



By Kelly Orji, AIA, LSSYB | HKS &
Nicole Seekely, AIA | Smith Dalia Architects
November 9, 2018

Negotiations, Risk Management and Legal Issues

SESSION #2

@ HKS Inc
191 Peachtree Street NE Suite 5000, Atlanta, GA 30303

Negotiations, Risk Management & Legal Issues

PROGRAM SUMMARY:

Session 2 focuses on the aspects of the business of architecture that could leave one vulnerable. A workshop led by a GSU professor who specializes in negotiation will kick off the session. The second part of the session will be an interactive discussion with a member of HKS Architects's legal counsel. The third part of the session will be a panel discussion focusing on the specific risks associated with BIM model sharing between the design and construction team.

LEARNING OBJECTIVES:

1. Develop the skills necessary to structure deals optimally when negotiating
2. Learn to recognize trade-off opportunities when negotiating as well as avoid "leaving money on the table"
3. Understand when contracts are needed, what risks are associated with practicing architecture, and what clauses are ideal to leave in and out of a contract.
4. Understand the risks associated with using BIM technology as a shared construction tool

PROGRAM ABSTRACT:

Session 2, entitled "Negotiation, Risk Management & Legal Issues" focuses on the aspects of the business of architecture that could leave one vulnerable. A workshop will kick off the session where scholars will all be given the same "negotiation scenario" and then be paired off into groups and required to negotiate to a conclusion. Results will be gathered live and Professor Edward Miles, a GSU professor whose negotiation course is the most popular elective in the Robinson MBA program, will analyze each different outcome and the trends observed. Professor Miles will go over the skills necessary to negotiate - something scholars can in turn use when working with clients, consultants, vendors, employers/employees, and in a plethora of real-world scenarios. Professor Miles trains and consults in the area of negotiation - his current research is in the area of negotiation as well. His research includes negotiator goals, the effect of negotiation self-confidence on negotiated outcomes, and understanding why some people do not negotiate in situations where other people do.

The second part of the session, an interactive presentation focusing on risk management, will be led by a member of HKS Architect's general counsel (attorney), George Williford. George will host a presentation and a Q&A discussion that explores this topic as it relates to the architecture field.

The third part of the session will be a panel discussion moderated by scholars Kelly Orji, AIA and Nicole Seekely, AIA. With the increasing prevalence of 3D model-based processes that give architects, engineers, contractors, and owners the enhanced tools necessary to execute and manage the construction and management of buildings, an associated risk for all parties is inevitable. Architects and their firms need to be aware of the risks and contractual obligations associated with sharing their BIM technology and tools. Kelly and Nicole will engage a panel of AEC professionals on the topic of risk management as it relates to the sharing of BIM models between the design and construction teams. This panel will include an architect, legal counsel, contractor, and an MEP engineer.

Negotiations, Risk Management & Legal Issues

Date: November 9, 2018

Location: HKS Inc., 191 Peachtree Street NE Suite 5000, Atlanta, GA 30303

Time: 12:00 pm – 5:00pm

AGENDA

12:00 – 12:15	Lunch Reception
12:15 – 12:20	Welcome/Introduction of Day's Agenda by Kelly Orji and Nicole Seekely
12:20 – 2:45	Workshop: Negotiating Optimally by Professor Edward Miles
2:45 – 3:00	Break
3:00 – 3:45	Risk Management and Legal Concerns by George Williford
3:45 – 4:50	Panel Discussion: BIM Modeling & Risk Management moderated by Kelly Orji and Nicole Seekely
4:50 - 5:00	Conclusion & Housekeeping by Kelly Orji, Nicole Seekely & the CKLDP Executive Committee
5:00 - 5:45	Happy Hour at HKS Inc, Sponsored by HKS Inc 191 Peachtree Street NE Suite 5000, Atlanta, GA 30303
5:45	Extended Happy Hour at Alma Cocina 191 Peachtree Street NE, Atlanta, GA 30303

Workshop: Negotiation Optimally

Dr. Edward Miles will conduct a mock negotiation scenario amongst the scholars. Results will be gathered live and Dr. Miles will analyze each different outcome and the trends observed. Dr. Miles will go over the skills necessary to negotiate which scholars can in turn use when working with clients, consultants, vendors, and employers/employees.



Dr. Edward W. Miles

emiles@gsu.edu

robinson.gsu.edu/profile/edward-w-miles/

Dr. Edward W. Miles

Dr. Edward W. Miles is a member of the faculty in the Robinson College of Business at Georgia State University in Atlanta, Georgia, USA. Before coming to Georgia State, he was on the faculty of the College of Commerce at Clemson University.

Prof. Miles has authored or co-authored over 30 refereed articles in scholarly management journals. These include publications in *Academy of Management Review*, *Journal of Applied Psychology*, and *Journal of Management*. His current research is in the area of negotiation. These interests include negotiator goals, the effect of negotiation self-confidence on negotiated outcomes, and understanding why some people do not negotiate in situations where other people do.

Dr. Miles's MBA course in negotiation is the most popular elective in the Robinson MBA program. Additionally, he lectures on negotiation at German universities in Mosbach and Stuttgart. Ed has received the Robinson College of Business Faculty Recognition Award for Excellence in Teaching. He has received multiple teaching awards in the Flex MBA and Professional MBA Programs.

His training and consulting work is in the area of negotiation. He has done work for Accenture, AT&T, Solvay Pharmaceuticals, VLG, the Georgia Tech Building Construction Program, the National Training Service of Colombia, the United States Centers for Disease Control, and the United States Federal Reserve Bank of Atlanta.

Presentation Risk Management and Legal Concerns

This session will look at a range of questions involving risk. What is risk? What are the risks in the practice of architecture? How do you manage risk? Do I need a contract? Is indemnity a scary word? Do I need a lawyer to manage risk? What can I do today to manage risk? The discussion will provide answers, from a personal level to firm wide leadership, to help get off the tight rope.



George Williford, P.E.

gwilliford@hksinc.com

www.hksinc.com

George Williford, P.E.

Principal and Assistant General Counsel with HKS, Inc.

Mr. Williford is a professional engineer and attorney licensed to practice in the State of Texas. Prior to joining HKS in Dallas, he was with the law firm of Fisk & Fielder, P.C., where his practice was almost exclusively related to the representation of design professionals within the construction industry. Before practicing law, he was a project manager with a consulting engineering firm in the Dallas-Fort Worth area. Mr. Williford received a B.S. degree in Civil Engineering from Texas A&M University and a J.D. degree from the University of Tulsa College of Law.

Panel Discussion:

BIM Model Sharing between Design and Construction: Risks and Opportunities

This panel will explore the risks of sharing BIM models between the design and construction team. As BIM model sharing becomes more commonplace, the way we manage this process is increasingly important. The panel will focus on some of the issues that are associated with sharing of BIM models, as well as the future of documentation/BIM modeling with a specific focus on risk.

Scott Haugh, AIA

Vice President with HKS, Inc.
Senior Construction Contract Administrator

A registered Architect with 25 years of experience, Scott has practiced in all phases of the design process. Since 2004 his primary concentration has been contract administration work on large commercial and institutional projects. Day to day, he maintains an open dialogue with owners and contractors to support the construction process, while managing efforts to make necessary revisions to the documents.

“Successful projects start with a great design and end with a great relationship. True professional service requires effort and advocacy in response to challenges that are part of every project.”



Scott Haugh, AIA
shaugh@hksinc.com
www.hksinc.com

Spencer Phillips, P.E.

Principal with Integral Group

Spencer has more than 24 years of electrical engineering and project management experience. His approach for clients is to solve challenges with creative, simple and elegant design. He has led over 200 projects as electrical engineer. For the majority of those projects, Spencer also led as the project manager.

In his current position, Spencer is responsible for managing projects and serving in a supervisory role for the electrical engineering portions of projects. Spencer's experience includes higher education, science & technology, infrastructure, pharmaceutical, medical device, healthcare, aviation, and central utility plants and distribution systems. On every project, his focus is providing the client with a flexible, future-proof facility that meets their needs and fits within their budget and schedule. He excels at helping clients understand the design choices that are available to them and understand that design must be for the client and not for the designer.



Spencer Phillips, P.E.
sphillips@integralgroup.com
www.integralgroup.com

III. Speakers & Presentations

Panel Discussion:

BIM Model Sharing between Design and Construction: Risks and Opportunities

-continued



Jason Vaia

JVai@brasfieldgorrie.com

www.brasfieldgorrie.com

Jason Vaia

Jason Vaia is a Senior VDC Coordinator with Brasfield & Gorrie, joining the firm in 2017. His projects are in the Commercial and Healthcare markets and his role provides multiple BIM based services. Ranging from Site Logistics, MEP Coordination, Self-perform field support/Lift Drawings, 4D Scheduling, and Visualization services, leveraging BIM models is a key component to VDC's ability to provide value to project teams and the owner. Prior to joining B&G, Jason served as the Corporate BIM Manager at 2 full service multi-disciplinary design firms (Rosser International, Heery design) for 21 years.



George Williford, P.E.

gwilliford@hksinc.com

www.hksinc.com

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Principal and Assistant General Counsel with HKS, Inc.

Mr. Williford is a professional engineer and attorney licensed to practice in the State of Texas. Prior to joining HKS in Dallas, he was with the law firm of Fisk & Fielder, P.C., where his practice was almost exclusively related to the representation of design professionals within the construction industry. Before practicing law, he was a project manager with a consulting engineering firm in the Dallas-Fort Worth area. Mr. Williford received a B.S. degree in Civil Engineering from Texas A&M University and a J.D. degree from the University of Tulsa College of Law.

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HKS Inc.
Thank you to HKS for hosting the session and happy hour as well as sponsoring two of the session's speakers.

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Acknowledgements

We would also like to thank our speakers from Georgia State University, Brasfield & Gorrie, Integral Group, and HKS Inc for taking the time to share their knowledge and expertise.