



## The BP Claims Process: Can Claimants Trust BP to Measure Their Loss of Business Income?

**July 2010** — BP has established procedures to process legitimate claims arising from the Deepwater Horizon Incident, including claims for loss of business income (i.e. net lost government revenues, net lost profits and the loss of earning capacity). BP will be assessing claims as directed by the Oil Pollution Act and pursuant to the guidelines of the United States Coast Guard.

For loss of business income claims, BP is requesting that claimants provide documentation to substantiate an economic loss. Upon the receipt of a claim, a BP claims manager will review the claim and assign it to the appropriate State Team. BP will determine if the claim is a large claim or a complex claim. If BP determines a claim is large or complex, the claim will be assigned to the Large Loss Unit where an experienced claims adjuster will review it. In addition, the BP claims adjuster will have the additional support from CPA firms and attorneys who are also experts in the claims arena, though these experts have been hired by BP.

While BP's efforts to efficiently manage the losses being suffered by businesses affected by the oil spill are commendable, not all issues are black and white, which begs the question: When an issue (or, in this case, an amount) is gray, will the BP claims processors be an advocate for the claimant? The general expectation is that BP's experts will be fair, but are they more likely to act in the best interest of the claimant or BP?

A recent *Wall Street Journal* article (titled "Gulf Business Owners Critical of BP Claim Process") pointed out that as of June 6, 2010, BP had not denied any of the 42,000 claims submitted, but at that time it had only paid 10 worth more than \$5,000. In addition, the *Daily News* reported on July 11, 2010 that approximately 40% of the claims filed with BP will be receiving decreased payments due to lack of supporting or complete documentation. Our experts suggest claimants seek advisement from a damage claims expert, ideally an experienced Forensic Accountant, who will work in conjunction with the business to determine the loss of income sustained, gather the required documentation to satisfy BP's experts and make certain that the claimant's loss is measured fairly.

### **Loss of Business Income Calculations**

There is no distinct formula to determine a loss of business income due to a business interruption such as the "Deepwater Horizon Incident". Every business and industry has unique characteristics, but with the assistance of a trained Forensic Accountant, claimants can navigate the calculations needed to accurately project the amount of income that was lost as a direct result of the oil spill (for example: analyze historical sales trends, internally generated budgets, business, industry and general economic trends). A Forensic Accountant can help to gather the relevant facts, prepare and support a claim and be there to answer questions from BP.

### **HKMP, LLP**

Held, Kranzler, McCosker and Pulice, LLP (HKMP), provides a wide range of services to individuals, businesses and other entities throughout the United States. The damage claim specialists at HKMP understand a successful claim settlement depends on the fair and balanced analysis of complex circumstances and the resulting economic and accounting issues. We have handled cases related to September 11<sup>th</sup> and Hurricane Katrina and are well qualified to assist victims of the Deepwater Horizon oil spill, as well. For more than 25 years, our team has been providing forensic accounting services to clients, attorneys, insurance companies, and private investigation firms who benefit from our insight and expert recommendations to help claimants receive a fair and accurate settlement. Please ask for Russell Kranzler, CPA, CrFA, the Partner in Charge of HKMP's Forensic/Claims department.