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**	**$317,704.81**
	Risk Transfer Premium	**.25**
	Prior Payment Offset	**$0**
☒ **Claimant's Final Proposal**	**Compensation Amount**	**$399,821.81**
	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)*:

See attached opinion uploaded in the portal.

DWH: [redacted]

Claim ID: [redacted]

Written Reasons and Opinion:

This is a BP appeal of a Business Economic Loss award to a [redacted] Mississippi waste management and remediation service company. In addition to alleging, generally, that the award does not comply with the terms of the Settlement Agreement and CAO Policy 495, BP argues that the Claims Administrator erred in (1) misstating Claimant's December, 2010 revenue; (2) misclassifying certain expense items, including "Supplies"; and (3) failing to determine whether or not Claimant is excluded from the Class according to Settlement Agreement Exhibit 17. BP's appellate memoranda make no mention of items (2) and (3); consequently, they are considered abandoned.

In support of error assignment (1), BP points to a spike in revenue recorded by Claimant on January 4, 2011. The Claims Administrator calculated Claimant's award by comparing the months of May through December for the years 2007, 2008 and 2009 (the Benchmark Period) to the same period in the year 2010 (the Compensation Period). BP argues that this "implies that it improbably earned $234,986.00 in the *first two business days* in January, 2011, but less than $50,000.00 for the entire preceding month of December, 2010." It claims that this "idiosyncratically recorded revenue in January 2011 relating to work performed in December 2010 artificially decreases Claimant's Compensation Period revenue and artificially increases Claimant's award." Consequently, the Claims Administrator failed to evaluate an "obvious issue" regarding Claimant's recorded revenues. It asks that the claim be remanded with instructions to restate Claimant's P&L statements to record revenue when earned; alternatively, it submits an Initial Proposal of $314,704.81. In a footnote it states that this amount was calculated based on an allocation of Claimant's first week of January, 2011 revenues in line with the Claimant's performance during the same period in 2007 through 2010.

Claimant's response, through counsel, is simple: The year 2010 was not a good year for the Claimant's business and its monthly revenues reflect that. In October, 2010, the revenues decreased approximately $80,000 to $131,448. In November, they dropped another $50,000 to $86,552 and, in December (counting one week off for Christmas break), revenues dropped another $40,000 to $46,524. According to counsel, this is simply what the business was able to earn during the last three months of 2010. That, it submits, is supported by Claimant's general ledgers which were reviewed and verified as accurate by the Claims Administrator. In 2011, Claimant generated a significant increase in business and earned $1 million more than it earned during 2010. Moreover, the monthly revenues were consistent throughout that year.

The record reflects that the claims analyst reviewed Claimant's financial data in keeping with the requirements of Policy 495. After determining that two of the seven matching criteria were triggered, the Annual Variable Margin Methodology was utilized to achieve the requisite matching of revenues to expenses. BP does not contest that analysis.

After de novo review, this panelist is convinced that the Claims Administrator committed no error. BP's allegations are founded upon conjecture and supposition. Its appeal cannot be sustained. Decision is hereby entered in favor of Claimant's Final Proposal.

December 15, 2014