

# OSGOODE CERTIFICATE IN PUBLIC-PRIVATE PARTNERSHIPS (P3s)

February 23 - March 30, 2017  
5 days over 6 weeks  
In Person or Live Webcast

Do you have the knowledge and skills you need to be part of new infrastructure investment?

Canada is a world leader in public-private partnerships (P3s). With a federal government committed to building infrastructure, P3s will no doubt be on the rise for the foreseeable future. As a lawyer or government or business executive working in infrastructure development, now is the time to enhance your mastery of the design, delivery and maintenance of P3s, as well as their complexities and pitfalls.

Register today at:

[osgoodepd.ca/P3](http://osgoodepd.ca/P3)

## Certificate Details:

### PROGRAM DIRECTORS

**Marni Dicker,**  
Executive Vice President,  
General Counsel and Corporate  
Secretary, Infrastructure Ontario

**Richard H. Shaban,**  
Borden Ladner Gervais LLP

### LOCATION

**Osgoode Professional  
Development**  
1 Dundas St. West, 26th Floor  
Toronto, ON



# Drawing on the expertise and experience of leading lawyers and experts, including:

## Program Directors



### Marni Dicker

Executive Vice President, General Counsel and Corporate Secretary, Infrastructure Ontario



### Richard H. Shaban

Borden Ladner Gervais LLP

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## Program Faculty

**Mark W.S. Bain**, Torys LLP

**Jody Becker**, SVP Emerging Markets and Chief Strategy Officer, EllisDon

**Chris Bennett**, Osler, Hoskin & Harcourt LLP

**Fred Blaney**, President, New Brunswick Highway Corporation, Former ADM Partnerships, New Brunswick

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**Ehren Cory**, Divisional President, Project Delivery, Infrastructure Ontario

**Marni Dicker**, Executive Vice President, General Counsel and Corporate Secretary, Infrastructure Ontario

**Catherine Doyle**, Blake, Cassels & Graydon LLP

**Simon Finlayson**, Senior Legal Counsel, SNC Lavalin O&M

**Geoffrey G. Gilbert**, Norton Rose Fulbright Canada LLP, Ottawa

**Grant Headrick**, Managing Director, Infrastructure Finance, DBRS

**David Ho**, Senior Vice President, Procurement and Records Management, Infrastructure Ontario

**Jim Janetos**, McCarthy Tétrault LLP

**Tara Mackay**, Torys LLP

**Bruce McCuaig**, President and CEO, Metrolinx

**Michael Mills**, Vice President, Investments, PPP Canada

**Timothy John Murphy**, McMillan LLP

**Louise Panneton**, President, P1 Consulting Inc.

**Gordon Paul**, Senior Vice President, National Director, Public Private Partnerships, AON Risk Services

**James C. Paul**, President and Chief Executive Officer, Defence Construction Canada

**Sarah E. Roberts**, President, INTECH Risk Management

**Mark Romoff**, President and CEO, The Canadian Council for Public-Private Partnerships (CCPPP)

**Douglas R. Sanders**, Borden Ladner Gervais LLP, Vancouver

**Richard H. Shaban**, Borden Ladner Gervais LLP

**Divya Shah**, Senior Vice President, Transaction Finance, Infrastructure Ontario

**Eric Tilley**, Senior Vice President, Legal Services, Infrastructure Ontario

**John Traianopoulos**, Vice President, Transaction Finance, Infrastructure Ontario

**Vickie Turnbull**, Managing Director, Infrastructure Finance, RBC Capital Markets

**John D. Vincent**, Senior Managing Director, Head of Project Finance, Sun Life Financial

**Sharon Vogel**, Borden Ladner Gervais LLP

**Peter Wallace**, City Manager, City of Toronto

**Sean Wiley**, Senior Vice President, AFP Operations, Infrastructure Ontario

**Judy L. Wilson**, Blakes, Cassels & Graydon LLP

# The Osgoode Certificate in Public-Private Partnerships (P3s)

Led by program directors Marni Dicker and Richard H. Shaban, an expert, multi-disciplinary faculty with years of experience working with all levels of government will give you valuable insights into what makes P3s work — and fail. Why are there concerns in some quarters about the efficacy of P3s? What are the key characteristics of successful P3s? How can you avoid the common missteps that plague unsuccessful projects?

You will also learn about the nuts and bolts from start to finish — considerations when deciding whether a project is suitable for a P3, through financing of the project and the role of debt and equity, and finally to operating, maintaining and managing the P3 project. Hear from the key players, including senior government and industry executives, in a variety of engaging sessions including lively panel discussions. And of course, there will be extensive opportunity for introductions, questions and discussion between sessions.

## Topics Include

- The history and evolution of P3s — the background and legal framework in which they operate
- The current and emerging use of P3s throughout Canada
- When a project is suitable for a P3
- The process of bringing the P3 deal together — the timelines and the team players required
- Procurement and P3s — best practices and common pitfalls
- The role of the Fairness Monitor — balancing the interests of the parties and maintaining an open, transparent process
- How to finance P3s — including financing structures, market influences, stakeholders interests, lenders due diligence, equity and governance issues
- Constructing, operating and maintaining the P3 project: best practices
- Insuring the P3 project: risk mitigation tools and default mechanisms
- How to deal with supervening events and delays
- Dispute resolution: keys to overcoming conflicts among the players
- Termination and expiry — P3 transition and turnover provisions

## Who Should Attend?

- Lawyers whose focus/practice area is infrastructure, construction, procurement and project financing
- Federal, provincial and municipal representatives involved with infrastructure/construction/development/procurement
- Executives or professionals working for lenders, developers, project management companies, insurance and risk management in the construction/infrastructure/development/procurement context
- Construction/Infrastructure/Procurement industry consultants
- Mediators or arbitrators of construction/infrastructure disputes
- P3 developers, constructors or advisors
- Engineers or Architects



# Agenda

**Day 1: February 23, 2017**  
**9:00 a.m. – 5:00 p.m. EST**

## Fundamentals and Framework of P3s

The opening day sets the stage with a broad ranging discussion of the background and key elements of P3s. The faculty will address, among other key issues, the controversy in some quarters about P3s and their efficacy and value to taxpayers. The day will be capped with a lively panel of senior government and industry executives discussing the use of P3s in their regions, past, present and projected.

### The History and Evolution of P3s

#### What is the Case for a P3?

- What are the rationales and catalysts for P3s?
- What projects make for successful P3s?
- Navigating the criticism that P3s lack appropriate transparency, accountability and flexibility

#### Initial Considerations

- From concept to financial completion and handback – what does a P3 timeline look like?
- Tips and tools for building the appropriate P3 team – how do you ensure the team has the requisite capacity and skills to develop, negotiate and effectively monitor public-private partnerships?
- Ethical issues and challenges throughout the process

### Cross Country Panel: The Use of P3s in Canada

#### Faculty

**Fred Blaney**, President, New Brunswick Highway Corporation, Former ADM Partnerships, New Brunswick

**Ehren Cory**, Divisional President, Project Delivery, Infrastructure Ontario

**Marni Dicker**, Executive Vice President, General Counsel and Corporate Secretary, Infrastructure Ontario

**Timothy John Murphy**, McMillan LLP

**James C. Paul**, President and Chief Executive Officer, Defence Construction Canada

**Mark Romoff**, President and CEO, The Canadian Council for Public-Private Partnerships (CCPPP)

**Richard H. Shaban**, Borden Ladner Gervais LLP

**Judy L. Wilson**, Blakes, Cassels & Graydon LLP

**Day 2: March 2, 2017**  
**9:00 a.m. – 5:00 p.m. EST**

## Procuring the P3 Project

### Process and timing before RFQ/RFP

- What steps do government entities go through to make the initial decision? What happens behind the scenes?
- What is the role of procurement agencies?

### Overview of Canadian Procurement Law and Practice Pertaining to P3s

- The Contract A/Contract B analysis – the building blocks for the current legal framework, including an analysis of recent case law
- Relevant documentation and agreements and key provisions
- Legal risks, liabilities and remedies that can apply
- Managing the process and the expectations from the beginning: what happens in practice? What can go wrong? What are the common pitfalls? How do you avoid them?

### Ethical Considerations

- Meeting the challenges of maintaining a fair and transparent process
- Red flags – what to look out for to minimize exposure to fraud and corruption

## Key Stakeholder Panel: Lessons Learned on P3 Procurement

### Luncheon Keynote Speaker

**Peter Wallace**

City Manager, City of Toronto

### Faculty

**Jody Becker**, SVP Emerging Markets and Chief Strategy Officer, EllisDon

**Brian Budden**, Executive Vice President, Plenary North America

**Simon Finlayson**, Senior Legal Counsel, SNC Lavalin O&M

**David Ho**, Senior Vice President, Procurement and Records Management, Infrastructure Ontario

**Louise Panneton**, President, P1 Consulting Inc.

**Douglas R. Sanders**, Borden Ladner Gervais LLP, Vancouver

**Eric Tilley**, Senior Vice President, Legal Services, Infrastructure Ontario

**John Traianopoulos**, Vice President, Transaction Finance, Infrastructure Ontario

**Judy L. Wilson**, Blakes, Cassels & Graydon LLP

**Day 3: March 8, 2017**  
**9:00 a.m. – 5:00 p.m. EST**

## Financing a P3 Project — Government, Debt & Equity

### Overview of Financing Structure and Debt Financing

- Government vs Debt vs Equity
- Debt to equity ratios – why are P3 projects so highly leveraged?
- Funds from the public sector and their effect on private debt and equity

### Basic Principles of Debt Financing

- General approach of the lenders
- Key aspects of lenders' due diligence
- Security

### Types of Debt Financing

Learn about the different types of debt financing available from banks, private

# Agenda

placement (including pension funds and lifecos), bonds and hybrid models, and how they are commonly used in P3s.

## Lending Agreements

- Key features common to all types of debt financing
- Key features specific to each type of debt financing

## Equity — Legal Aspects

- Legal form of Project Co
- Governance issues
- Tax issues

## Key Stakeholder Panels: Lenders Perspective; and Perspective of Public Authority on Financing of the Private Party

## Luncheon

### Keynote Speaker

**Bruce McCuaig**,  
President and CEO, Metrolinx

## Faculty

**Robert G. Borduas**, Norton Rose Fulbright Canada LLP, Montréal

**Catherine Doyle**, Blake, Cassels & Graydon LLP

**Grant Headrick**, Managing Director, Infrastructure Finance, DBRS

**Michael Mills**, Vice President, Investments, PPP Canada

**Divya Shah**, Senior Vice President, Transaction Finance, Infrastructure Ontario

**Vickie Turnbull**, Managing Director and Co-Head, Infrastructure Finance, RBC Capital Markets

**John D. Vincent**, Senior Managing Director, Head of Project Finance, Sun Life Financial

**Day 4: March 23, 2017**  
9:00 a.m. – 5:30 p.m. EST

## Constructing, Operating, Maintaining and Insuring the P3 Project

Using case studies and examples from recent major projects the faculty will walk you through:

### Constructing the P3 project

- Key Project Agreement provisions
- Interface agreements, drop down agreements, legal framework
- Avoiding common traps/conflicts of interest

### Operating/Maintaining the Project

- What are the common challenges?
- Influencing or coordinating the construction specifications for long term operation and maintenance

### Insuring the P3 Project — Risk Mitigation Tools and Default Mechanisms

P3 projects present their own set of unique risks/exposure to liability. Industry experts will assess the insurance models and risk mitigation tools available, specifically addressing:

- Limits of liability
- Deductibles / Additional insureds
- Uninsurable risks
- Limits of coverage, caps and exclusions

**NETWORKING SOCIAL: An informal opportunity to meet and greet with your colleagues from various backgrounds across the country.**

## Faculty

**Geoffrey G. Gilbert**, Norton Rose Fulbright Canada LLP, Ottawa

**Jim Janetos**, McCarthy Tétrault LLP

**Gordon Paul**, Senior Vice President, National Director, Public Private Partnerships, AON Risk Services

**Sarah E. Roberts**, President, INTECH Risk Management

**Eric Tilley**, Senior Vice President, Legal Services, Infrastructure Ontario

**Sean Wiley**, Senior Vice President, AFP Operations, Infrastructure Ontario

**Day 5: March 30, 2017**  
9:00 a.m. – 4:45 p.m. EST

## Managing the P3 Project

### Managing the Project: Practical Considerations

In any P3 deal, effective project management is essential to a successful outcome. The faculty will identify the factors necessary for successful project management, including:

- Changing financial conditions
- Changes in ownership or control
- Changes in key personnel/project scope

### Resolving Disputes in P3 Projects

- How to craft appropriate dispute resolution clauses
- Use of mediation and arbitration

### Supervening Events

Best practices for dealing with supervening events, including: changes in the law, delays, *Force majeure*, defaults

### Termination or Expiry of P3 Project Term: Managing Handback

- Transition/turnover provisions
- What should you do after the financial/commercial close?
- Dealing with the transition to the new people

## Special Best Practices Panel: Lessons Learned and Challenges on the Horizon

## Faculty

**Mark W.S. Bain**, Torys LLP

**Chris Bennett**, Osler, Hoskin & Harcourt LLP

**Marni Dicker**, Executive Vice President, General Counsel and Corporate Secretary, Infrastructure Ontario

**Jim Janetos**, McCarthy Tétrault LLP

**Tara Mackay**, Torys LLP

**Timothy John Murphy**, McMillan LLP

**Richard H. Shaban**, Borden Ladner Gervais LLP

**Sharon Vogel**, Borden Ladner Gervais LLP

“Provided an excellent foundation on the principles of P3 projects... Excellent comparison of different provincial and agency perspectives.”

Gordon Butson  
Corporate Vice President,  
Robert B. Somerville Co. Limited

“The best thing about the program is the wealth of knowledge and experience of speakers.”

Madeleine Plouffe  
Manager,  
Public Service and Procurement Canada

## Registration Details

### Fee per Delegate

**\$3,995 plus HST**

Fees include attendance, program materials, continental breakfast, lunch and refreshments for each of the 5 days of the program. The price does not include accommodations. Please inquire about group discounts and financial assistance. Dress is business casual.

### Program Changes

We will make every effort to present the certificate program as advertised, but it may be necessary to change the dates, location, speakers or content with little or no notice. In the event of program cancellation, York University and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

### Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 21 days prior to the program date. If a cancellation request is made with less than 21 days notice, a \$150 administration fee will apply. No other refund is available.

### For Further Program-Related Information please contact:

Myrsini Zacharakis, Program Lawyer at 416.278.7721  
or email [mzacharakis@osgoode.yorku.ca](mailto:mzacharakis@osgoode.yorku.ca)

## Certificate of Program Completion

You will receive a certificate upon completion of The Osgoode Certificate in Public-Private Partnerships (P3s). Participants must attend all program modules and pass the post-program multiple choice assessment to receive a certificate.

## 4 Convenient Ways to Register



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