A prime consultant on a project is vicariously liable for the negligence of any subconsultants whose services it employs on the project. Thus, even without a stated indemnity obligation, the prime consultant is required under common law indemnity principles to indemnify the subconsultant for any costs, losses or damages to the subconsultant caused by the prime consultant's negligence on a project. In some cases, a subconsultant—often one performing plan review, sealing and submission of construction documents or serving as a project representative in another state—may desire a contractual provision that makes the prime consultant's responsibility clear.

To state such an obligation as a contractual commitment, legal counsel advising the prime consultant and subconsultant might agree on language such as the following:

Prime Consultant agrees to defend, indemnify and hold harmless Subconsultant from claims, damages and losses arising out of personal injury, including death or property damage caused by Prime Consultant's negligent acts, errors or omissions in performing and furnishing professional services on this Project to the extent and in proportion to Prime Consultant's comparative degree of fault. Subconsultant shall give Prime Consultant prompt notice of any claims of injury or damage subject to this defense and indemnity obligation and shall, at its own expense, provide its time and efforts to cooperate with Prime Consultant's defense of Subconsultant.

This would seem to be within the coverage of the CNA professional liability insurance policy for design professionals since the indemnity obligation is tied to the professional negligence of the policyholder. The defense obligation represents a commitment by the prime consultant to contribute its deductible to the defense of the subconsultant.