An Overview of Performance Contracting in Kenya’s Public Sector: Benefits and Challenges

Juliana Mumbua Mutinda –PhD Student
Department Of Business Administration And Management Sciences, Masinde Muliro University of Science And Technology-P.O Box 190 50100, Kakamega, Kenya.

Abstract: In the present highly competitive environment, organizations have to ensure peak performance of their employees continuously in order to compete and survive at the market place effectively. The main concern in public sector has been to improve external accountability and increase internal efficiency and effectiveness. In particular, performance contacting is seen as a tool for improving public budgeting, promoting a better reporting system and modernizing public management while enhancing efficiency in resource use and effectiveness in service delivery. As part of performance management, performance contracting is a central element of new public management, which is a global movement reflecting liberation management and market-driven management. This article discusses Performance Contracting as a management tool in Kenya’s public sector and it is a conceptual paper based on the review of academic and empirical literatures on performance management and specifically performance contracting and sheds more light on the importance of performance contracting especially in the public sector.

Key words: performance management, performance contracting, public sector

1. Introduction
Performance contracting has become the buzz word in Kenya as many organizations have attained the ISO certification and therefore to maintain and improve the standards, performance contracting has come in handy to help organizations keep their performance on check. In the present highly competitive environment, organizations have to ensure peak performance of their employees continuously in order to compete and survive at the market place effectively [20]. Organizations are run and steered by people and it is through people that goals are set and objectives are realized. The performance of an organization is thus dependent upon the sum total of performance of its members and the success of an organization will therefore depend on its ability to measure accurately the performance of its members and use it objectively to optimize them as a vital resource [20]. Performance management is a distinct element of public sector reforms and performance contracting is a key tool of performance management. The establishment of performance management systems is regarded as a means of getting results from individuals, teams and the organization at large within a given framework of planned goals, objectives and standards. It allows for the setting of targets and the development of indicators against which performance can later be measured. It is an integral part of the public service delivery mechanism and is a process by which an organization can assess whether or not it is delivering the appropriate services according to its mission and objectives, in the appropriate quantity, at the appropriate cost, at the appropriate time, and to the appropriate people [20].

The main concern in public sector has been to improve external accountability and increase internal efficiency and effectiveness. In particular, performance contacting is seen as a tool for improving public budgeting, promoting a better reporting system and modernizing public management while enhancing efficiency in resource use and effectiveness in service delivery [3]. As part of performance management, performance contracting is a central element of new public management, which is a global movement reflecting liberation management and market-driven management [1]. Performance contracts (PCs) or agreements specify standards of performance or quantifiable targets which a government requires public officials or the management of public/state-owned agencies or ministries/departments to meet over a stated period of time, and also provides incentives for achieving these targets [7, 6]. At the end of the stated period, performance can then be measured against these standards or targets. As part of the performance management orientation in government, the common purposes of performance contracting are to clarify the objectives of public service institutions and their relationship with government, and to facilitate performance evaluation based on results instead of conformity with bureaucratic rules and regulations. Performance contracting tool is emerging as a very efficient and effective planning tool which bring to the fore various aspects of an organization, some of which are often ignored. Corporate planning and
the itemization of annual work plans, adequately supported by budgetary provisions and delineation of lines in addition to levels of responsibility for performance as well as effective tool for management of public resources [8]. A modern, affordable and results focused public sector is thus a critical element in socio-economic transformation. The public sector provides the avenue for service delivery and the environment for private sector participation in economic development [19]. This can be improved through performance evaluation through performance contracting.

2. Background of performance contracting in Kenya

Performance contract system originated in France in the late 1960s and it was later developed with great deal of elaboration in Pakistan and Korea and thereafter introduced to India [13]. It has been adopted in developing countries in Africa, including Nigeria, Gambia, Ghana and now Kenya [8]. The push factor for introduction of performance contracting in Kenya underlie the assumption that institution of performance measurements, clarification of corporate objectives, customer orientation and an increased focus towards incremental productivity and cost reduction can lead to improvements in service delivery [2]. Performance contracts were introduced as a management tool for measuring performance against negotiated performance targets [8]. They were freely negotiated agreements between the government acting as the owner of an agency and the management of the agency [3].

3. Defining Performance Contracting

It is important to understand first what a performance contract is before we get to look at the benefits and challenges it can present and different authors have defined PC differently as follows:

A contract is a binding agreement between two or more parties for performing, or refraining from performing some specified act(s) in exchange for lawful consideration [10].

A performance contract is a freely negotiated performance agreement between government, organization and individuals on one hand and the agency itself (Kenya, Sensitization Training Manual, 2004). It is an agreement between two parties that clearly specify their mutual performance obligations, and the agency itself.

Performance contract is a range of management instruments used to define responsibility and expectations between parties to achieve mutually agreed results [13].

Performance contract is a memorandum of understanding (MOU). MOU is rooted in an evaluation system, which not only looks at performance comprehensively but also ensures improvement of performance managements and industries by making the autonomy and accountability aspect clearer and more transparent [9].

[11] defines performance contract as a freely negotiated performance agreement between Government, acting as the owner of an Agency, and the management of the Agency; a range of management tools used to define responsibilities and expectations between parties to enable them achieve mutually agreed results; It therefore specifies what needs to be achieved, expected levels of achievement, timelines, evaluation and reporting methodologies; organizes & defines tasks so that management is able to perform them systematically, purposefully and with reasonable probability of achievement.

In the Kenyan context, a performance contract is a written agreement between government and a state agency (local authority, state corporation or central government ministry) delivering services to the public, wherein quantifiable targets are explicitly specified for a period of one financial year (July to June) and performance measured against agreed targets.

In this paper, performance contracting is defined as a mechanism under public sector reforms that aims at improving performance of the public sector through; setting clear objectives, setting SMART (Simple, Measurable, Accurate, Realistic and Time-bound) targets, specifying agent performance in terms of results (outputs) and assigning accountability for those results, increasing the transparency of the accountability relationship in public institutions, establishing clear reporting, monitoring and evaluation mechanisms of the projects and providing a basis for assessment of performance. It also provides a basis for renegotiation for the performance.

A PC makes it possible to measure: Performance of a public institution; Performance of manager and Performance of the government [11].

The key objectives of performance contracting are to:

Increase efficiency and productivity in public sector, Ensure maximum yield to citizen on the tax shilling, Ensure that performance and results link with stakeholder expectations, Create global competitiveness for a country, Link the benefits of economic growth to the grass root levels, Increase customer (public) satisfaction with government services, Build and sustain trust in government, Create wealth and improve the quality of lives of citizens, Link reward to measurable performance in public service, Cascade national policy priorities to

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public agencies for implementation, that is, vision 2030 ministerial mandate mission strategic objectives performance criteria performance targets, Ensure linkage between planning, budgeting and results, Enable monitoring and measurement of performance and Enhance service delivery.

Performance contracting, as a tool of performance management for strengthening governance, is also crucial for achieving the objectives of the Kenya Vision 2030 through the First and Second Medium Term Plans (MTP 2008-2012, 2013-2017) and complemented by the public sector transformation strategy (PSTS). The Kenya Vision 2030 is the country’s development blueprint, covering the period 2008 to 2030, with the objective “to create a globally competitive and prosperous country with a high quality of life by 2030. It aims to transform Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens in a clean and secure environment” [16].

4. Process of performance contracting in Kenya

The performance contracting process in Kenya is normally done on quarterly basis. At the end of every quarter, each institution should submit their quarterly reports and finally annual report to their reporting agency. A feedback with comments on the report is normally sent back to the institution for improvement. The targets are majorly derived from the institutions strategic plan especially the implementation matrix section in which it is expected that the time-frame for each activity is outlined [14]. The PC process follows the following steps:

4.1. Target formulation: the institution formulates the targets in accordance to the following categories in descending order: Financial indicators, Service delivery indicators, Non-financial indicators, Operational indicators and finally Dynamics Indicators. The targets in most of the categories are similar for all the public institutions except the operational indicators which are basically derived based on the mandate of the institution. In that way, the wider the scope of the institution in terms of service delivery, the many targets under the operational indicators category. Before implementing the targets, the institution should develop a work-plan/implementation schedule based on its departmental plans. The plan should indicate detailed key activities to be accomplished in order to realize the targets at the end of the contract year. The work plan is on the basis of the steps that the targets will be evaluated at the end of every quarter.

4.2. Negotiations: the targets as set by the institution are verified on the basis of ; available resources (both financial and human capital requirement), time-frame, relevancy to the existing policy documents (Vision 2030, Medium-term plans 2008-2012, 2013–2017, sector plan and institution’s strategic plan).

4.3. Vetting process: the targets are re-examined and evaluated by checking their backgrounds i.e. if it is a new or a continuing target. A target once started can be implemented in phases based on its time-frame in the institution’s strategic plan.

4.4. Signing: the contract is normally signed for the sake of accountability and show of commitment by the relevant senior management authority and the institutions accounting officers. In the case of the ministries, the cabinet secretary and the principal secretary (the accounting officer) signs, while for the state corporations such as public university for instance, the principal secretary of the mother ministry, the vice chancellor and chairman of the council signs while the cabinet secretary for finance countersigns.

4.5. Implementation: the institutions implement their vetted and signed contract following their commitment to each target. Public institutions may realize some difficulty in achieving some targets within the prescribed time-frame due to financial problems (beyond the control of the institution) such as the grants money in which case the institutions are expected to do all that it is within their control.

4.6. Reporting: the institutions normally report on quarterly basis in addition to the annual report to their reporting authorities. Ministries and state corporations report to the public sector reforms and performance contracting office whereas the other downstream institutions report to the relevant ministries.

5. Benefits of performance contracting in Kenya

Performance contracting remains a viable and important tool not only for improving public sector performance but also for strengthening governance as a key element of the Kenya Vision 2030 goals [4]. Through performance contracting, the performance of public sector institutions can be better managed, monitored, and measured (the three M’s of performance contracting) in a transparent manner for the benefit of the citizenry. PCs are tools of performance management that are intended to commit public officials to, and hold them accountable for, specified results. The desired outcome is to improve the efficiency of public service delivery while creating transparency in the management and use of public resources. In this regard, the use of contracts contributes to the strengthening of governance by involving and empowering the public to demand transparency and
accountability from public servants and the holders of political office.

So, performance contracting in Kenya is a primary tool in the performance management arsenal for strengthening governance (both economic and democratic). With better economic and democratic governance, Kenya can return to the path it had taken prior to the post-election crisis that erupted in 2008, which had led to the country being regarded by international observers as a model of stability and future positive possibilities [4]. Nonetheless, whether governance is seen from the perspective of improving public sector management and performance, or as strengthening government capacity to perform essential functions and deliver goods and services to the citizenry, the use of PCs as a performance management tool to get there can be summarized as having the following benefits:

5.1. Greater Transparency: Transparency is taken here to mean that reliable, relevant and timely information about the activities of government is available to the public. Transparency is one of the four pillars of good governance with the other three being accountability, predictability, and participation. Transparent governance means that the citizens know what the public administration is doing, how it is doing it, and why it is doing it, including its planning for the future.

Where there is transparency, government officials will be prevented from exercising discretionary powers and will be taken to task, by the public in general and the press in particular, for violating the terms of their PCs- which are public documents, open to scrutiny, and readily available on websites. Transparency, therefore complements and reinforces predictability, reduces uncertainty, and inhibits and reduces the scope from corruption and unethical behaviour among public officials [17, 18]. Greater transparency also exposes the shortcomings and any deliberate secrecy or misreporting of the operations of any given public institution.

Generally, countries characterized by a relatively high degree of transparency have exhibited greater political and economic discipline and, in many instances, have been able to achieve a more robust political and economic performance compared to countries with less transparent policies. PCs, to the extent that they enhance transparency in Kenya, will raise the domestic legitimacy of the government. On the other hand, transparency will also increase the political risk arising from the real or perceived non-performance of public sector institutions. Transparency is a prerequisite for genuine accountability and reinforces predictability. Inefficiency and corruption thrive best in the dark, and the capacity to press for change from outside government requires a public with adequate information on the activities and standards by which to judge the performance of public services [17].

5.2. Improved Public Accountability:
Accountability means that systems are in place and are facilitated by public institutions to hold public officials to account for their behaviour, actions and decisions. A system of public accountability is required so that public officials and governments act in ways that are broadly approved by society. Accountability is fundamental to any society with pretensions to achieving good governance. Public institutions are created by the public, for the public and need to be accountable to it. The concern with public accountability expresses the continuing need for checks, oversight, surveillance, and institutional constraints on the exercise or potential abuse of power.

Performance Contracting has instilled discipline to public institution’s management by ensuring adherence to work-plans, strategic plans, sector plans and the vision 2030. Enhanced accountability in the public service defines who does what, when and how.

5.3. Enhanced Policy Coherence:
Coherent policy for socio-economic development is derived from good governance. Those countries that have pursued policy reforms have made better development management choices and improved their socio-economic performance. Developing and implementing coherent policies is a requirement of good governance. By being subjected to PCs, Kenya’s public institutions will have their policy decisions and their application scrutinized. The result can be a substantial positive bearing on policy outcomes. PCs can therefore stimulate better policy choices and lead to future policy change. With better policy choices, society wins and the prospects for improving governance are thereby enhanced [4].

5.4. Strengthened Capacity:
Improving governance requires a capable or performing state with the requisite capacity to consistently improve on policy and development outcomes. Through performance measurement and evaluation, in the framework of PCs, any capacity constraints will be identified and recommendations offered on how to develop Kenya’s required indigenous capacity to improve institutional performance and contribute to better governance. It has become recognized in the development literature that sustainable development can best be achieved in environments of developed human and institutional capacities [5, 4].

Performance contracting also helps in fast-tracking institution’s strategic plan, the aligned sector plan, medium-term plans 2008-2012, 2013-2017 and the Kenya vision 2030. For achievement of the set
targets, the institutions have to develop intense monitoring and evaluation system hence ensuring proper coordination of projects.

5.6. Improved Efficiency: It has also led to enhancement of the efficiency in service delivery as the institutions set higher targets every contract period.

5.7. Recognition: Performance Contracting gives room for recognition of the public servants hence improves the performance. Some public institutions have realized that working to achieve the set targets does not only help them perform better but also aid in the institution’s operations.

It has led to a competitive public service as compared to the old fashioned style and also enhanced their growth and development.

6. Challenges facing Performance Contracting in Kenya

Performance contracting has not been without its own challenges and some of them include:

6.1. Shortage of Skills: Lack of adequate skilled personnel in performance contracting in most of the institutions.

6.2. Lack of good-will by some institutions where the heads have not appreciated the process.

6.3. Rejection by some institutions (some institutions refuse to be part of the process e.g teachers had resisted performance contracting through their trade union KNUT).

6.4. Bureaucracy: The long bureaucratic procedures of public institutions also make it hard for them to realize some targets especially to institutions in the lower-stream as they may have to wait long to receive funds from the headquarters (mother-institutions). This may delay the execution of activities within the stipulated time.

Other challenges include: Lack of political ownership and support at the highest political and bureaucratic levels, Low implementation capability, Transfer/ removal of staff in middle of contract, Mergers/ splits of ministries and attendant problems, Legal obstacles initially, Failure to benchmark targets or uncompetitive benchmarks because of lack of standard sector benchmarks, Fluctuations in committed funding. Poor grasp of strategic management process, Poor linkage between planning, budgeting and target setting. Lack of comprehensive incentive/sanctions system and incomplete integration- Legislature and judiciary still not on board.

7. Conclusion and Recommendations

The underlying assumption driving the performance contracting concept is that ‘once performance can be measured and performance shortfalls identified (including non-performers), actions can be taken to address the shortfall [12]. Performance evaluation, and by extension contracting is therefore based on the premise that what gets measured gets done; if you cannot see and measure success, you cannot reward it; if you cannot recognize failure, you cannot correct it and if you can demonstrate results, you can win public support.

To counter the challenges facing Performance Contracting and ensure that it remains beneficial, the following approaches can be adopted:

- Securing political and bureaucratic support at the highest levels;
- Issuing clear guidelines;
- Reviewing guidelines continuously to incorporate experiences, lessons learnt and new developments in performance management;
- Building capacities in strategic management process, resource based management, implementation of PCs, performance evaluation methodology and reporting relationships;
- Creating broad ownership of process through cascading to all institutional levels,
- Bringing other arms of government on board and public education on implications of performance improvement on service delivery;
- Developed Sector Performance Standards based on international best practices to inform management practices in planning, budgeting, developing strategic plans, identifying performance indicators and setting performance targets;
- Linking performance with public aspirations and continuous training.

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