

STEMMING THE TIDE OF CORRUPTION IN PPP PROCUREMENT PROCESSES

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INTRODUCTION

- Nigeria was tagged the giant of Africa years ago, not only because of its huge population but also because of its massive natural resources.
- The country has adopted the Public-Private Partnerships (PPPs) initiative as a solution to its huge infrastructure gap.
- One of the major factors militating against the operation of PPP is corrupt practices.



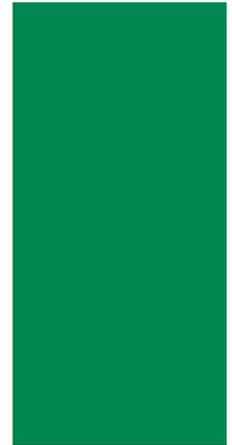
WHAT IS PPP?

- In its most basic sense, a partnership is any business or institutional association within which joint activity takes place.
- According to the World Bank, the term Public Private partnership can be referred to as arrangements, ranging from medium to long term, between the public and private sectors, whereby part of the services or works that fall under the domain of the public sector are provided by the private partners, with a detailed agreement for the delivery of public infrastructure and/ or public services.



PPP IN NIGERIA

- Nigeria adopted the Public-Private Partnerships (PPPs) initiative, in 2005, as a solution to its huge infrastructure gap.
- A number of projects have been executed and are being executed in Nigeria through PPP, some of which are Murtala Muhammed Airport 2 between Bi-Courtney Limited and the Federal Government, Delivery of 3.4bcf of Gas by 2020 between NNPC and Seplat Petroleum Development Company Limited, Lekki Road Concession etc.
- The Federal Government of Nigeria has laws and regulations aimed at providing a conducive atmosphere for the people in the private sector that intend to do business in Nigeria:
 - The Infrastructure Concession Regulatory Commission (Establishment) Act 2005.
 - The Public Procurement Act 2007.
 - The Fiscal Responsibility Act 2007.
 - The National Policy on Public Private Partnerships in Nigeria and its Supplementary Notes.
 - The Freedom of Information Act 2011.
 - The Economic and Financial Crimes Commission Act (EFCC) Act 2004.
 - The Independent Corrupt Practices and Other Related Offences Commission, (ICPC) Act 2000



PPP IN OTHER CLIMES (SINGAPORE)

- Singapore is the first Southeast Asian country to adopt PPP models for social infrastructure development.
- Singapore has made use of PPPs as vehicles for various projects, including water treatment plants, waste disposal plants and education infrastructure.
- There is currently no central PPP Law or Agency in Singapore, but the Ministry of Finance regulates PPP projects, formulates PPP policies, raises awareness and knowledge of PPP, and works closely with public agencies on implementation of PPP projects.
- Some of the regulations formulated by the Ministry of Finance include:
 - Public Private Partnership Handbook
 - Government Procurement Regulations
 - Government Procurement (Challenge Proceedings) Regulations
 - Government Procurement (Application) Order
 - Government Procurement Act



PPP IN OTHER CLIMES (MALAYSIA)

- In Malaysia, just like in Singapore, there is no formal PPP law.
- PPP projects are implemented under various guidelines, in addition to the individual laws for each sector.
- These guidelines present the PPP framework, as well as the requirements and selection procedures for PPP projects and project companies, but neither of these guidelines and laws have detailed provisions.
- The relevant guidelines include Privatisation Master Plan, PPP Guidelines and Facilitation Fund Guidelines.
- PPP has been used to construct notable public projects in Malaysia, like Mass Rapid Transit (MRT) project, Light Rail Transit (LRT), High Speed Rail project and construction of new water treatment plants



PPP IN OTHER CLIMES (USA)

- There is no uniform statutory definition of PPP in the US. The range of projects that each state may use to procure from, or partner with the private sector for the delivery or operation of infrastructure varies from state to state.
- In states where, for instance, PPP-enabling legislation is limited to specific types of projects, such as transportation, it is commonly the state's Department of Transportation that is charged with the execution and performance of the applicable PPP project.
- In other states, a centralised PPP authority (which may be an authority created expressly to fulfil such a role, an office within a department of the state government or an existing parastatal of the state) is in charge of coordinating the PPP policy for the state.
- States that have created centralised PPP authorities include California, Colorado, Georgia, Michigan, Oregon, Virginia and Washington.
- In other states, the PPP programme has been entrusted to more than one authority



PPP IN OTHER CLIMES (UK)

- In the United Kingdom, there is no PPP law as such, powers tend to be derived from a public body's constitutional documents or from specific legislation.
- The bodies responsible for PPP in the United Kingdom are:
 - Her Majesty's Treasury
 - the Cabinet Office
 - the Infrastructure and Projects Authority
 - procuring bodies
 - independent regulators, planning authorities
 - the Comptroller and National Audit Office



THE REASONS / PURPOSES FOR PPP

- Government all over the world, do not have the resources to finance many critical economic and social projects.
- To ensure that private resources are deployed for the benefit of the people.
- It reduces inefficiency in the running of the outfit because the government is not properly equipped.
- If properly put into operation, it reduces corruption in the public space and improve accountability in the provision of infrastructure and public services.
- The PPP system is a means of harnessing the private sector's management skills and commercial expertise.
- It is one of the easiest ways to attract Foreign Direct Investment into a country.
- It is a veritable tool for human capital development and provides better employment opportunities for citizens.
- The execution of capital projects by government is usually plagued by delay in delivery, PPP can remedy this because there is adequate documentation and negotiation of the performance standards, risk-allocation mechanisms, responsibilities, rewards, and penalties in a transparent and commercially realistic manner.



POSSIBLE AREAS OF CORRUPTION IN PPP

- ❑ Bribery
- ❑ Extortion - This could come in form of:
 - Few cabal coming up to control the market and form protection gangs and ensure that others are denied opportunity in particular areas of PPP.
 - Settlement/toll taking, where some officials will stand between the private bodies and government agencies that are to engage in PPP.
- ❑ Misappropriation, either of money or property.
- ❑ Engagement of unqualified entities to execute PPP by reason of inducement.
- ❑ Conflict of interest.
- ❑ Undeserved or illegal tax or waivers on imports or payment of duties and manipulation of the bid or procurement process for self aggrandizement.
- ❑ Weak oversight or lack of knowledge by officials who are to run the bid process for PPP.
- ❑ Deliberate cumbersome procurement process.
- ❑ Lack of transparency in the PPP process.



HOW TO ADDRESS ISSUES OF CORRUPTION IN THE PPP PROCESS

- The process of PPP should be transparent and honest.
- The rules and the processes must be made simple and straightforward.
- There should be penalty clauses for forfeiture of a bid, once the bidder is discovered to have done anything to sabotage the process.
- The rules and guidelines put in place to prevent corrupt practices in the PPP process must be scrupulously followed.
- There should be proper oversight functions allocated under the relevant laws.
- The principles of *pacta sunt servanda* must be implemented to the letter.



CONCLUSION

- The Nigerian dream of availability of public infrastructure to the citizens is a realizable one, if the PPP procurement process is effectively and efficiently conducted.
- To achieve the intended aim of PPP, the government has to take drastic steps to curb corruption and its devastating effects.
- To make a difference, all stakeholders involved in the PPP procurement should stock up on integrity, virtues and uprightness. This will ultimately translate to development for the good of all.

