



**APPEAL PANEL DECISION FORM**

**I. CLAIMANT AND CLAIM INFORMATION**

<b>Claimant Name</b>	Last/Name of Business	First	Middle
	████████████████████ ██████████		
<b>Claimant ID</b>	██████████	<b>Claim ID</b>	██████████
<b>Claim Type</b>	Business Economic Loss		
<b>Law Firm</b>	████████████████████		

**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 checked="" type="checkbox"/> <b>BP's Final Proposal</b>	<b>Compensation Amount</b>	<b>\$46,317.35</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>\$52,167.35</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 [REDACTED] Florida enterprise engaged in the business of repairing and maintaining vessels. BP alleges that the Claims Administrator erred in classifying certain Claimant expenses as fixed as opposed to variable, thus overstating a \$52,167.35 Pre-Risk Transfer Premium award by the sum of \$5,850.00. It does not dispute application of CAO Policy 495 in otherwise calculating the award.

The expenses in question are listed as “Small Tools” and “Supplies” on Claimant’s profit and loss statements. BP asserts that these are classic “Costs of Goods Sold” or “Consumable Goods” expenses incurred in the process of generating service revenue, which Settlement Agreement Exhibit 4D classifies as variable. It further submits that Claimant’s financial data reflect that these expenses were not incurred in a steady pattern but fluctuated from month to month while moving in proportion to revenue on an annual basis.

Although Initial and Final Proposal forms were executed by Claimant’s counsel, the record contains no reply memorandum. That is unfortunate because on at least one other, prior occasion, this panelist was persuaded by a Claimant engaged in a similar line of business that, at least in that case, that identical expenses should be treated as fixed. Nonetheless, after careful review, this panelist is persuaded that BP’s position is well taken and its appeal should be sustained.

For the foregoing reasons, decision must be entered herein in favor of BP’s Final Proposal.

Decision: November 7, 2014