

ROAD FINANCING AND ROAD FUND MANAGEMENT KENYA'S EXPERIENCE

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1. BACKGROUND

The Sub-Sahara Africa Transport Program (SSATP) was established, with the objective of looking for solutions to loss of road asset value in Sub Sahara Africa and other developing countries. The main objective of the program was to improve transport efficiency through major policy reforms.

Two major factors were identified as contributing to the loss of road asset value;

- i) lack of market discipline encouraged governments to minimise their own road maintenance expenditures disregarding the impact this had on the total road transport costs (road maintenance costs plus Vehicle Operating Costs),
- ii) maintenance was normally financed under the recurrent budget, and recurrent revenues were nearly always in short supply.

The SSATP identified that lack of maintenance was not rooted in technical matters but was political and institutional. It also noted that there was need for policy change, creating firm awareness at the highest level of government, of the importance of road maintenance. The Road Maintenance Initiative, a key component of the SSATP became the vehicle for change in SSA¹

To succeed, four basic building blocks were identified as critical to reforms:

- Create ownership by involving road users in managing road maintenance
- Secure a sustainable and secure source of financing.
- Clarify responsibility by identifying who is responsibility for what part of the network.
- Strengthen management of roads by providing effective systems, procedures and accountability.

This paper outlines the experiences of Kenya, in trying to reform management of roads, and its achievements in completion of the four basic building blocks.

2. ROAD FUND BOARD ESTABLISHMENT

Creating Ownership

The approach taken in creating a Road Fund Board (RFB) is crucial to its success. There are several methods used, but the two prominent approaches are either legislative, through an Act of Parliament or non-legislative which can be through a presidential or ministerial declaration.

It is recommended that the RFB be established through legislation. Presidential, ministerial or any other non-legislative means of establishing Road Fund Boards is not appropriate.

Establishments through non-legislative means lead to creation of weak RFBs that are easily infiltrated and whose decisions can be ignored.

1. *Hegie, Ian G., Management and Financing of Roads, An Agenda for Reform. World Bank Technical Paper Number 275, Africa Technical Series. The World bank, Washington D.C., 1995.*

In Kenya, the Kenya Roads Board (KRB) was established through an Act of Parliament.

3. FINANCING

The objective of forming a RFB is to separate financing from road works implementation. Establishment of Road Levy Funds has been the most successful reform in most developing countries. This was because it created extra revenues for Governments that were in dire need of funds.

The RLF is the most appropriate and sustainable source of financing for road maintenance. On adoption of RMI, most SSA countries legislated the immediate setting up of Road Levy Funds almost immediately. The proceeds to the RMLF normally include;

- A charge against petroleum products purchased.
- Transit Toll charges
- Heavy goods vehicle distance covered charges
- Overloading fines
- Licensing fees
- Agricultural cess (in Kenya, this forms part of the RMLF)

The Road Maintenance Levy Fund (RMLF) was established in Kenya in 1993, by an Act of Parliament. The RMLF collections have increased from just about Kenya Shillings 1.5 billion (20 million US Dollars) to about Kenya Shillings 18.5 billion (270 million US Dollars).

Between Fiscal Years 1994/1995 to 1997/1998, the RMLF was able to fund all road maintenance projects, resulting in a drop in unit costs of doing road works. In FY 1997/1998, there was interference in road selection and funding. This could be attributed to many other reasons, but 1998 was an election year. There was also a sudden increase in number of projects to be funded. This immediately created constraint in financing. Unit cost of doing roads works started to increase.

Financing from Development Partners in the decade of the 1990s drastically reduced due to governance issues. This drop in financing resulted in a build-up of a large maintenance backlog. A good portion of the RMLF had to be directed towards road rehabilitation, to avoid loss of very critical road links. This has strained the available funding for maintenance. In Fiscal Year 2005/2007, Kenya waived the road licence fees in order to increase the RMLF collections.

4. ANNUAL WORK PROGRAMME

4.1 Packaging the Annual Work Programme

Road Fund Boards should have the same status as other funding agencies, such as the World Bank, European Union, African Development Bank, KfW, Danish Development Agency, Swedish Development Agency, Arab Bank for Development, the Asian Development Bank, etc.

On that premise, RFB should endeavor to fund a multi-year programme. These programmes, however, are prepared annually and packaged into Annual Work Programmes (AWP). These programmes must be realistic, practical, and can be delivered efficiently, effectively and within the planned time frame. In SSA, most of the time frame for multi-year programmes coincides with the Mid Term Expenditure Framework.

Adequate preparation time frames must be provided to road agencies. In Kenya, the Act provides that preparation of the AWP must be undertaken one year before its implementation. Due to constrain in financing, road agencies are provided with funding ceilings and preparation guidelines a year prior to the works implementation. One year is quite adequate and allows for deliberations between the RFB and road agencies. On approval of the AWP, the works must be audited to ensure value for money is obtained.

The Board of the RFB must approve the AWP that is the final product of deliberations between RFB and road agencies. The Government must then approve these AWP through the Minister for Finance. The AWP must be given due respect and followed without change. The AWP can be changed within the year, but this should be restricted to once a year and the changes adopted as supplementary to the AWP. The procedures for change to the AWP must be properly outlined, to provide for clear audit trails.

5. FUND RECEIPTS, DISBURSEMENTS AND RELEASES

5.1 Fund Receipts

The method employed for the fund collection is critical. Direct collection of the RMLF by the revenue authority is much more successful than collecting from retail points. Once collected, the funds must be channelled directly to the RFB. Releasing collected funds to the RFB through exchequer issues is not recommended. It is recommended that Governments adopt the direct channelling of funds to RFB.

It is the responsibility of RFB to create mechanisms for confirming receipt figures from the revenue authorities. The RMLF Act should provide for the registration of marketers that RFB can talk to. The marketers must be compelled to release sales figures to RFB for purposes of confirming the revenue collected.

It should be noted that RMLF collections are received continuously as petroleum products are imported. Kenya has been very successful in the collection of the RMLF directly from marketers through the Kenya Revenue Authority.

5.2 Fund Disbursements

Funds disbursements take place only when funds are available. The disbursement criteria to road agencies should be contained in the Act. In Kenya disbursements are done monthly. It is preferable if this was done quarterly. Quarterly disbursements ensures that RFB management can undertake core activities of following up on value for money.

5.3 Fund Releases

The RFB must prepare and approve the annual disbursement schedule. The disbursements are then made on the basis of the approved disbursement schedule.

One of the key punitive measures that can be applied is the withholding of the release of funds to road agencies that are not compliant in fulfilling some particular aspect of their responsibilities. Road agencies should be made aware of this punitive measure. The RFB must have the mandate and capacity of applying this punitive measure.

It must be recognized that all road users and stakeholders are shareholders to the RFB. They must be informed regularly of fund releases to road agencies. If releases are withheld, shareholders should be informed of the reason through the media. Such communication creates the support needed from shareholders.

6. PERFORMANCE AGREEMENTS

A Performance Agreement (PA) should be signed between the RFB and road agencies. The PA outlines;

- the relationship between the RFB and the road agency,
- indicates the expectations of the RFB in terms of delivery of works by the road agency, for funds received,
- includes punitive measures that should be applied if the road agency is non-compliant.

The legislative instruments that form the RFB and road agencies may outline the relationship between these two parties but only in broad terms. The PA provides a more specific relationship and its major objective is to tie funding to delivery of the approved AWP.

7. REPORTING SYSTEMS

The core function of a RFB is to manage a fund, and this is different from the core functions of a road agency whose sole responsibility is to implement works. The key reporting systems of a RFB are therefore different from that of a road agency..

On that context, the major components of the reporting system of the RFB are;

- The GIS/RICS of the road network, for purposes of having an accurate knowledge of the condition of the road network at all times,
- The fund management subsystem,
- Annual Work Programme subsystem,
- Complaints register subsystem,

- Internal Management sub-system.

RFB can have standard road agency reporting packages such as Pavement Management Systems, HDM4, road design packages, etc, but this should be primarily for purposes of enabling the RFB to undertake checks on works presented by road agencies.

8. TECHNICAL COMPLIANCE, PERFORMANCE AND FINANCIAL AUDITS

8.1 Value for Money Review

Road users and stakeholders pay the user charge that is the RMLF. They are entitled to being assured that their funds are utilised appropriately. As shareholders, they expect that value for money is achieved. This is normally ascertained through;

- Technical Compliance (physical verifications) – TC,
- Performance (against agreed AWP) – P,
- Financial Audits (financial discipline) – FA.

It must be realized that RFB are not set up to be conventional audit firms. Being funding agencies, however, a RFB must continuously review funds expenditure and progress of works on a sampling basis. This continuous review keeps the road agencies on their guard and ensures that there is a third party following up on utilization of funds and delivery of works as per the Performance Agreement.

Results of the review must be communicated to shareholders. The AWP covers a large range of roads due to complexity of the AWP and its size, RFB should utilize services of consultants in undertaking the audits.

8.2 Utilization of Consulting Firms

TC, P and FA are services recently introduced into 'conventional engineering consultancy services'. They are now being embraced by the 'conventional consultancy firms.' The RFB must draw up very clear Terms of Reference. It is recommended that audit reviews be undertaken 'live', i.e., while the works are on-going, during the implementation year.

It is recommended that consulting firms be joint ventures between 'Engineering Consultancy and Financial Audit' firms. Most of the conventional consultancies are in the process of learning how to undertake the services.

Entry and exit meetings into are very crucial to the success of the TC, P and FA. The auditee must provide all the requested information without fail. The results presented during the exit meeting must be mutually acceptable.

It is recommended that results of the TC, P and FA be communicated in terms of loss of funds and in terms of poor workmanship. A matrix of corrective action is developed to be responded to by the Auditee. If responses are not satisfactory the audit firms must draw up recommendations for surcharging the auditee and forward the same to the road agency for action.

8.3 Managing Complaints

It is expected that there will be communication from shareholders to the RFB on complaints or commendations. A register of complaints must be developed within a RFB's registry. It records observations on poor workmanship or fund misuse from road users/shareholders. Shareholders should be encouraged to send in these complaints. It is possible that some of them could be unfounded leading to unnecessary loss of time in investigating the issues. The 1st task is to send the complaint to the implementing station, before undertaking ad-hoc audits if the responses are not clear.

The RFB must make every effort to address as many complaints as possible.

9. FOLLOW UP ON FINDINGS

9.1 Response to Findings

Findings obtained from the TC, P and FA should be followed to logical conclusions. It is important that road agencies realize that the RFB is determined to ensure value for money is obtained. As per the set up of most governments in developing countries, it is the constitutional responsibility of the Controller and Auditor General (CAG) to undertake audits. Their responsibility, however, covers the entire government activities, and mostly covers financial audits. Their responsibility is widespread, undertaken by non-professionals and not very thorough.

The findings of the TC, P and FA findings can be shared with CAG. Where there is clear evidence of misapplication of funds, shareholders must be informed and measures taken to mitigate against loss of funds and poor workmanship.

With clear verifiable findings, specific charges must be presented, to ensure auditees realize the seriousness of the RFB. It is at times discouraging that most Governments have long investigative procedures, which includes court cases before charges can be affected. This, however, should not deter the RFB from undertaking the audit reviews.

10. REPORTING TO SHAREHOLDERS

The complexity of the AWP requires that a proposed budget for each road is indicated. For a large fund like in Kenya, these can be a lot of roads. In Kenya, the AWP is printed in the media. This has proved to be very popular because all shareholders will connect with a road they are familiar with.

It is recommended that a bi-annual report on funds spent on the roads indicated in the AWP also be printed. Detailed reports of use of funds and performance achieved can be placed on the RFB website.

Shareholders must be informed of the presence of this information and asked to review it for confirmation. The presence of this information provides an opportunity of involving the shareholders in monitoring usage of funds and performance achieved and placing complaints

if information is not correct. The shareholders are best placed to provide a picture of activities because they travel on the roads being maintained as mentioned in the AWP.

11. CHALLENGES

11.1 Type of Fund

The first question that needs to be answered is, what type of road fund board has been established? Is it a Road Fund Board or just a Road Fund? If it is a Road Fund, depending on its establishment, then its purpose can be reduced to being a conduit for funds. This is not the most appropriate establishment.

It is preferable that there be a Road Fund Board, with similar mandates to any funding agency. In most cases, this arrangement depends on the champions of change who were involved in the reforms. Their experience and background determines the model they have adopted and this is what is provided for in the instrument of establishment.

Similarly, what are the mandates contained in the instrument of establishment? These mandates can be quite challenging to fulfil.

11.2 The RFB Management

There is a tendency of resistance to the activities of the RFB by existing road agencies. The RFB is a new introduction to most SSA Governments, and this arrangement interferes with the status quo. The status quo is always comfortable and road agencies tend to fight a RFB span of control.

There are no clear guidelines on the size of a RFB in terms of management staffing. If the RFB mandates have to be realised, then for effectiveness, RFB management could be large, depending on the number of kilometres they are responsible for.

Road Fund Board members must be fully conversant with the RFB mandates and their roles. It is important that immediately after being appointed, they be taken through a thorough induction programme.

11.3 Training Programmes for RFB members.

Most of the RFB members are new to road management matters. Attending the Senior Road Executive Programme to learn of the basics of road management and financing is an important training programme. The members must also be exposed to Corporate Governance. This gives the RFB members a clear picture on what their mandates should be vis-à-vis management. It also introduces governance into their deliberations.

RFB members must be ready to undertake their mandates without favor. They must be ready to quit if there is too much pressure to bend to political whims. Those members from the private sector must not be afraid of representatives from public offices. Political interference must be resisted by all means.

11.4 Management Responsibilities

Management must also be well versed with the RFB mandates and limitations. Like any other road funding agency, management must develop Rules, Regulations, Procedures and Guidelines (RRPG) for road agencies. Stakeholders must deliberate on the RRPG before they are adopted. On adoption, the rules that outline how road agencies carry out works funded by the RFB must be gazetted. The RFB must enforce the gazetted rules.

Continuous communication with shareholders through the media is crucial for success and acceptability. Funds for maintenance in SSA will continue to be in short supply for quite some time. To continue receiving support, the shareholder needs to be assured that value for money is being achieved.

11.5 Completing Reforms

Every effort must be made to finalize reforms in the four basic building blocks. Experience in SSA has shown that the most difficult reform is the establishment of autonomous road agencies.

RFB must ensure that they provide for clear enforceable Performance Agreements between themselves and road agencies.

11.6 Lack of Capacities

A major challenge facing SSA governments is lack of adequate capacities at all levels of management personnel. There is also lack of adequate capacities at managerial levels in regional offices and at the HQ. Due to the way most Local Authorities in SSA have been established, there is lack of adequate road works management capacities, both for supervision and undertaking of works.

There has also been realized that with the coming in of a large number of works, there is lack of adequate capacities of Consultants and Contractors (both large and small).

11.7 Backlog Maintenance

For most SSA countries, backlog maintenance is still a big challenge. For the next 5 – 10 years, funds for maintenance will continue to be in short supply. It is necessary that an elaborate multiyear (5 years) Road Sector Investment Programme (RSIP) be developed to assist in providing for a clear prioritization approach to tackling backlog maintenance.

The RISIP should be developed from an investment perspective, employing where necessary the HDM4 investment model. This provides an appropriate explanation as to how roads are introduced into the AWP.

In an economy like Kenya where it is suddenly being realized that there is adequate liquidity within the market, there is an attempt from the public to push for the introduction of road bonds or other instruments of raising funds. This could be appropriate, but it should only be approached when there is a clear case for what the funds are to be utilized for and how they will be repaired.

A RSIP identifies a gap in financing that can be addressed by funding from bonds and other instruments. Stakeholders such as Development Partners need to be brought on board in all matters. The RSIP is appropriate for seeking extra funding for the roads contained in the AWP.

Continuous exposure of funds expenditures and achievements to shareholders creates confidence. Informing shareholders of punitive measures taken against road agencies that are not compliant is also important. With confident shareholders, it is possible to raise extra financing.

The funding arrangements must be clearly outlined in establishment documents between RFB, Road agencies and Ministries of Finance. A clear difference between Exchequer issues and RMLF as direct funding to RFB must be established to avoid overlap and grey areas. The RMLF is a road user charge and must be treated as such.