



**APPEAL PANEL DECISION FORM**

**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>\$244,981.28</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):**

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 metal fabrication contractor located in [REDACTED], Alabama. BP asserts that the Claims Administrator committed error in (1) failing to match revenues and corresponding variable expenses when applying Policy 495; and (2) failing to correct Claimant's revenue.

In support of point (1), BP submits that, according to its general ledgers, Claimant appears to record revenue based on predetermined increments set forth in its contracts, even though the revenue is actually earned over a period of time as it performs its work. BP cites, as an example, what it describes as a large spike in revenue in January, 2011, one month outside of the May – December Compensation Period. It contends that Claimant recorded a similar, albeit smaller, revenue spike in January, 2009. Asserting that it is a “near certainty” that a portion of the earnings activities related to this revenue occurred before January of each year, BP argues that it should have been included in the preceding months. Thus, the Claims Administrator erred in failing to reassign that revenue. For that reason, BP suggests that the claim be remanded with instructions to comply with the Settlement Agreement and properly attribute Claimant's revenue.

Point (2) consists of BP's belief that the Claims Administrator classified Claimant's variable “Drawings” expense as Owner/Officer Compensation in the mistaken belief that the term “drawings” was a disbursement to the owners as opposed to an expense for architectural or engineering drawings. Correction of that error, says BP, reduces Claimant's compensation amount by the sum of \$13,957 Pre-Risk Transfer Premium or from \$244,981.28 to \$231,024.28.

Claimant's counsel filed an extensive and somewhat irate reply memorandum, the essence of which is that the Claims Administrator properly applied Policy 495 in all respects.

As noted in many, prior Appeal Panel Decisions, Policy 495 is the product of extended and intensive negotiations by the parties. That is well documented in its introductory paragraphs. It seeks to achieve sufficient, not exact, matching of revenues to expenses. It was approved, in its entirety, by the court.

In implementing Policy 495, the claims analyst's first task is to review Claimant's P&L statements for obvious errors; if any are found, they are corrected and then subjected to the seven criteria contained therein for the purpose of determining whether the recorded revenues and expenses are sufficiently matched. If not, the analyst then decides, based upon Claimant's business industry type, which methodology ought be utilized for the purpose of achieving sufficient matching.

The record reflects that the claims analyst conducted a thorough review of the information contained in Claimant's P&L statements, sought and subsequently received, extensive additional information and data from Claimant's CPA and attorney. That triggered three of the seven matching criteria. The analyst then applied the AVM Methodology to achieve the requisite matching.

This panelist has concluded, following careful review, that the Claims Administrator committed no error in analyzing this claim. This BP appeal cannot be sustained. Decision is hereby entered in favor of Claimant's Final Proposal.

Decision: December 16, 2014