

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	\$144,358.65
	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)*:

BP appeals the BEL award to claimant, an art and sculpture studio in ██████████. BP asserts the Settlement Program (SP) wrongfully applied policy 495 when it used the AVM methodology to evaluate the claim when it should have used the Construction methodology. The eligibility notice that issued acknowledged the claim was not sufficiently matched and used the AVM methodology to calculate a reduced award. BP contends claimant is engaged in long-term projects so that receipt of revenues is not in sync with expenses incurred; and



thus the Construction methodology is more appropriate for evaluation of this claim. BP cites to disparity of revenues to expenses in December 2010 as an example. Claimant responds the SP assigned claimant a proper NAICS code 711510 (Independent Artist, Writers and Performers) which is not one included for those claims to be analyzed using the Construction methodology. Claimant argues this code assignment along with other relevant facts of record support the application and use of the AVM methodology. A review of the record discloses that the reviewing accountants properly exercised their professional judgment in applying the AVM methodology. First in considering the very nature of claimant's business it was apparent to the SP that claimant did not fit any of those specific categories enumerated under the Construction methodology section of policy 495 and applied the NAICS code designation that was most appropriate. Policy 495 also provides: "This methodology is premised on the assumption that variable expenses of a construction claimant are more accurately recorded on monthly P&Ls than are revenues." There is no record indication to support a finding claimant's P&Ls possessed these deficiencies. While there may be intermittent spikes in revenues these disparities are not of such a level to warrant use of a methodology different from the AVM. The SP accountants (as reflected in the Calculation Notes) made inquiry of claimant relative to several entries and made the necessary reconciliations allowed by policy 495. In sum, this panelist concludes the SP correctly applied policy 495. There is no error. Remand is not warranted. The award is affirmed and the appeal of BP is denied.