

# AE Policy Enhancement Endorsement Architects & Engineers Liability

The AECP 4349 (02.20) AE Policy Enhancement Endorsement contains the following.

The following Supplemental Coverages have been updated with increased reimbursement amounts:

- (A) Disciplinary Proceedings,
- (B) ADA, FFHA and OSHA Proceedings and
- (C) Insured's Expense Reimbursement.

We have added the following new Supplemental Coverages:

- (D) Subpoena Response Assistance,
- (E) Public Relations,
- (F) Peer Review Reimbursement,
- (G) Drone Replacement Expense and
- (H) False Claim Act Expense Reimbursement.  
*(see below for background on the False Claim Act)*



## Other Enhancements Include:

- Amended the "Consent to Settle" clause to allow for a 50/50 sharing of any Loss and Claims Expenses above that which a claim could have been settled but for the failure of the Named Insured to give us consent.
- Updated our definition of Bodily Injury to include "monitoring of medical conditions resulting from physical injury, sickness or disease."
- Updated definition of Wrongful Act to include Personal Injury and Media Injury and added a new definition of Media Injury to the policy form.
- Updated Exclusion A, the dishonest, criminal, fraud or intentional acts exclusion with "until there is final adjudication in the matter" wording.
- Deleted Exclusion B and replaced with a less restrictive language dealing with claims brought by certain entities who may be tied to insured by ownership, operational, control or management functions.
- An Aggregate Deductible of three (3) times the per claim deductible stated in the Declarations is now built into this enhancement endorsement.
- Expanded our Optional Extended Reporting Period with a 60 month option.

## Design Professionals and the False Claims Act

The False Claims Act ("FCA") is one of the federal Government's tools in fighting fraud against the Government. Federal and state agencies spend billions of dollars each year for the construction of roads, bridges, buildings and other infrastructure projects. Unfortunately, some of these projects involve allegations of or actual corruption and fraud.

Some of the most common violations under the FCA that involve the construction industry include: knowingly submitting a false or fraudulent claim for payment to the federal government; conspiring to defraud in order to have a claim paid; making a false statement in order to have a claim paid; and making a false record or statement to conceal an obligation to pay money to the federal government. Some of the potential types of fraud that could fall under the FCA are:

- Bid-Rigging, Bribes and Kickbacks
- Billing For Work Not Performed or Billing at Inflated Rates
- Failure to Follow Contract Specifications
- Falsifying Test Results and Progress Reports or Falsifying Minority Contractor Status
- Falsifying Material Costs or Violating Buy American Requirements
- Using Substandard Materials or Using Unqualified Personnel

The Tokio Marine HCC Cyber and Professional Lines Group is excited to introduce the new Supplemental Coverage for False Claim Act Expense Reimbursement to our AE professional liability policy form that may provide reimbursement to an insured for reasonable and necessary legal fees and expenses in responding to a proceeding brought directly against an insured by a government agency or relator (whistleblower) under the FCA.



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