

# PROFESSIONAL LIABILITY WHITE PAPER

## EXECUTIVE SUMMARY

For many procurements, transit agencies need to require that their contractors provide a variety of insurances, including professional liability policies. Failure to specify the appropriate policy coverage may result in insurance coverages inappropriate for the work to be performed resulting in unexpected financial liability caused by architects, engineers and other professionals. Failure to appropriately specify the relationship between the prime and subcontractors with respect to insurance may result in unexpected financial liability or excess cost.

Professional liability insurance, also referred to as Errors & Omissions (E&O) and Malpractice insurance, provides payment for financial losses due to the professional negligence of the insured. These terms are used interchangeably with professional liability being the most generic and covering all types. Malpractice insurance is generally associated with coverage for the medical professions and occasionally the legal professions.

Prior to issuance of a solicitation, a transit agency should evaluate whether the proposed contract involves professional risk. Typically, state-credentialed service providers (e.g. doctors, lawyers, accountants, engineers, architects, auditors) always need to provide professional liability insurance consistent with the contract's type of service and possible risks. Non-certified professionals, such as management consultants and IT consultants, fall into a grey area of professional risk. The more technical the work to be performed and the greater the reliance the transit agency places on the professional advice, the more likely these risks should be covered by professional liability insurance.