

APPEAL PANEL DECISION FORM

I. CLAIMANT AND CLAIM INFORMATION

Claimant Name	Last/Name of Business ████████████████████	First ██████████	Middle ██████████
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	\$558,228
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$605,742.45
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Remand to Claims Administrator		

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 reasons submitted to Appeals Coordinator.

Reasons for Remand

Appeal # [REDACTED]

November 17, 2015

BP appealed this BEL Claim on the grounds that the Settlement Program misclassified Claimant's expense "Supplies Sales Serv Other" as fixed rather than variable.

Claimant cross appealed, raising two issues, both of which are no longer at issue on appeal:

First, Claimant appeared to contend in its Initial Proposal filing that it should have been given the Tourism designation. Upon further inquiry from this Panelist, Claimant now agrees with the Settlement Program.

Second, Claimant argued in its briefing that the Settlement Program had treated Pension expenses as Variable rather than Fixed. This Panelist requested a Summary of Review wherein the Settlement Program provided a rationale for the treatment of Pension expenses. Upon reflection, Claimant has agreed with the Settlement Program.

As to BP's issue regarding the treatment of "Supplies Sales Serv Other," this Panelist agrees with the Settlement Program. This Panelist acknowledges that this item fluctuates from month to month, and that it may vary depending on the volume of Claimant's business. But the expenses listed in this category appear to be correctly labeled as "Supplies" and the Settlement Agreement categorizes "Supplies" as fixed.

The Settlement Program issued a pre-RTP of \$587,671.29. BP's Final Proposal is \$558,228; Claimant's Final Proposal is \$605,742.45. Claimant argues that notwithstanding that it now agrees with the Settlement Program's award, Claimant's Final Proposal should be adopted as it is closer to the Claim Administrator's award than BP's Final Proposal. [It should be noted that had Claimant initially agreed with the Settlement Program regarding the Pension expense, Claimant's Final Proposal would have been the same amount as the Settlement Program's award.]

Claimant is correct that Rule 17(d)(5) of the *Rules Governing the Appeals Process* usually requires a Panelist to select either the Claimant's Final Proposal or BP's Final Proposal. However, the Panelist may remand if "the information in the record is not sufficient to support either the claimant or BP's Final Proposal." Because the record does not support either Final Proposal, this matter is remanded to the Claims Administrator with instructions to issue an award consistent with this Panelist's decision.