

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

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

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"/> BP's Final Proposal	Compensation Amount	\$0
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$80,024
	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 Decision Comment uploaded.

Claim No. [REDACTED] - [REDACTED]

BP appeals the BEL claim award to Claimant [REDACTED] a CPA firm, contending that the Settlement Program (“the SP”) applied the wrong methodology under Policy 495. Specifically, BP protests the decision of the SP to utilize the Annual Variable Margin Methodology (“the AVM”) when [REDACTED]’s NAICS code (541211 – Offices of Certified Public Accountants) is one of those designated for review under the Professional Services Methodology. Policy 495 contains many provisions according the SP accountants the right to exercise professional judgment in such matters, including these two in particular:

Section II. A. Determination of Applicable Methodology.

Claims will be assigned to an industry type for purposes of these methodologies using NAICS codes as outlined in **Attachment A**. To the extent that in the professional judgment of the CSSP Accounting Vendors assignment to a methodology by such NAICS code is inappropriate based on that claimant’s particular business activities, the CSSP reserves the right to revise the applicable methodology to achieve sufficient matching as ordered by the Court. All claims submitted with P&Ls that are deemed not to be sufficiently matched, will be processed under one of the Methodologies set forth below. Note: no claim will be processed under an individually tailored approach to resolve matching issues.

Attachment A - NAICS Codes Assigned To Matching Framework

This document summarizes NAICS codes that will likely fall into each methodology. However, it is important to note that a claimant with a given NAICS code will not automatically be assigned to a given methodology by virtue of the NAICS code if, in the judgment of the Claims Administrator’s office, there are factors that indicate that revenues and expenses would be more sufficiently matched by applying an alternative methodology. As a result, some businesses within a certain three-digit NAICS Subsector may be treated under a different methodology from others within the same Subsector.

That latter provision is repeated as a footnote to each of the five methodologies created by Policy 495, including the Professional Services Methodology.

The SP inquired of [REDACTED] about its revenue cycle, asking how it billed, when it got paid and what was the typical length of an engagement. [REDACTED] replied that “We bill every month based on time charged to a particular engagement. Virtually all of our monthly billings are collected prior to the end of the month. Bills are sent the first of each month. The length of an engagement varies depending on the type of engagement; with the exception of tax returns, all engagements are progress billed monthly so there is no gap between the time these engagements are started and when it is billed. Tax returns are billed upon completion of the tax return and payment is generally rendered when the client picks up their return. Revenue is recognized when collected on the cash basis of accounting.” (Doc. ID [REDACTED]) Elsewhere, [REDACTED] informed the SP that most tax returns were done in March and April, totaling about 750 annually, and with a 2-3 week turnaround in terms of preparation time, with most clients paying at the completion of the return in order to avoid a late fee. [REDACTED] Based on those circumstances, the SP made this judgment call: “This claim was classified under a Professional Services NAICS code. The DWH Accountant has utilized the Annual Variable Margin (AVM)

methodology based on the following factor: the business operates on a short earnings cycle. Accordingly, services are rendered on a more consistent monthly basis and therefore, the AVM methodology was applied.” (Accountant Calculation Notes, Item 13) Policy 495 explains that the AVM is “otherwise referred to as ‘Short Revenue Cycle.’ ” (aforesaid Attachment A)

BP argues that “the Settlement Program should have applied the Professional Services Methodology to this claim barring some compelling reason to use AVM instead. But the Settlement Program offered a fundamentally flawed rationale which in no way overrides the application of the Professional Services Methodology to this claim.” According to BP, “whether or not Claimant has a short earnings cycle is irrelevant.” In the final analysis, the questions for the panelist to decide are whether the SP’s choice of the AVM over the Professional Services Methodology was a matter as to which it was authorized to exercise its professional judgment and, if so, did it abuse that discretion? The panelist answers “Yes” to the first question and “No” to the second.

BP asks that the award by the SP be vacated (for a reason the panelist need not reach) and the claim dismissed; or that the claim be remanded for application of the Professional Services Methodology; or, in lieu of either of those forms of relief, submits a Final Proposal of “\$0.” ■ voluntarily forgoes the SP’s pre-RTP compensation award of \$90,328.26, and offers a Final Proposal of \$80,024, explaining the lesser figure is what it independently calculated to be the compensation due. BP’s request for vacatur/dismissal or remand is denied and, as between its Final Proposal and that of ■, the \$80,024 figure is selected under the controlling Baseball Process. Appeal denied.