



**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>\$133,432.33</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 Decision Comment uploaded.



BP faults the Settlement Program for its alleged inadequate investigation of “questionable entries in Claimant’s financial data;” its alleged failure to attribute recorded revenue spikes across preceding months when it must have been earned; and its application of the Annual Variable Margin Methodology instead of the Professional Services Methodology.

Claimant is a demolition, mold removal and lead and asbestos treatment company located in [REDACTED] FL (Zone D). BP says that large spikes in its recorded revenue “strongly suggest accumulation of payments for several months services recorded in a single month,” and that this difference in timing between the earning and recording of revenue calls for application of the Professional Services Methodology. Claimant counters, with apparent logic, as follows:

BP argues that because the Claimant’s financial data exhibit “substantial fluctuations in monthly revenues”, the Claimant apparently recorded revenues well after performing the associated services. Therefore the Professional Services methodology should apply. (*P.1, BP’s Initial Proposal*)

BP ignores the fact that all claims, such as this claim, that are unmatched under matching Criteria 2 necessarily have “substantial fluctuations in monthly revenues.”

Total revenue recorded in any month included in the Benchmark Year(s), Compensation Year or 2011 exceeds 20% of the claimant’s annual revenue for the year which includes that month;  
*Policy 495, I. A. Criteria 2.*

BP’s argument would push all such claims into the Professional Services methodology.

Matching Criteria 2 may be the most common criteria to cause claims to be unmatched. It provides an objective formula for “substantial fluctuations in monthly revenues.” Policy 495 does not direct that the Professional Services methodology be applied to all claims that are unmatched due to Criteria 2. If that was the intent of the Claims Administrator, it would be clear in this policy.

. . .

If the Claims Administrator intended the Professional Services methodology to apply to non-Professional Services claimants that meet Criteria 2, Policy 495 would have clearly indicated so.

With regard to BP’s complaint about the level of the Settlement Program’s investigation and analysis of Claimant’s financial data, the Claimant explains, and the record confirms, a sufficient exercise of professional judgment by the Program accountants that this panelist cannot declare there to have been an abuse of that discretion.

BP’s Final Proposal is “\$0,” leaving the panelist no choice but to choose Claimant’s Final Proposal, in the exercise of the limiting “Baseball Rules.” The appeal is denied.