The KJE project is structured as a design, build, finance, operate and maintain and transfer

Kampala-Jinja Expressway: The realities of this PPP giant

JIM MUGUNGA

Traffic clogs the Kampala-Jinja highway daily.

As a result, there is heightened, and justified, demand for logical explanations from the public over the delay in constructing the flagship Kampala-Jinja Public Private Partnership Expressway, commonly referred to as KJE.

There is demand for immediate action to build the road. Coupled with that is a sense of frustration primarily driven by the limited information in the public domain on the current preparatory work for the delivery of this infrastructure.

The Minister of Works, Gen. Katumba Wamala, recently rendered assurances and clarity on the fact that the Government remains committed and focused on delivering the expressway. He appealed for patience and understanding, attributing the delay in part to the need to fulfil requirements under a demanding, complex and wholesome public-private partnerships (PPP) process.

So, what makes a KJE PPP complex, demanding yet wholesome at the same time?

The PPP mode was chosen to deliver KJE in order to relieve the pressure on the Government to immediately raise $1.5b to construct the expressway. It was agreed upon as the best option in light of other competing priorities and diminishing fiscal space.

It is suitable for it transfers the risk of raising the required money to the private partners.

In the case of the KJE, private partners are expected to raise above $800m. The Government will also raise $400m concessional finance in order to catalyse project affordability.

The efforts, from both the public and private partners, require detailed and proven studies in order to make the grade for international bankability.

The Government of Uganda's proposition to the private partners is simply the business opportunity informed by current traffic and that which is expected to be on the completed KJE.

An enabling investment climate would be the added icing as the partners must test and trust our figures and projections. They will be required to undertake their own studies to confirm that indeed they will recoup their investment upon completion from availability payments off road-toll revenue.

In this best-case model, lies huge investment risks that no one, including the Government, would wish to shoulder without thorough studies and modelling to confirm financial and economic viability.

This is the case with all major infrastructure projects, which places most of the financing risk on the private sector.

The PPP Unit of the Ministry of Finance alongside UNRA, the contracting authority and the transaction advisors, IFC, had undertaken a lot of preparatory work to get KJE ready prior to 2020.

The project was poised to go to the market and a draft Request for Proposal (RFP) was ready for release.

However, due to oversight and other administrative reasons, the project was put on hold for close to two years.

At that point, the following had been undertaken: technical and traffic studies; legal, regulatory, environmental and social due diligence; financial analysis and structuring; economic and affordability analysis; value for money assessment; PPP risk modelling; tax and accounting treatment; a communication strategy, stakeholder engagement and market sounding; development of tender and procurement strategy; development of a draft Uganda Tolling Policy, approved by Cabinet on May 31, 2017 and the Roads Act, 2019 assented to by the President on September 4, 2019.

Other comprehensive activities undertaken included engagements for partial financing with Development Partners i.e. African Development Bank (AfDB), French Development Agency (AFD) and European Union (EU); feasibility study and approval by the PPP committee; Environmental and Social Impact Assessment (ESIA); Resettlement Action Plan (RAP), commencement of land acquisition processes and preparation and approvals of tender documents.

And then the coronavirus struck, followed by the hard lockdown! For two years the world infrastructure and financing market stopped. Uganda was not spared and the project, which was then ready to go to the market, stalled.

At this point, when the Government had already invested five years of intensive preparatory work, most of the technical work; resultant studies and reports were adjudged expired.

Some needed review and updates while others had to be done afresh.

This includes the financials, other assumptions and aspects of traffic studies, which are crucial in contracting of this magnitude.

Additional negative effects included erosion of hitherto positive traction on resettlement of people from the designated road passage. The movement of people was hindered and relocation stopped.

The required financial resources previously earmarked for the purpose were redeployed to manage Covid-related impacts under the national emergency interventions.

WHY WOULDN'T THE PRIVATE SECTOR AND GOVERNMENT RELY ON FIVE-YEAR-OLD TRAFFIC STUDIES AND FINANCIAL ASSUMPTIONS?

Because the outdated financials would not deliver a fair and bankable preposition for both the Government and partners to sign off and deliver a forward looking affordable and sustainable KJE.

PPPs are structured over the long term, for the Government to use private capital to finance projects and services upfront and then draw revenues from taxpayers or asset users for the course of the contract it needed certainty. The two key actors in this contract arrangement, the public and private, had valid concerns despite the fact that they had a common objective.

In order, therefore, to appreciate the magnitude of the bankability concerns of the KJE, one needs to delve deeper into the complexities of the way we undertake PPP road contracting.

The KJE project is structured as a DBFOT (Design, Build, Finance, Operate and Maintain and Transfer).

It is part of the northern trade corridor from Mombasa in Kenya through to Kigali in Rwanda, Burundi and Democratic Republic of Congo (DRC).

The increased traffic on account of economic growth in Uganda has led to capacity restrictions, particularly between Kampala and Mukono leading to congestion, delays and travel time unreliability not only on the existing highway, but also on the surrounding local road network and the Kampala Northern Bypass.

The KJE is planned to address the existing capacity constraints along the northern trade corridor.

The project provides a 30-year asset solution that will guarantee users a quality road through construction; timely operation and maintenance interventions for incident management, intelligent transport system and toll collection.

The structure is to assign the expressway to a private concessionaire over a 30-year period with a toll pass-through to the Government of Uganda.

The Government will set the toll rates whilst the concessionaire collects the tolls and forwards them to Government through a special account.

In return, the Government will pay the concessionaire a fixed fee subject to the expressway, meeting agreed operational performance standards.

The Government will also benefit from the excess toll revenue that will be collected over and above the concession payments, estimated at $1.008b over the concession period.

Uniquely, the project provides a whole life (30-year) asset solution that will guarantee users a quality road through construction; timely operation and maintenance interventions for incident management, intelligent transportation system and toll collection. These present both great opportunity and risks for the partners, and these must be holistically determined, assessed, allocated and managed. Hence PPPs are not about the Government passing on all risk or doing a favour to the bidders, but about a long-term engagement the terms of which must ensure returns on and from investment and ultimately successful service delivery.

For the Government to pay and also be in position to benefit from excess toll revenues while taking care of the operation and maintenance over the life of the KJE, requires the application and use of latest possible data and assumptions, including financials.

This places a higher demand on the level of project preparation; structuring and scrutiny than is commonly applied under ordinary traditional procurement.

WHAT IS THE WAY FORWARD?

To date, the project's most optimal structure has been determined and committed upon.

Cabinet and Parliament have rendered full support and approved funding from development partners namely AfDB, EU and ADB.

The bid process is underway. From eight bidders, the shortlist of four prequalified was announced – a firm demonstration of confidence in the process thus far.

Going forward, Cabinet granted clearance to UNRA to proceed with the procurement process. This enabled the resetting of the bid process with issuance of the Draft Request for Proposal document. Under the PPP procurement process, draft bidding documents may be discussed with bidders during Competitive Dialogue (CD) sessions to ensure that the project is bankable from the perspective of the bidders and their lenders, as they have to raise the money and prefinance the project.

In 2022, two intensive CD processes were held during which bidders raised key bankability issues that need to be provided for at final bidding stage to enable lenders commit financing to the project.

The issues raised included the requirement for a letter of support; a partial risk guarantee, certainty of disbursement of Viability Gap Finance (VGF) which the Government has already secured, but needed to be committed through a dedicated account and a request for specific tax exemptions to lower investment costs.

The Government has progressively addressed the issues through a multi-sectoral consultative process. Indeed, the permanent secretary and Secretary to the Treasury; the Attorney General, UNRA and the PPP committee have taken leadership to support major interventions to resolve the above bankability issues.

Upon receipt of the policy guidance on the single pending bankability issue, the draft RFP will be updated and issued for bids.

Bid submissions are expected this year. A shorter negotiation stage is envisaged due to the pre-bid CD engagements detailed above.

Overall, we have weathered the storm and are destined to deliver KJE. That said, in the time-tested wisdom of the Baganda, "obwato bufa magoba" – we need to stay the course!

The writer is the executive director of the Public Private Partnerships Unit, Ministry of Finance