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Assessment of Public-Private Partnership on Infrastructural Development in Nigeria: Challenges and Prospects

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***Abstract*—The era of government singlehandedly providing infrastructural facilities are long gone. Governments all over the world in this new dispensation cooperate with the private sectors in the provision and management of various infrastructural facilities in their respective countries. Based on archives of relevant literatures reviewed, this study focuses on Public Private Partnership (PPP) with respect to its effect on infrastructural development in Nigeria. It sets out to assess the role of this union of convenience on the growth of various infrastructures in Nigeria, with a view to evaluating in specific terms the challenges of the partnership on infrastructural development in Nigeria and to proffer solutions to them. Finding revealed that Public Private Partnerships in Nigeria are faced with challenges ranging from dearth of financing and when such is in place, it carries high interest rate. Another strong challenge hinges on lack of experience in project financing by bank officials and technical expertise. The findings further revealed lack of sound legal and institutional framework as a backing for Public Private Partnership in Nigeria. Despite these challenges, the study finds that the mutual relationship between the Public and Private sector had contributed immensely to the growth of infrastructures in the country as revealed by this reviewed work. The study recommends the establishment of the required regulatory framework for proper implementation of Public Private Partnership projects. Moreover, Nigerian banks through the CBN should be assisted to cope with the financing skills required for PPP.**

Keywords—Public-Private Partnership, Infrastructural Development, Nigeria

I. INTRODUCTION

Initially, delivery of public services and provision of infrastructure has been the sole responsibility of the government. However with the growing population, coupled with the needs for development in other areas, governments have been found wanting from effectively providing all the infrastructural needs of the people. Governments all over the world in this new dispensation, now cooperate with the private sectors in the provision and management of infrastructural facilities in their respective countries. This contractual arrangement is refers to as Public Private Partnership (PPP).

PPP is refer to as a generic term used to describe a myriad of structures that facilitate the participation of the private sector in the provision of public infrastructure and services. It involves a contract between a public sector authority and a private party, in which the private party provides a public service or project and assumes substantial financial, technical and operational risk in the project. PPP refers to a specific type of arrangement that involves a long-term agreement between a private sector party and a government in which the private sector party designs, builds, finances and operates public infrastructure in exchange for some form of payment.

Looking at the Nigerian situation with huge infrastructural needs and inadequate funding for such needs, PPP can mutually meet the infrastructural needs and similarly generate the needed funds for the provision and management of these infrastructure, thus lessen the financial burden of the government. Unlike privatization exercise, PPP give room for the government to regulate prices, inhibit market abuse and set up the user charges as the case may be. The poor ways various public assets are manage in Nigeria over the years had shown a big mismatch between the potentials of these assets and the current rate of usage and benefit derived from them. PPP assists the government to concentrate more on facilitation and regulation, while the private investors focus on building facilities and delivery of services mostly on cost recovery terms, thus achieving the fundamental goal of value for money and risk sharing in social development by the private partners. Correct implementation and adoption of PP in Nigeria will have a far reaching effect in solving our infrastructural deficiencies and enhance quality in service delivery systems.

A. Public-Private Partnership Terminologies

According to Centre for Sustainability in Mining and Industry [1] and Afolabi [2] cited in Uwem and Abubakar [3],

TABLE 1: Public-Private Partnership Terminologies

Commonly Used Terminology	Meaning
BOT - Build-Operate-Transfer	Private investor builds a facility, sells the output to the public, and transfers it at the end of the contract.
BRT - Build-Rent-Transfer	Private investor builds facility, rents it out, and transfer at the end of contract.
BTO - Build-Transfer-Operate	Private vendor builds facility, transfers to government, who either operates directly or contract out. The private vendor either gets full payment at the end of contract or shares in the earnings from operation thereafter.
CONCESSION	Private vendor (concessionaire) may or may not build facility, but is allowed to manage the facility and charge users a fee for use of the facility.
DBB - Design-Bid-Build	Government agency provides design, puts out tenders and winner builds the facility.
DBFO - Design, Build, Finance and Operate,	Government designs the facility, private vendor finances building and operates for cost recovery.
DBMF - Design, Construct, Maintain and Finance	Government designs, private sector constructs and maintains, and government finances.
EPC CONTRACT - Engineering, Procurement and Construction	Contract whereby the contractor proves a complete installation (e.g. a power plant) to specification, at a fixed price and to a fixed schedule.
FRANCHISE	The service provider (franchisee) is allowed to charge a service fee for the use of the infrastructure or service which has already been built. The franchisee pays a lump sum to government.
Lease/Maintain	Private vendor pays rent for facility and utilizes the resources.
Output specification	Government agency specifies "outputs," and private vendor designs, finances and builds the infrastructure.
RLT - Rehabilitate-Lease-Transfer	Private vendor rehabilitates a facility, signs lease agreement on facility with government agency, and transfers at the end of contract.
ROT-Rehabilitate-Operate-Transfer	Private entity rehabilitate facility, operates to the extent of full cost recovery, and transfers.

Sources: Afolabi [2] and Centre for Sustainability in Mining and Industry [1] cited in Uwem and Abubakar [3].

the commonly used PPP terminologies are explained in the summarized Table 1.

II. Reasons of Public-Private Partnership in Nigeria

According to Infrastructure Concession Regulatory Commission [4], the main reasons that prompts governments to involve in PPPs for infrastructural development and service propagation are: (a) for optimal utilization of available resources and efficiency in services. (b) To improve on the standing organizational plans and policies that will pave more ways for transparency and fairness assessment. (c) To attract more skilled force with competitive flair and orientation on efficient performance. (d) To reform sectors through a reallocation of roles, incentives and improve accountability.

Dabak [5] adjudge that government went into Public Private Partnership with the objectives of delivering significantly improved public services, by contributing to the enhancement of quality and quantity of infrastructures in the nation. Also to release the full potential of public sector assets, including state-owned businesses and exploit the better risk management of the private sector and to provide value for the taxpayer and wider benefits for the economy; and to allow stakeholders to receive a fair share of the benefits of the Public Private Partnership.

According to Dominic, Ezeabasili, Okoro, Dim and Chikezie [6], the reasons for PPP in Nigeria include: gross deficiencies and wide funding gaps observed in the Nigeria's infrastructural spheres, high rate of white elephant projects, high level of corruption in project execution and limited public resources to address the nation's growing infrastructure needs.

The initial option adopted by the government for infrastructural need was privatization, which one expect to show some form of competitiveness and a way to generate funds needed for capital expenses including infrastructures. But since the inception of the privatization process in

Nigeria in 1999, it had been marred with lots of abnormalities among which are lack of fairness in the process, lack of transparency and was not made a public bidding exercise as it should be in the real context coupled with corruption by the so called privatization officials. All these shows the government's inability to manage, maintain or even control development of infrastructures in the country.

Privatization in itself is not bad as it has successfully been implemented in some part of the globe and reasons for embarking in this procurement option were notable seen, observed economically in terms of value for money and in terms of quality services. Virtually all the Private investors that acquired some of these government assets are leaping profits at an exponential margin from their investments. The fact is that Nigeria has a large market and most of these private investors have just explored the market size advantage and made total reformation in the way these assets were been previously managed. A formidable developmental synergy called PPP which is most needed to improve infrastructural funding gaps and service needs of the Nigerian populace, whereby public agencies can optimize, control and in most cases regulate the private partner's operations. Inherent risks and the associated performance rewards and penalties embedded in PPP spurs the private partners to achieve efficiency at each stage of the project and introduce an efficient means of getting things done. For an optimal utilization of resources and efficient output delivery, private partner are always instigated to provide an ongoing operations and maintenance management, in addition to the well-designed and built projects. In addition, the public sector are enabled under PPP to harness the expertise, innovations and operational efficiencies that the private sector can offer to projects and services initially procured and delivered by the public sector.

A. Forms, Models and PPP Legislation in Nigeria

According to Essia and Yusuf [7] PPP procurements and contracts in Nigeria are currently governed by:

1. The Infrastructure Concession Regulatory Commission (ICRS) Act of 2005.
2. The public procurement Act 2007
3. Regulations issued by ICRC governing the PPP process.
4. The state laws as described in each state's PPP policies.

According to Uwem and Abubakar [3] a review of the ICRC Act shows that the Act fails to make clear the funding challenges PPP project may face. The Act neither has a dispute resolution mechanism nor explains how the private investors can be protected in the event of disagreement with the government. There are also no mechanisms for receiving and examining unsolicited PPP proposals from prospective private investors for assessment and sponsorship. Most regrettably, the ICRC is not empowered to package its PPP projects; it merely gives approvals and engages in advocacies. Thus, the critical institutional platform for nurturing PPP projects to maturity is lacking in Nigeria, and the entire institutional architecture for capital budget execution is warped.Dominic, Ezeabasili, Okoro, Dim and Chikezie [6] argued that the aims of the government also define the choice of PPP model to be used. The level and nature of risks that is moved from the government to the private investors distinguishes each of these models from the others. The type to be selected is adequately determined upon proper evaluation of the project features and proper scrutiny taken in any of the chosen objective as regards its relevance, purposefulness and specificity. Four different PPP models which can equally be referred as PPP contract type are often in use are as follows: First is the service contract PPPs, second is the management contract PPPs, third is lease contract PPPs and Concessions contract PPPs (e.g. build-operate and transfer, (B0T), design build and operate DBO) . These PPP models are categorized largely under five areas: Asset ownership, operation and maintenance, capital investment, commercial risk, service and revenue generation use.

Idris, Kura and Bashir [8] argue that there are two basic forms of PPP, which are Contractual and Institutional PPP. Institutional PPP have been quite successful in some circumstances, particularly in countries with well-developed institutional and regulatory capacities. Contractual PPP are significantly more common, especially in developing economies.

B. Packaging PPP Contract in Nigeria

Under the ICRC Act, any arm of government with the exclusion of the local government can initiate and manage PPPs, but a number of State PPP projects may need the Federal Government backing so as to receive the confidence of major financiers. The Act envisions that PPP projects would be initiated by a government Ministry, Department, and Agency (MDA), who is expected to process the application up to when approval is obtained [9].

According to Uwem and Abubakar [3], the ICRC Act ascertains a number of steps to packaging a PPP contract. Step I is identification and prioritization of a PPP project by an MDA. Step 2, the MDA obtains clarification from the National Planning Commission (NPC) that the project is in line with plan priorities. Step 3, MDA submits spending plan for PPP project to the Ministry of Finance (MoF) and the Debt Management Office (DMO) for appraisal. In Step 4, MoF and DMO review the costs and contingent liabilities of the proposed projects and advice the MDA on possible revisions, where necessary. Step 5, the MDA includes accepted spending plans in the budget as agreed by MOF and DMO. Budget is approved in Step 6 by the Legislature. Step 7, MDA is permitted to move spending between different budget heads. In Step 8, funds are disbursed to the MDA, and Step 9 is preparation/auditing of annual accounts. Step 10 is consolidation of contractual payments under PPP projects into the national account. Acceptability of a PPP proposal by the MoF and DMO is hinged on the credibility of the private partner, bankability of the project, government prioritization, expected cash flows from the project, and availability of third-party support from development partners, multilateral agencies, and so on [9].

C. PPP Practice in Nigeria

According to Uwem and Abubakar [3] various concessions have taken place within the past few years in Nigerian. Laudable among these are Lekki Toll road managed by Lekki Concession Company and Domestic terminal at Murtala Muhammed Airport, Lagos by Bi-Courtney Aviation Services (a subsidiary of Bi-Courtney Limited).

1. Domestic Terminal at Muritala Muhammed Airport, Lagos (MMA2)

This was a concession/BOT to build a new domestic terminal and additional facilities at the Murtala Muhammed Airport (MMA2) in Lagos. MMA2 was the first major BOT infrastructure project to be contracted by a Nigerian company. In 2013, Bi-Courtney was awarded the contract with 12years tenor initially later extended to 36 years. The contracting parties were the aviation Minister, Federal Airports Authority of Nigeria (FAAN) and Bi-Courtney. About six banks were involved in this syndicated loan and project financing. The project bump into a number of problems, among which are inability to secure long term financing agreement, and reluctance of FAAN to maintenance the project by enforcing use of MMA2 by airlines as required in the PPP agreement, couple with several claims of breach of contractual rights by both parties. A number of things are worthy of note from the appraisal of MMA2 PPP in Nigeria.

Firstly, lack of transparent and sustainable long term financing for PPPs. Secondly, lack of effective planning and failure to set dead line that would have help Bi-Courtney's in overcoming its shortcomings. Thirdly, weak framework to regularly observe and assesses PPP projects, thus making conformity to standard difficult. Fourthly, lack of provision to accommodate unanticipated variations in the project. Fifthly, the nonexistence of relevant dispute resolution mechanism for PPP projects leading to escalation of controversies easily and the failure of FAAN's to comply with several court orders, and inability of ICRC to shield PPP projects and private investors.

2. Lekki Toll Road Concession Project, Lagos

The concession of Lekki Toll Road Phase 1 was between the Lagos State Government and Lekki Concession Company Limited for a period of 30years which involved the upgrading and maintenance of about 50km express road leading to Lekki-Epe. The foremost investors in the scheme comprised Macquarie Bank and Old Mutual of South Africa via the African Infrastructure Investment Fund. Funds for the project was from the support of Lagos Government plus a mixture of debt and equity finance.

The project received a loan of 15years from Standard Bank which served as the first ever local debt financing for such a long time. As the first phase of the project was getting to a close, tolls were built by the company to recover its investment, this met with lots of resistance and litigation from other stakeholders leading to termination of the agreement by the Lagos State Government.

Some of the lesson learnt from this project include the importance of stakeholder's consultation as the people living along Lekki-Epe route were the ones that resisted the toll and went to court. Good impact assessment of project done before commencement. There should be better ways of negotiation and management of people's perception during project implementation.

Establishment of project performance standard that is supported by operational penalty regime, monitoring framework and a viable long term financing plan.

3. On-Going PPP in Nigeria

From the official website ICRC [10], there are 48 ongoing PPP projects in Nigeria among which are: National Theatre Master plan Complementary Facilities Rehabilitation, development Of Mechanic Villages in the six geo political zone, National Stadium Lagos facilities renewal and management, PPP High Voltage Transmission For Transmission Company of Nigeria, Greenfield High speed Land Railway Lines across Nigeria among others.

All these projects if properly implemented and the relevant stakeholders played their part well will be for the good of the nation as a whole and help to solve our nation infrastructural challenges. More so, potential investors will be attracted to the country to get involved in this marriage of convenience.

D. Potential Benefits of Public-Private Partnership

Dabak [5] posited the following benefits that can be accrued from PPP initiatives:

1. Value for money: Projects are executed at lower cost with the utilization of private investors' expertise and technology in efficient service delivery, thus having superior product or service at reduce cost.

2. Quicker delivery of project: Since bureaucratic tendencies are reduce if not eliminated, with PPPs projects are completed swiftly and on schedule than those purely funded and executed by the public sector.

3. Risk transfer: Associated project risks like finance, timeframe, planning permits, community consultations among others are shifted to the party best equipped to deal with it, both in terms of expertise and costs, to the stability and benefit of the project.

4. Increased investment: With private sector involvement governments are able to execute more projects frequently and on a bigger scale without the need for extra budget or additional funds.

5. Increased budget/financing certainty: The shift of responsibility (and risk) to the private investor for some of the project elements guards governments from unexpected financial liabilities following cost overruns, delays, or operational difficulties that would otherwise impact upon the budget bottom line.

6. Improved service delivery: Since both the government and the private sector concentrate on their areas of expertise,

PPP enhances delivery of improved service, thus government on policy and governance, while the private sector focused on the technical aspects of design, construction, operation, and management.

7. Political benefit: Positive public perception about the government as PPP aid swift projects delivery without impacting much on government budget yet superior quality infrastructure or services are provided.

8. Private sector growth and stability: PPPs provide the private sector with access to reduced risk, secure, long-term investment opportunities that are underwritten by government contracts. Such agreements ensure private capital flows, provide investment opportunities, and stimulate local industry and job markets.

9. Elimination of corruption: With PPP corruption in awarding of contract and project execution is reduce if not totally eliminated. White elephant project become a thing of the past, as projects awarded are carried out and completed on time.

E. Challenges of Public-Private Partnership in Nigeria

PPP in Nigeria is face with various challenges ranging from financial limitations, dominance of public companies, corruption, inability of private companies to access local currency and affordable long term loan [5]. Also PPP is face with the problem of definition, as it is not properly defined in the law permitting the used of the finance option.

Afolabi [2] posits that the lack of continuity in administrative policies by political office holders over the year has affected PPP negatively. Frequent changes in important office holders and the Chief Executives of Regulatory agencies impact adversely on PPP projects. For instance the MMA II concessionaire over a period of 7 years has had to deal with 6 different Ministers and 5 different Chief Executives of the Federal Airports Authority of Nigeria (FAAN), each with diverse policies and opinions with respect to PPP.

Similarly, the inability of Nigeria banks due to its size to cope with long term loan for PPP project is an issue to contend with and when such loans are available the interest rates on them will be too high to cope with, coupled with lack of expertise of banks official in project financing [11].

Lack of sound legal and institutional frame work backing Public Private Partnership in the country, in a situation where there is problem with the agreement(s) the private investors are left to bear the burden financially and otherwise [11].

Premature termination of concession right by government is another major challenge, a typical example is the termination of the concession right between Lagos State and the Lekki Concession Company (LCC) over the Lekki-Epe express road [12].

III. Recommendations

For public sector to be able to realize its objective of infrastructure development and the private sector to make her profit the following recommendation are worthy of note:

The establishment of the necessary regulatory framework for proper implementation of PPP projects, most importantly with respect to dispute resolution during the tenor of the contract.

The possession of political will by the agents and leadership of government to deal with corruption without any fear or respect for the position of the individual or body involved.

Nigeria banks through the CBN should be assisted to cope with PPP financing, as sustainable long term financing mechanism is key to the success of PPP projects.

Proper definition of PPP as a concept should be made as the ICRC Act failed in this regard.

IV. Conclusion

PPP had benefited many developed nations, as it is still doing till date and holds tremendous benefits for developing nations like Nigeria in the area of infrastructural growth if properly harness. PPP can improve sustainability and growth of infrastructure development through value for-money project assessments and improved delivery performance. However realizing these commendable results call for an institutional architecture, with robust preference for private sector involvement campaign, which handles market development, regulation, dispute resolution among others and implementation of infrastructure projects in a single clear hull.

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