) result in no award to the Claimant. While BP may be correct on this assertion, in fairness to the Claimant, this matter is remanded to the Claims Administrator with instructions to apply the Construction Methodology to Claimant's financials and determine what, if any, award is due.