



# Deepwater Horizon Economic Damages Settlement

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## Professional Services Methodology Overview

# Agenda

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- **Policy 495**
  - Overview
  - Assigned NAICS Codes
  - Matching of Revenues and Expenses
  - Application of Methodology
- **DWH Accountant Requests**
  - Revenue Recognition
  - Case Summary
  - Incompleteness Notices
- **Corroborating Support Requests**
  - Tax Returns
  - Sample Selections

# Policy 495: Matching of Revenue and Expenses

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# Overview

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- Matching Revenues to Expenses
  - The District Court approved Policy 495, *Matching of Revenue and Expenses*, that was developed to provide “an appropriate protocol . . . for handling BEL claims in which the claimant’s financial records do not match revenue with corresponding variable expenses.” (Rec. Doc. 12055, p. 37 of 43).
- Policy 495 has several Methodologies based on the claimants industry and/or basis of recording revenue and expenses:
  - Attachment B - Annual Variable Margin Methodology
  - Attachment C - Construction
  - Attachment D - Agriculture
  - Attachment E - Educational Institutions
  - **Attachment F - Professional Services**

# Attachment A of Policy 495

## NAICS Codes Assigned to Professional Services

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- 541XXX Professional, Scientific, and Technical Services
  - 5411XX - Legal Services
  - 5412XX - Accounting, Tax Preparation, Bookkeeping, and Payroll Services
  - 5413XX - Architectural, Engineering, and Related Services
  - 5414XX - Specialized Design Services
  - 5415XX - Computer Systems Design and Related Services
  - 5416XX - Management, Scientific, and Technical Consulting Services
  - 5417XX - Scientific Research and Development Services
  - 5418XX - Advertising, Public Relations, and Related Services
  - 5419XX - Other Professional, Scientific, and Technical Services

Per Policy 495: “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 judgement 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.”

# Attachment F – Professional Services

## Methodology

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- Matching of Revenues and Expenses
  - The timing of revenue recognized on the Claimant's P&Ls may not correlate with the timing of activities performed/expenses incurred to earn such revenue, e.g.
    - advance payments or retainers may be received before work is performed
    - progress or milestone invoices may be issued and paid over the life of a case/engagement for fixed price contracts
    - contingent fees may be paid on the successful outcome of a litigation matter or costs savings realized from a consulting engagement.
  - Recording revenue when cash is received in payment of such invoices can, therefore, result in considerable timing differences in the months that revenues are recorded relative to when expenses were incurred and work was performed

# Industry Specific Examples

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- Legal Services
  - Claimant performs work on long-term contingency based engagements and revenue is not recognized on the P&Ls until the contingent award is paid
- Advertising Agency
  - Claimant's client pays up front for a year long campaign. The Claimant recognizes all of the revenue related to the campaign on their P&Ls in the month collected although work is performed and expenses are incurred throughout the year
- Architectural/Engineering Firm
  - Claimant is employed on long term engagements and issues milestone invoices throughout the engagement. Work is being performed and expenses are incurred monthly, however, invoices are billed and revenue is recognized on a non-monthly basis

# Professional Services Methodology Application

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- The Professional Services Methodology shall be applied to adjust a Claimant's contemporaneous P&Ls that have been deemed to not be "sufficiently matched"
- Method of allocation is based on the documentation available:
  - Straight line basis - default
    - Revenue is allocated on a straight line basis over the time period of the case/engagement
  - Effort based – when activity generating the revenue occurred
    - Claimant must submit appropriate, reliable and complete records that permit this alternative allocation
      - Time and billing records
      - Other case/engagement records that provide sufficient information to 'reconstruct' when effort was expended



# DWH Accountant Review Requests

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# Revenue Recognition Request

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- In order to obtain a better understanding of the Claimant's business operations, the Program requires responses from all Claimants assigned under the Professional Service NAICS code, to questions that include:
  - How is revenue generally recognized in the P&Ls?
  - Do you utilize cash or accrual basis of accounting?
  - Is the claimant generally involved in long or short-term engagements (i.e. less than 30 days)?
  - Are jobs often invoiced at the completion of a project or on a monthly progress basis?
  - If on a monthly progress basis, how is the balance determined?
  - Are jobs often billed and collected within the same month? If not, please explain the normal billing/collection cycles
  - Do you have contingent based fee arrangements?
  - Do you require up front retainers from clients?

# Case Summary

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- Under the Professional Services Methodology, P&Ls deemed not “sufficiently matched” require an adjustment to revenues. The following is required to perform the re-allocation of revenues on a straight line basis
  - A summary of engagements/cases with the following information:
    - Case/engagement name
    - Commencement date
    - Completion date
    - Total revenue earned over the life of the case/engagement
    - Month & year the associated revenue was recorded on the P&Ls
  - The Program has created a “Case Summary” template to assist in the efficient compilation of this information. If you utilize this template, it will assist the Program in more quickly assessing your claim
    - Please refer to [[http://www.deepwaterhorizoneconomicsettlement.com/docs/DWH\\_Case\\_Summary\\_Template.xlsx](http://www.deepwaterhorizoneconomicsettlement.com/docs/DWH_Case_Summary_Template.xlsx)] for Case Summary template

# Applicable Cases/Engagements

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- The Case Summary should contain engagements/cases meeting the following criteria:
  - All engagements/cases for which revenue was recognized on the P&Ls at some point during 2007-2011
  - All engagements/cases for which revenue was recognized on the P&Ls at some point prior to 2007 or subsequent to 2011 and for which case work was performed at some point during 2007-2011, e.g.,
    - Advance payment received in 2006 for work performed in 2007
    - Contingent fee received in 2013 for work performed in 2009-2013



# Case Summary Template Review

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- The following issues must be resolved prior to the claim's review process:
  - Engagements/cases missing a start or end date
  - Engagements/cases missing the month/year the revenue is recorded per the P&Ls
  - Invalid start/end dates
    - Data entry errors
    - Start dates occurring after the end date
    - End dates provided for future periods
  - For all on-going cases a description for recognized revenues will be required
- Case Summaries provided to the Program that contain the aforementioned issues will require Claimant correspondence prior to the claim review process continuing

# Case Summary Template Example

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- Any highlighted errors will require resolution prior to continuing with the claim

Case / Engagement Summary

Month Recorded on P&Ls	Year Recorded on P&Ls	Case Name	Case Start Date	Case End Date	Total Revenue	Please Update Any Errors
Jan	2007	101	6/1/2002	1/3/2007	\$ 100,000.00	
Mar	2007	102	12/3/2009	3/12/2007	\$ 57,000.00	Start Date Should Be Before End Date
July	2008	103	12/1/2005	6/30/2008	\$ 80,000.00	
Aug	2008	104	6/1/2008	8/34/2008	\$ 35,000.00	Invalid Date
Dec	2008	105			\$ 150,000.00	Please enter both a Case Start and End Date
Feb	2009	106	1/15/2008	2/2/2009	\$ 75,000.00	
Apr	2009	107	5/30/2006		\$ 62,000.00	Please enter both a Case Start and End Date
July	2010	108	1/14/2008	7/7/2010	\$ 54,000.00	
Apr	2010	109	1/14/2007	8/10/2011	54k	Please Enter a Valid Revenue Balance
Apr	2010	110	1/1/2010	10/10/2018	\$ 62,000.00	Provided Case End Date is of a Future Period
July	201x	111	1/15/2008	2/2/2009	\$ 75,000.00	Please Enter a Valid Year
Aug	2011		1/14/2007	8/10/2011	\$ 25,000.00	Please Address the Highlighted Red Cells

# Alternative Case Summary Information

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- If the Claimant is able to submit appropriate, reliable and complete records that permit an alternative allocation of revenue based on when activity generating the revenue occurred, an alternative basis will be applied
  - A summary of cases with the following information will be required:
    - Case/Engagement name
    - Commencement date
    - Completion date
    - Total revenue earned over the life of the case/engagement
    - Month & year the associated revenue was recorded on P&Ls
    - Hourly work performed on a monthly basis
- The Program will require documentation to support when the effort/hours were incurred on each engagement/case (even on a sample basis)



# Alternative Basis Example

- Claimants that satisfy the criteria of the alternative basis for revenue allocation may provide such case summaries. The following is an example of an alternative composition based on time and effort

Case No.	Engagement Name	Start Date	End Date							
1	J. Doe	3/3/2009	12/10/2012							
Revenue Recorded per P&Ls	Pre 2006	2006	2007	2008	2009	2010	2011	2012	Post 2012	Total
					\$ 300.00	\$ 8,910.00	\$ 500.00	\$ 37,772.00	\$ 19,912.00	\$ 67,394.00
<b>Month</b>	<b>Monthly Amount Billed (Billable Rate x Hours)</b>									
January						-	-	\$ 3,000.00		
February						\$ 3,000.00	-	\$ 3,000.00		
March					\$ 300.00	\$ 500.00	-	\$ 4,934.00		
April					-	\$ 650.00	-	\$ 7,000.00		
May					-	\$ 760.00	-	\$ 6,500.00		
June					-	-	-	\$ 4,989.00		
July					-	-	-	-		
August					-	-	-	-		
September					-	-	\$ 500.00	-		
October					-	-	-	-		
November					-	-	-	-		
December					-	\$ 4,000.00	-	\$ 8,349.00		

# Incompleteness Notices

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- Standard Incompleteness Notices are issued for case summary requests
- Incompleteness Notices allow for 30 day response periods in preparation of the requested case summary
- Claimant that are unable to satisfy the case summary request within the initial 30 days will receive an additional Follow-Up Incompleteness Notice
- If additional time is required subsequent to a Follow-Up Incompleteness Notice, an extension may be requested by contacting the DWH Claimant Communication Center at 1-800-353-1262 or by sending an email to [Questions@dhecc.com](mailto:Questions@dhecc.com)

# Corroborating Support Requests

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# Supporting Documentation

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- Case Summary Corroboration
  - Supplementary support documentation in the forms of contracts or financial system reports are required for select testing (potentially on a sample basis) of the case/engagement information provided
  - The underlying support should agree and reconcile to the data provided on the Case Summary

# Supporting Documentation cont.

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- Alternative information that the Claimant may elect to present to demonstrate when effort was expended/hours were worked may include:
  - Time and billing records maintained in the ordinary course of business that detail time worked by month by case/engagement are considered to be the most accurate and complete source of information
  - Other case/engagement records may provide sufficient information to ‘reconstruct’ when effort was expended/hours were worked in generating the revenue earned, such as: calendars, engagement letters, court filings, case summaries, trial dockets, court and depositions appearances, expert report submissions, project deliverables, transaction closure dates, contract execution dates, court approvals, and payment schedules and receipts

# Pre-2007 / Post-2011 Documentation Request

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- Revenues recognized pre-2007 and post-2011 captured in the provided case summary may require a corresponding federal tax return and/or year-end annual P&L
  - The 2005 tax return/ P&Ls may be required for a Claimant who received and recognized on their P&Ls in 2005 a retainer payment for an engagement that was worked on from 2005 through 2008
  - The 2014 tax return/ P&Ls may be required for a Claimant who received and recognized on their P&Ls in 2014 a settlement payment for an engagement that was worked on from 2009 through 2014
- Variances noted in gross receipts or net income between the tax return and P&L may require supplementary tax reconciliations

# Reimbursable Expenses

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- Revenue for engagements/cases listed on the Case Summary should not contain or should highlight separately reimbursable expenses
- Engagements/cases containing corresponding expense reimbursements should separate the balance between earned fee income and reimbursements

# Deepwater Horizon Economic Damages Settlement



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This Concludes the  
Policy 495: Professional Services  
Claims Overview