AFRICA FOR RESULTS INITIATIVE

GETTING BETTER PERFORMANCE FROM THE PUBLIC SECTOR: Performance contracting in Kenya

From the African Community of Practice on Managing for Development Results at the African Capacity Building Foundation (ACBF)

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SYNOPSIS

Performance contracting—essentially, linking performance to reward, for individuals and institutions—can improve public service delivery. This paper documents Kenya's experience in adopting performance contracting in its civil service and public corporations, and its contribution to effective public service delivery.

It also shows challenges, lessons, and success factors in Kenya. Notably, sustaining performance gains derived from performance contracting is central to improving public sector service delivery, for which greater efforts must be made.

Among the key findings: Difficulties in implementing performance contracting in state corporations stem from their failure to cascade the concept to individual employees. Performance contracting is, on the whole, valid and necessary. Its success is highly dependent on political will and focused leadership. Partnership, teamwork, and manager participation in the negotiating process and quarterly performance reports were also main factors in the success of performance contracts at public corporations.

The main conclusions: Performance contracting can be a key element of the current public sector transformation strategy for achieving the long-term development goals of Kenya and many other African countries, especially as it has had a positive effect on employee performance in state corporations.

The main recommendations: The government of Kenya may wish to consider:

- Setting performance targets, ensuring that target setting is well organized and planned.
- Expanding target setting to cover all areas of the organization and cascade the process to all employees of the organization.
- Linking evaluation to an incentive system so that performance can be sustained.

Introduction

The ultimate aims of performance contracting (defined variously in box 1) are to reverse declines in public sector efficiency by ensuring that resources are focused, and to attain key national policy priorities. It is a management tool to help public sector executives and policy makers define responsibilities and expectations for contracting parties—government on one side and its employees on the other—to achieve common goals. It aims to improve public service delivery by ensuring that top-level managers are accountable for results and may, in turn, hold those below them accountable.

Performance contracts are expected to institutionalize a performance-oriented culture in the civil service through the introduction of an objective performance appraisal system. Operationally, it measures and evaluates performance, linking rewards to measurable performance, and strengthening and clarifying the obligations required of both parties to achieve agreed-on targets.

Box 1. Some definitions of performance contracting

Performance contracting is defined in different ways by analysts. In a traditional approach epitomized by Weiss and others (1997), it is a process designed by management and imposed on employees in an attempt to link performance to reward, achieved through measuring individual performance against set goals or deliverables aligned to team and organizational goals in the application of best practice. Performance is measured by key performance indicators, and a person's rating is used as an incentive, whether a bonus, promotion, or salary increase.

Buchner (2007) defines performance management systems as “processes for establishing a shared understanding about what is to be achieved, and how it is to be achieved, and an approach to managing people that increases the probability of achieving success.”

For Mbual and Ole (2013), it is a branch of management science known as “management control systems.”

The Organisation for Economic Co-operation and Development (OECD 1999) defines it as "a range of management instruments used to define responsibility and expectations between parties to achieve mutually agreeable results.”

The Kenyan public service defines a performance contract as "a freely negotiated performance agreement between government, organization and individuals and the agency itself....” (Performance Contracts Steering Committee, Kenya 2005).

Origins and rationale

Performance contracting has been tried in many countries, its system, finalizing procedures, and institutional arrangements influenced by individual country needs and conditions (Commonwealth Secretariat 1995). Performance contracts were first introduced in France in the late 1960s and in other countries including India, Pakistan, and the Republic of Korea (OECD 1997). Performance contracts in governments emerged in the 1980s in the United Kingdom and New Zealand. In Africa, following World Bank approval of performance contracting as a principal measure of reforming state corporations, performance contracting has been adopted in Gambia, Ghana, Kenya, Namibia, Nigeria, and Tanzania (Kobia and Mohamed 2006 and Commonwealth Secretariat 1995).

Performance contracts are known by different names, including performance contract, contract plan, program contract, letter of agreement, and memorandum of understanding. There are two main types:

- The French-based system, established in the late 1960s by Simon Nora (the Contra Plan). This system does not allocate weight to reviews as they are very subjective. It is used in countries such as Benin, Morocco, and Senegal.
- The signaling system, developed in the early 1980s. This system allocates weights to performance indicators and has been

adopted in countries such as Gambia, Ghana, Nigeria, Pakistan, and the Republic of Korea, and by some Latin American countries.

Both systems can be practiced concurrently, as in India.

Public services in many African countries are confronted with many challenges constraining their delivery capacities (Lienert 2003). In human resources they include shortages of staff numbers, key competencies, appropriate mindsets, and the right psychological disposition. A perennial problem is paucity of financial and material supplies. A gradual erosion of ethics and accountability bedevils the public sector. But public sector reforms meant to address these challenges achieved minimal results (AAPAM 2005).

Introduction of performance contracting in Kenya

Kenya started the process of adopting performance contracting by setting up a Performance Contract Steering Committee in August 2003, and by issuing Legal Notice No. 93, the State Corporations (Performance Contracting) Regulations (2004). According to these regulations, performance is defined as evaluated results of achievement of agreed performance targets.

In introducing performance contracting, the government targeted several "core" results (Government of Kenya 2010a):

- Improving efficiency in service delivery to the public by ensuring that holders of public office are held accountable for results.
- Improving performance and efficiency in resource utilization and ensuring that public resources are focused on attainment of the key national policy priorities.
- Institutionalizing performance-oriented culture in the public service.
- Measuring and evaluating performance.
- Linking reward for work to measurable performance.
- Instilling accountability for results at all levels in the government.
- Ensuring that the culture of accountability pervades all levels of government.
- Reducing or eliminating reliance on exchequer funding by public agencies.
- Strategizing the management of public resources.
- Recreating a culture of results-oriented management in the public service.

Kenya's approach is a hybrid system borrowing from international best practices and the "Balanced Score Card." Best practices were drawn from China, India, Malaysia, Morocco, the Republic of Korea, the United Kingdom, and the United States but domesticated to suit the local context. The Balanced Score Card is an evaluation tool, provides a logical connection between vision, mission, and strategic objectives with results tied to customer and stakeholder needs, financial/budget constraints, internal processes, and capacity building requirements (learning and growth). It also links strategic objectives to long-term targets and annual budgets (Government of Kenya 2010a). The decision to implement performance contracting went through several processes before it was finally adopted. The rest of this section reviews some key policy intentions and decisions.

A gradual approach

Performance contracting was first introduced in Kenya through the Parastatal Reform Strategy Paper, approved in 1991. This paper reported on the introduction of performance contracting on a pilot basis to two agencies, Kenya Railways and the National Cereals and Produce Board (Government of Kenya 2010a). The decision to extend its coverage to all ministries, departments, and agencies (MDAs) was a result of the benefits beginning to appear in participating institutions through improved administrative and financial performance as well as improved service delivery. Ministries were, for the first time, required to work toward set targets, draw up service charters with their clients, and compare their performance with the best in the world. The results were so impressive that they won international recognition with various African countries wishing to learn from

Kenya's experience (Government of Kenya 2010a: 2).

Reflecting national strategic development objectives

The decision to introduce performance contracts in managing public resources was conveyed in the Economic Recovery Strategy for Wealth and Employment Creation 2003–2007. The national Vision 2030 also recognizes performance contracting as a core strategy.

Issuing an executive order

On January 15, 2004, the government directed that all permanent secretaries/accounting officers of ministries/departments and chief executive officers of state corporations be placed on performance contracts by June 2004. The reintroduction of performance contracting was contextualized through an administrative circular issued by the permanent secretary and secretary to the cabinet and head of the public service, and later anchored through subsidiary legislation for state corporations and local authorities. Implementation was overseen by an institutional framework anchored in the executive arm of government (Government of Kenya 2012).

Special committees

The government established the Performance Contracts Steering Committee in August 2003 to roll out the system. The Committee was gazetted on April 8, 2005. It has been responsible for the overall administration and coordination of performance contracts in the public service. The Committee is assisted by ad hoc negotiation/evaluation task forces comprising experts drawn from outside the public service. They are responsible for negotiating performance contracts and evaluating and moderating the performance of ministries/departments on behalf of the permanent secretary, secretary to the cabinet, and head of public service. They also evaluate and moderate the performance of state corporations, local authorities, and tertiary institutions.

Starting small

Performance contracts were introduced on October 1, 2004, in 16 largely commercial state corporations. The launch was part of the civil service reform instituted under the Economic Recovery Strategy for Wealth and Employment Creation 2003–2007.

Establishing a department for performance contracting

The Performance Contracting Department was set up and it has continued to develop tools for implementing performance contracts and evaluating performance. They include subsidiary legislation for state corporations and local authorities; model performance contracts; performance contract matrices; training manuals and information booklets; and guidelines for drafting and implementing performance contracts and evaluation of performance. Inclusion in performance contracts of citizens' service delivery charters, customer satisfaction surveys, and employee satisfaction surveys has been successful. They have proved to be strong instruments for enhancing and measuring the quality of service delivery and eradicating corruption (Government of Kenya 2010a).

Consolidating monitoring and reporting arrangements

A system was set up to enable orderly and continuous monitoring and reporting on performance. It was a requirement that the public agencies file quarterly and annual performance reports, in prescribed formats. Performance evaluation for each public agency was based on the signed performance contract and the annual performance report (Government of Kenya 2010a).

Challenges

Kinanga and Partoip (2013) contend that difficulties in implementing performance contracting in state corporations stem from their failure to cascade the concept to individual employees. These findings contradicted the earlier assertions of Grappinet

(1999) who argued that members of staff were not involved in drawing up contracts. The results of this study showed that members of staff are sufficiently involved in setting up performance targets and therefore boosting their own yearly performance. For Kobia and Mohammed (2006), difficulties included scarcity of resources, resources not being released on time, some overambitious performance targets, and unplanned transfers of staff.

Akaranga (2008) found that the few years after formal implementation of performance contracts from 2004 showed evidence of improvement in income generation over expenditure in government ministries.

In the private sector, appointments to, composition, and nature of ad hoc committees were problems, as most were drawn from academia, impeding their ability to negotiate and evaluate targets appropriately.

High turnover of membership was another issue, as it interferes with institutional memory, learning, and growth. There have also been issues of lack of adequate resources to facilitate activities at various stages of the performance contracting process.

Limited human resource capacity and expertise is another challenge. For example, during vetting, staff members have been overstretched with work requiring them to approve performance contracting for over 400 public institutions and provide feedback reports, quarterly, half-yearly, and annually. Regular transfers of key staff during contract periods exacerbate the situation, and "cascading" becomes problematic as lower officers have not been trained in performance contracting. There has been a slow uptake of training appointments resulting in limited success in training of trainers.

Impact of performance contracting

The benefits of performance contracting are in theory manifold, as seen above and further highlighted in box 2. But what benefits has Kenya itself garnered? Many—despite the challenges in implementing it. When the program was introduced in 2003/04, only a few state corporations took part, but in recent years a majority of MDAs have taken part. The decision to extend its coverage to all MDAs was as a result of the benefits that were beginning to become apparent in participating institutions through improved administrative and financial performance as well as improved service delivery. Ministries have, for the first time, been required to work toward set targets, draw up service charters with their clients, and compare their performance with the best in the world (Government of Kenya 2010a). Seven years ago performance contracting was a feature of most public institutions (figure 1).

Box 2. Benefits of performance contracting according to the literature

Performance contracting, when properly used, offers tremendous benefits, as suggested by multiple commentators. For government departments and state-owned companies, it improves delivery quality and timely services to citizens, and helps organizations ensure efficiency, effectiveness, and competence. It relies heavily on good performance-management tools, such as models of standards, self-review systems, and performance maintenance (Salome and others 2015).

It is a central element of the "new public management," a global movement reflecting "liberation management," which means that public sector managers are relieved from a plethora of cumbersome and unnecessary rules and regulations, which usually hinder quick decisions (Mbual 2013, citing Gianakis 2002).

It increases accountability with explicit managerial targets, combined with management autonomy and incentives to perform, making it easier to establish a basis for managerial accountability and to achieve outputs (Hill and Gillespie 1996).

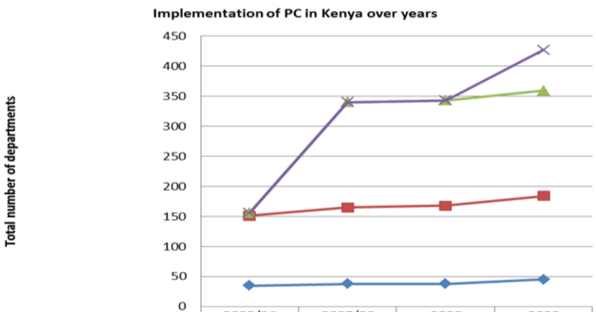
Therkildsen (2001) suggests that performance contracts, if well executed, increase political accountability by making it easier for managers to match targets with political priorities. Politicians can, in turn, hold managers accountable for their performance.

The main purpose of performance contracting, according to Armstrong and Baron (2004), is to ensure delivery of quality service to the public in a transparent manner for the survival of the organization.

According to Hope (2001) performance contracts specify the mutual performance obligations and intentions that a government requires public officials, managers of public agencies, or ministers, to meet over a given period of time.

As part of a performance orientation in government, the purposes of performance contracting include clarifying the objectives of service organizations and their relationship with government. They also include facilitating performance evaluation based on results instead of conformity with bureaucratic rules, which have killed thinking, innovation, and creativity in the public sector (Hitt and others 1999).

Performance contracting can also be seen as a mechanism to smooth the interface between state corporations and government, and to increase these enterprises' autonomy. The government sets out what it expects from the enterprises at the beginning of the year (or other period, sometimes its political term), discouraging interference in their day-to-day operations.



	2005/06	2007/08	2008	2009
Tertiary Institutions	0	0	0	68
Local Authorities	5	175	175	175
State Corporations	116	127	130	139
Government Ministries/Departments	35	38	38	45

Figure 1. Status of implementation of performance contracting in Kenya, 2005–2009

Source: Government of Kenya (2010a).

Kenya's performance contracting has received international recognition awards, such as the 2007 United Nations Public Service Award, first category for improving Transparency, Accountability, and Responsiveness in the Public Service. The program has also received international recognition from the Ash Institute for Democratic Governance and Innovation and an award by Harvard University (Government of Kenya 2010b).

One of the contributing factors was that MDAs have been refocused to ensure that they comprehend their core mandate/business and reengineer their operations by restructuring extensively. Significant improvements in profitability have been realized in commercial state corporations.

The introduction of citizen service delivery charters has refocused MDAs on identifying and delivering against service standards, raising public service performance. Levels of transparency, accountability, probity, and integrity have improved because the obligations of all public agencies are included in publicly signed performance contracts and sometimes uploaded on agencies' websites.

A high degree of autonomy in the management of the public service has resulted from the inclusion of independent ad hoc committees who have infused credibility, objectivity, and professionalism into the public service. This has limited the times when organizations claim unfair evaluation or are denied an opportunity to express opinions, because the strategy is now implemented in an inclusive and interactive manner.

Findings from evaluation studies of Kenya's public sector showed various results:

Opondo (2004) surveyed performance contracting at public corporations and concluded that it leads to effective and efficient management practices, improves staff performance, increases autonomy, and accelerates service delivery.

Korir (2005) studied the impact of performance contracting at the East African Portland Cement company, and found that it raised performance.

Choke (2006) studied the perceived link between strategic planning and performance contracting in state corporations and found that most managers perceive performance contracts as a management tool that is useful for achieving set targets. Kiboi (2006) studied the management perception of performance contracting in state corporations and came to the same conclusion as Choke.

Kobia and Mohammed (2006) found clear evidence of radical improvement, particularly in the following aspects of the management of public service:

- Substantial improvement in profit generation for commercial state corporations.
- Significant improvement in service delivery and operations by the government ministries such as Immigrations and Registration of Persons, Agriculture, Provincial Administration, and Internal Security, Health, Finance, and Water.
- Significant improvement in the operations and services by local authorities such as Nairobi City Council, and Kisumu and Nakuru municipalities.
- Huge improvements in service delivery and operations by the bulk of state corporations and statutory boards, among them KenGen, Kenya Power and Lighting Company Limited, Kenya Ports Authority, Kenya Utalii College, National Oil Corporation of Kenya, and KICC.

Success factors

Political goodwill and focused leadership

The performance evaluation reports by the ad hoc evaluation task force concluded that performance contracting is, on the whole, valid and necessary. It observed that its success is highly dependent on political goodwill and focused leadership. The speedy entrenchment of the process is attributable to the consistent support and encouragement by the president and the prime minister, aided by commitment from other leading civil servants.

According to Mwangangi (2009) focused leadership, partnership, teamwork, and manager participation in the negotiating process and quarterly performance reports were the main factors in the success of performance contracts at public corporations.

Lessons

According to Trivedi (2007) there are some general lessons on implementing performance contracting:

- The performance contracting document should be freely negotiated. If not, it will be accepted overtly but resisted covertly.
- There must be a third party to ensure that performance contracts have been negotiated freely and that they are fair to both parties as well as the citizens/clients.
- The evaluation of the performance contracting should be carried out by a third party to ensure fairness since one party to the contract cannot be the sole judge of that contract.

From the Kenyan experience, the following are the key lessons that emerged:

- To institutionalize and create ownership of performance contracts, managers and citizens should be involved and allowed to manage the process rather than importing external experts with no local knowledge.
- Governments should allocate adequate resources to achieve set targets.
- Governments should honor their financial commitments to the EP.
- A performance contracting strategy is a prerequisite for streamlining management and operations of the public service, and for improving its efficiency. But for the strategy to be fully integrated and effective, it must extend to all institutions within the three branches and various levels of government.

Conclusions and policy recommendations

Performance contracting can be a key element of the current public sector transformation strategy for achieving the long-term development goals of Kenya and many other African countries, especially as it has had a positive effect on employee performance in state corporations in Kenya. It can continue to provide important benefits.

The government of Kenya may wish to consider:

- Setting performance targets, ensuring that target setting is well organized and planned.
- Expanding target setting to cover all areas of the organization and cascade the process to all employees of the organization.
- Linking evaluation to an incentive system so that performance can be sustained.

African states should consider adopting performance contracting as one avenue towards building the capacity for achieving competitive advantage and superior economic performance.

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