

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	\$217,874
	Risk Transfer Premium	.25
	Prior Payment Offset	\$0
<input checked="" type="checkbox"/> Claimant's Final Proposal	Compensation Amount	\$303,255
	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)*:

[REDACTED] - Claim ID [REDACTED]

The Claims Administrator awarded \$303,255.00, pre-RTP to a trucking company in [REDACTED] (Zone D). No Policy 495 criteria were triggered so the accounting vendor utilized the standard BEL methodology. On appeal, BP raises a single issue related to the classification of Claimant's "Equipment Rental" expense. BP argues that the Administrator erred in failing to classify this expense as variable. Accordingly, BP seeks remand or alternatively presents a Final Proposal of \$217,874. Finding no error, the award is affirmed as explained below.

BP's argument is a familiar one. BP contends that Claimant's "Equipment Rental" expense varies with its business output that should have been classified as COGS - Variable. BP argues that the program accountant should have looked more closely at the nature of the expense rather than the label utilized in the P&Ls.

Claimant points to Attachment A of Exhibit 4D which provides a negotiated list of expense categories that are classified as fixed or variable and which includes "Rental Expense" as a fixed expense. Claimant also points out that Policy 361v.5 affords the accountant with discretion to apply the classification that best conforms to these categories. Either way, Claimant contends that the classification of this expense category was correct.

Numerous appeal panels have considered similar arguments to those raised by BP where P&Ls show fluctuation of an expense. Those panels, this panelist included, have most often held that if an expense is listed in Exhibit 4D, such fluctuation is immaterial under the Settlement Agreement. This is such a case. The accounting vendor was well within his discretion in classifying Equipment Rental as a fixed expense. No error nor basis for remand has been demonstrated. Accordingly, the Claimant's Final Proposal, which represents the amount of the award, is the correct choice.