PUBLIC PRIVATE PARTNERSHIP IN NIGERIA: CHALLENGES AND PROSPECTS FOR POWER SECTOR DEVELOPMENT

PHILLIP OYADIRAN (Ph.D)
Department of Public Administration,
University of Abuja,
Abuja, Nigeria
philloy2000@yahoo.com
+2348055247905

&

OLUSOLA E. AKINTOLA
Department of Political Science,
University of Abuja,
Abuja, Nigeria
akinige82@yahoo.com; pgmprince@gmail.com

ABSTRACT
One of the sectors of the Nigerian economy that has been experiencing infrastructural deficit is the power sector. This sector has faced decades of neglect of inadequate funding by the Government. This has not only impacted the sector negatively but also Nigeria’s development as a whole. Developing the power sector, Nigeria adopts public private partnership (PPP) as a strategy not only to ensure infrastructural provisioning in the sector but also to fast track the development of the power sector. The objective of this paper is to examine PPP in Nigeria and some of the challenges that pose threats to the successful adoption of the strategy to transform the Nigerian power sector and how to solve them. While collecting secondary data obtained from documentary sources, the paper employs descriptive and analytical methods of analysis to achieve its objectives. The study finds that adoption of PPP as a strategy in ongoing power sector reform in Nigeria faces some challenges which are the profit motives of the private firms involved in PPP projects, high electricity tariff, conflicting legislations, corruption and debt crisis. It is argued, however, that PPP could succeed in Nigeria despite the challenges. It is recommended that the highlighted challenges should be addressed for Nigeria to maximise the benefits in adopting PPP in the development of the power sector.

INTRODUCTION
The fundamental objective of any government, especially Nigeria, is “the security and welfare of the people” (Section 14, Subsection 2b of the 1999 Constitution, as amended, of the Federal Republic of Nigeria; emphasis authors’). To ensure the welfare of the citizens, there must be adequate provision of infrastructures by the government. As willing as governments all over the world, including Nigerian Government, would have loved to do this “global demand for basic infrastructure services has grown over the years, quickly outstripping the supply capacity of existing assets” (National Policy on Private Public Partnership, 2012:1). The frustration of the inability of the government to meet the demand for infrastructural amenities by the citizens due to financial incapacity of the state has compelled it to look for the best alternative. This gives rise to public private partnership (PPP).

Government partners with the private sector in different sectors of the economy. PPP could be in the provision of communication, construction of roads, health facilities, etc. While there is PPP in most of these sectors in Nigeria, partnering with the private sector in the power sector is a good move by the
Nigerian Government. This is premised on the fact that effective power sector holds the key to the development of other sectors of the Nigerian economy. Developing the power sector through PPP could result into ‘a partner in progress’ between the government and the private sector.

However, as good as the PPP in power sector seems, there are inherent challenges. These challenges, if not well addressed, might dash the hope of both the policy-makers (who modelled it after the success stories of some countries) and the Nigerian people. It is consequent upon this that this paper seeks to look at the PPP in Nigeria anchoring it on the challenges inherent in using this strategy to develop the power sector. In this, the authors seek to identify the prospects in the strategy as well as providing some recommendations in maximising the benefits in PPP.

**CONCEPTUAL DISCOURSE**

The concept of public private partnership (PPP) is central to this paper. Conceptualising this concept, therefore, will be the focus here.

PPP is a ‘working relationship’ between the government and the private sector in infrastructural development. This is what Afolabi (2011:16) means when he submits that PPP is referred to form of cooperation between public authorities and the private sector to finance, construct, renovate, manage, operate or maintain an infrastructure or service. It is evident here that while it is a “cooperation” and partnership, the sole aim of PPP is ensuring welfare of the citizens through provision of infrastructures which the government is unable to provide due to financial constraints.

Consequently, Babalakin (2010:6) submits that “in such a partnership, public and private resources are pooled and responsibilities divided so that the partners’ efforts are complementary”. PPP is “funded and operated through a partnership of government and one or more private sector companies” (Abiola and Adebayo, 2011:10). Since the government’s responsibility is to ensure the welfare of the citizens, joining ‘force’ with the private sector in doing this has to be defined, especially on the modus operandi of the partnership. Therefore, it is submitted that:

- PPP is a contractual arrangement which is formed between public and private sector partners which involve the private sector in the development, financing, ownership, and or operation of a public facility or service (Babalakin, 2010:6).

In PPP, therefore, the financing arrangement(s) is taken care of, the ownership as well as the operation of the infrastructures provided through the arrangement through a legal framework. It should be noted that the way PPP operates depends on its types. Abiola and Adebayo (2011:10) argue that in some types, the cost of using the service is borne exclusively by the users of the service, the consumers, and not by the taxpayer. In other types, capital investment is made by the private sector on the strength of a contract with government to provide agreed services and the cost of providing the service is borne wholly or in part by the government. This is to make sure that the private companies that are got involved do not run into loss. However, it is important to point out here as argued by Afolabi (2011:16) that all PPP involve some form of risk sharing between the public and private sector to provide the infrastructure or service. In fact, this is one of the essential and significant elements that distinguish PPP from the traditional public sector model of public service delivery and especially privatisation.

There is a fundamental difference between PPP and privatisation. According to National Policy on Private Public Partnership (2012:15), in a privatisation, existing assets are transferred to the private sector. Legislation determines how services are provided to the public, often with an independent regulator set up to monitor—and in some cases control—prices and prevent market abuse. The regulator may issue licences that specify service standards and the framework for relations between the concessionaire and private provider. The regulator’s functions will sometimes extend to overseeing competition and to ensuring that social welfare objectives are met.

In a PPP, the government retains ultimate responsibility for the public service but will delegate many of the operational tasks to private sector service providers under contract. The contract will determine the service obligations, although a regulator may impose sector-wide requirements, for example in relation to safety or environmental standards. The contract will also determine how public policy aspects are to be dealt with, particularly if there are to be user charges (National Policy on Private Public Partnership,
2012:16). Therefore, while in privatisation, there is ‘transfer’ of public enterprises to the private sector to provide essential services and infrastructures, in PPP both the public and private sector cooperate harmoniously, through legal framework, to provide social amenities to the people. It should be noted that after taking care of the services or infrastructures for some times (as stipulated in the contractual agreement), the private sector hand over the infrastructures or the service to the government. All is done having the objective of providing adequate infrastructures to the people in mind.

In a nutshell, the underline objective of PPP is to contribute to the economic integration, accelerates economic growth and sustainable development, engenders and sustains private sector participation (PSP) in traditionally public sector projects, and expands local access to international markets (Abiola and Adebayo, 2011:11). Other objectives of PPP, according to Obozuwa (2011:3) are:

i. To improve service delivery by allowing both sectors to do what they do best. In this regard, it is argued that government’s core business is to set policy and serve the public and that the private sector should be allowed to take the responsibility for non-core functions such as operating and maintaining infrastructure.

ii. To improve cost-effectiveness. This could be done by taking advantage of private sector innovation, experience and flexibility; that PPPs can often deliver services more cost-effectively than traditional approaches.

iii. To increase investment in public infrastructure. It is submitted that investments in hospitals, schools, highways and other provincial assets have traditionally been funded by the State and, in many cases, have added to levels of overall debt. PPPs, therefore, can reduce government’s capital costs, helping to bridge the gap between the need for infrastructure and the State’s financial capacity.

iv. To reduce public sector risk by transferring to the private partner those risks that can be better managed by the private partner.

v. To deliver capital projects faster, making use of the private partner’s increased flexibility and access to resources.

vi. To improve budget certainty. It is submitted that transferring risk to the private sector can reduce the potential for government cost overruns from unforeseen circumstances during project development or service delivery. With PPP, services are provided at a predictable cost, as set out in contract agreements.

vii. To make better use of assets. Private sector partners are motivated to use facilities fully, and to make the most of commercial opportunities to maximise returns on their investments. This can result in higher levels of service, greater accessibility, and reduced occupancy costs for the public sector.

This is what the introduction of PPP in the power sector is set to achieve. It is set to bridge the gap between Nigerians’ demand for effective and efficient power supply and the Government’s current level of electricity supply in Nigeria.

PUBLIC PRIVATE PARTNERSHIP IN NIGERIA

PPP is a global strategy adopted for infrastructural development. It originated from the “idea that private provision of infrastructure represented a way of providing infrastructure at no cost to the public” (Wikipedia, 2013). In Nigeria and other developing nations in Africa, it is adopted for developmental purposes and not on ideological ground (Egboh and Chukwuemeka, 2012). To solve the problem of infrastructural underdevelopment, Nigeria finds it imperative to adopt PPP as a solution.

For adequate infrastructural development, the World Bank recommends that 7-9 percent of the Gross Domestic Product (GDP) of developing countries like Nigeria should be invested in infrastructure. However, Nigeria has never attained the recommended percentage and this is especially so considering the fact that this percentage is almost equivalent to the gross annual revenues of government from which recurrent and other non-infrastructure related capital expenditure is incurred (cited in Afolabi, 2011:26). This has created infrastructural gap. To close this gap, it is estimated “that N30 Trillion (approximately $200 Billion) is required” (Nigeria PPP Review, 2012:2). With the insufficient funds to provide infrastructures, there have been many years of underinvestment in the provision of infrastructures. This has contributed to socio-economic underdevelopment of Nigeria.
Using PPP for infrastructural development in Nigeria began with the administration of the late President Umar Musa Yar’Adua. It was incorporated into Yar’Adua’s 7-Point Agenda and PPP is conceived “a precondition for meeting the Government’s vision of being one of the top 20 global economies by 2020” (National Policy on PPP, 2012:1). However, the practical step towards accessing the benefits in PPP was taken in 2005 when Infrastructure Concession Regulatory Commission (Establishment) Act (“the ICRC Act”) was enacted.

It should be noted that PPP in Nigeria is tailored towards achieving some objectives. Because of the peculiar situations in Nigeria, PPP is adopted to achieve economic, social and environmental objectives while infrastructures are being provided. Achieving economic objectives through this strategy, according to National Policy on PPP (2012:2) infrastructure investment programme and for PPP are:

i. To accelerate investment in new infrastructure and ensure that existing infrastructure is upgraded to a satisfactory standard that meets the needs and aspirations of the public;

ii. To ensure that all investment projects provide value for money and that the costs to government are affordable after allowing for economic growth;

iii. To improve the availability, quality, and efficiency of power, water, transport and other public services in order to increase economic growth, productivity, competitiveness, and access to markets;

iv. To increase the capacity and diversity of the private sector by providing opportunities for Nigerian and international investors and contractors in the provision of public infrastructure, encouraging efficiency, innovation, and flexibility;

v. To ensure that infrastructure projects are planned, prioritised, and managed to maximise economic returns and are delivered in a timely, efficient, and cost effective manner;

vi. To manage the fiscal risks created under PPP contracts within the Government’s overall financial and budgetary framework; and

vii. To utilise federal and state assets efficiently for the benefit of all users of public services.

In addition, among other social objectives targeted to be achieved are to ensure balanced regional development and to increase access to quality public services for all members of society (National Policy on PPP, 2012:3). This is bearing in mind the importance of preservation of the environment.

Apart from the National Policy on PPP that is the ‘roadmap’ on how to maximise the benefits in PPP in infrastructural provisioning, there are legal frameworks put in place to ‘guide’ how this is achieved. These laws are to “ensure that public authorities are empowered to enter into agreements for the implementation of privately financed infrastructure projects and can delegate their statutory functions to private companies” (National Policy on PPP, 2012:6). These are the Privatisation and Commercialisation Act 1999, the Infrastructure Concession Regulatory Commission (Establishment) Act 2005, the Fiscal Responsibility Act 2007, the Public Procurement Act 2007, the Electric Power Sector Reform Act (EPSRA) 2005 and other relevant legislations.

It should be noted that the Infrastructure Concession Regulatory Commission (ICRC) was established not only to serve as a ‘liaison’ agency between the sector of the economy in which PPP projects are being executed but also to:

Ensure proper execution of PPP projects and take custody of PPP Agreements in order to monitor project progress and compliance with contractual terms (Nigeria PPP Review, 2012:2).

The efforts so far are laudable. It is imperative to ask here that has PPP in power sector achieved social, economic and environmental objectives set out in the National Policy on PPP? What are the challenges confronting Nigeria in harnessing the benefits of PPP in power sector? Is there any prospect for developing the sector through PPP? Finding answers to the above question is the focus in the next section of this work.

THE CHALLENGES AND PROSPECTS OF PUBLIC PRIVATE PARTNERSHIP IN THE POWER SECTOR DEVELOPMENT

Obozuwa (2011:1) is correct when he submits that in the history of Nigeria, it has been a mix of daunting challenges and boundless opportunities. The power sector cannot be an exemption. There are many challenges bedevilling the use of PPP strategy to develop infrastructures in the power sector and the development of the sector in general. Since no country can achieve development, having the power sector to ‘power’ the developmental agenda of Nigeria becomes a mirage without good infrastructure
provisioning in the sector. In fact, Chiejina (2012:1) argues that the growth of any nation is critically dependent on the sufficiency of its electricity supply industry; that the development of the various sectors of the economy, such as industry, agriculture, health, education, tourism, etc, depends heavily on reliable, adequate and economically priced power.

Nigeria is searching for solutions to her power sector challenges. Chief among the challenges is low power generation engendered by poor infrastructure in the sector. Abiola and Adebayo (2011:2) write that comparatively, power generation in Nigeria is low relative to other countries. The United States of America and Canada generate 500,000 and 111,000 megawatts for their populations of about 260 million and 33 million respectively. Similarly, United Kingdom, South Africa and Argentina generate 43,000, 23,000 and 9,500 megawatts for their populations of about 60 million, 45 million and 32 million respectively (Ifedi, 2005). Nigeria generates 3,877.4 MW (peak generation) and 3,160.9 MW (off peak generation) for her 150 million people. Ownership structure has been blamed as a challenge and increase in private sector participation has been called for (World Bank, 2002; Rufin et al., 2003). Nevertheless, there are fears on whether profit motive of firms will not impair supply services to the poor (Powell and Starks, 2000; Goldemberg et al., 2004).

Consequent upon the above, the profit motive is indeed one of the challenges in adopting PPP to develop the power sector. This is a dilemma for Nigeria. PPP is adopted because public sector cannot provide the needed funds to develop the power sector. However, the preoccupation of profit maximisation by private companies involving in the provision and maintenance of power sector could defeat the social objective set out in the National Policy on PPP. While the Government desire to provide “access to quality public services (electricity supply) for all members of society”, access to quality electricity supply would be denied to the poor Nigerians who would not be able to pay for increased electricity tariff that would be set by the private companies.

In addition, this challenge is associated with PPP globally; it would not be peculiar to Nigeria. It is said that:

*A common problem with PPP projects is that private investors obtained a rate of return that was higher than the government’s bond rate, even though most or all of the income risk associated with the project was borne by the public sector* (Wikipedia, 2013).

This means that when the PPP has taken off in earnest in the power sector, Nigerians should be ready to pay higher tariff. This is not only because the absence of a cost-recovery mechanism in the power sector has been the bane for the failure of the sector to serve Nigerians over the past 3 decades (Amadi, 2012) but also because the private firms involved must have returns on their investments.

Another challenge that PPP in the power sector would face is the issue of what we call ‘conflicting legislation’ and the ability of ICRC to effectively act as a “mediator on projects, working with the contracting authority and the private partner to ensure projects are renegotiated and salvaged rather than terminated” (Nigeria PPP Review, 2012:2) in relation to different laws. To do this effectively, the legal department and all the members of staff who are in charge of ‘settling dispute’ among the stakeholders must not only be abreast of the Act establishing ICRC but also other related laws and Acts. This is a herculean task.

The implication of the above is the fact that as PPP in the power sector proceeds, legal litigations and court cases are on the way. Although this might enrich jurisprudence in Nigeria, it would slow down development of infrastructures in the power sector and even halt some projects altogether. Furthermore, there are two major PPP projects going on or are scheduled to take off. These are (i) Hydro Power generation of up to 43 mega watts from existing Ten (10) Small and Medium dams and (2) Concessioning of Kainji, Jebba and Shiroro in partnership with BPP (ICRC Project Book, 2013:2). For these projects, bids have been submitted and winners announced (the details of the bidders and winners for the projects are contained in http://www.bpeng.org/bureau/Privatisation%20Updates/Shortlisted%20EOIs%20for%20PHCN%20Companies.pdf).
This is a good step in the right direction. However, the companies that have won these bids might just ‘go home and sleep’. They might have won the bid because of Nigeria’s factor (corruption) or because the companies belong to one of the ‘powerful’ in Government. We should not forget in hurry that the last Minister of Power, Prof. Barth Nnaji resigned as Minister due to ‘conflicting interest’ in the privatisation of Power Holding Company of Nigeria (PHCN). Some of these companies might not have the resources for implementing the project nor the equipments to effectively take over the power station they have won. The privatisation of Nigerian Telecommunication Limited (NITEL) is a case in point.

Another challenge, though applicable to PPP in general and not to the power sector in particular is that it would take Nigeria back to debt crisis. Nigeria could be debt-trapped trough what is called “special purpose vehicle” (SPV) in PPP. According to Obozuwa (2011:3), it is a private-sector consortium formed to develop, build, maintain and operate the asset for the contracted period. In cases where the government has invested in the project, it is typically (but not always) allotted an equity share in the SPV. The consortium is usually made up of a building contractor, a maintenance company and bank lender(s). It is the SPV that signs the contract with the government and with subcontractors to build the facility and then maintain it.

World Bank is part of the consortium on PPP in Nigeria. It should be noted that as from 18th February 2011, Private investment in core PPP infrastructure Investment in Nigeria through World Bank as a consortium has reached US$1 billion (World Bank, 2013:2; Report No: ISR8552). The end target date is 29th December, 2017. This means that since 2011 Nigeria has been paying interest on the loan which may not end in 2017, the target date. Converting this into naira, by the time the consortium end, Nigeria’s debt would be running in Trillion Naira with interest. Therefore, while PPP aims at helping Nigeria to achieve development, with this, poverty would be more in the land.

However, Nigeria could still maximise the benefits in PPP to develop the power sector. It is important to point out here that no programme or policy is intrinsically good or bad. It depends on the implementation and the people involved. Like other countries of the world such as the United States, Britain, Canada, India, etc, Nigeria could use the strategy of PPP to develop her power sector. This would dependent on implementing and following ‘religiously’ the objectives set out in the National Policy on PPP.

In addition, the power sector could be developed through PPP if the stakeholders and policy makers are able to take the identified challenges seriously and take bold steps to solve them. The authors make bold to say that the power sector could be developed through PPP if the issue of corruption is dealt with not only in the sector but generally in Nigeria. Developmental efforts in this country are sabotaged by corruption. With the rate of corruption in this country, the power sector will not only be more underdeveloped but Nigeria will also be more neck-deep in underdevelopment.

CONCLUSION
This paper has highlighted the PPP approach in transforming the Nigerian power sector into a developed one. The opportunities of the PPP application to Nigeria as well as the challenges have been identified. It has been identified that challenges such as the profit motives of the private firms involved in PPP projects, high electricity tariff, conflicting legislations, corruption and debt crisis might not allow the use of PPP to develop power sector. It is believed that if the Government could take cognisant of these challenges and make efforts to tackle corruption in Nigeria, this country could still maximise the benefits in PPP to develop the power sector despite the challenges.

Therefore, if Nigeria is serious about development, it should take the development of power sector serious. This is because, as Obozuwa, (2011:1) remarks, many developed nations in the world jumpstarted their economies by accelerating their infrastructure and building on it; all the great civilisations attained greatness only through the entrenchment of adequate and sustainable infrastructure. Therefore, the key to achieving this feat in Nigeria is in the development of the power sector.
References


