

# IMPLEMENTATION OF PERFORMANCE CONTRACTING IN KENYA

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## ABSTRACT

*In pursuit of the goal of performance improvement within the public sector, New Public Management emphasizes on the adoption of private sector practices in public institutions (Balogun, 2003). NPM models have therefore been invariably seen through the public service reform initiatives in many developing countries as the solution to reversing falling service delivery. In quest of this same goal, Kenya introduced performance contracting not only improve service delivery but also to refocus the mind set of public service away from a culture of inward looking towards a culture of business as focused on customer and results.*

## INTRODUCTION

In pursuit of the goal of performance improvement within the public sector, New Public Management emphasizes on the adoption of private sector practices in public institutions (Balogun, 2003). NPM models have therefore been invariably seen through the public service reform initiatives in many developing countries as the solution to reversing falling service delivery. In quest of this same goal, Kenya introduced performance contracting not only improve service delivery but also to refocus the mind set of public service away from a culture of inward looking towards a culture of business as focused on customer and results.

The push factor for introduction of performance contracting in Kenya underlies 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 (GOK, 2003). This article traces some of the factors why performance management is being taken up rapidly in developing countries, the history of public service reforms and the genesis of performance contracting in Kenya. It will also attempt to demonstrate the applicability of performance contracts across the different public sector organizations as a tool for improving performance.

African countries emerged from the structural adjustment programmes (SAPS) era of the 1980s both strained and scorched by the several reforms in public sector management. Governments were encouraged to deregulate public enterprises and ensure that they are run like private sector business (World Bank 1989). The emphasis of this shift in public management was on maintaining a macro-economic stability, lowering inflation, cutting deficit spending and reducing the scope and cost of government (Therkildsen 2001). It is these challenges that led to introduction of New Public Management (NPM) models in reform programmes of several, if not all public sector institutions in Africa.

NPM concepts incorporate the application of private sector management systems and managerial techniques into public services (Farnham and Horton, 1993) together with a reassessment of which services should be returned to private or non-government sectors (Minogue, 1998). NPM shifts the emphasis from traditional public administration to public management and entrepreneurship, pushing the state towards 'managerialism' (Economic Commission for Africa 2003). The main thrust in the NPM reform wave is that more market orientation in the public sector will lead to greater cost-efficiency for governments, without having negative side effects on other objectives and considerations. The NPM type reforms as introduced were therefore allied to the functioning and the role of the state in the economic sphere.

Consequently a major common reform area that many developing countries have been pursuing in the implementation of reforms involves the adoption of a multiplicity of measures intended to improve service delivery. The emphasis over the period therefore, had been shifting towards fixing management and performance aspects as a means of providing an immediate remedy. These measures originate from the need to show demonstrable gains from reform following the pains imposed by the structural adjustment reform period; responding to public demands for accountability and transparency; influence of NPM reform ideas as well as shift to market economies and private sector led economic development, among others. (Kiragu and Muthaba 2005).

Above all else, recent public service reforms and the changes on how public business is conducted are an indication of the degree to which the public service has become a dynamic variable in the equation of successful economy. In an era where competitive success relies significantly on primary production, managed markets and secures industrial capacity, the public service represents a force for encouraging stability in economic development. As Jones and Thomson (2007) notes, the terminology used widely to label changes now occurring in the conduct of the public sector business is 'managerialism.'

## **PERFORMANCE MANAGEMENT**

Performance measurement is often taken to be fundamental to delivery of improved services as part of NPM. Emphasis on performance management for delivery of results is undoubtedly influenced by the basic assumption of performance management which lies in its professed ability to unite the attention of institution members on a common objective and galvanize them towards the attainment of this objective (Balogun, 2003). It is this supposition of harmony of vision that underpins the New Public Management faith in leadership and its favorable inclination towards managerial empowerment, as seen in performance management principles.

The use of performance data to inform management is not a new concept. The belief that concrete data on organizational performance, or performance metrics, should guide managers' decision making has framed most discussions of management in public and

nonprofit agencies in the developed and developing countries since the early 1990s. With the increased emphasis on quantitative measurement of outcomes, the term “performance measurement” has become a higher priority. Measuring and reporting on organizational performance focuses the attention of public managers and oversight agents, as well as the general public, on what, where and how much value programs provide to the public. (See, for example, Forsythe 2001; Hatry 2006; Newcomer, Jennings, Broom and Lomax 2002; and Poister 2003.). The strategic use of performance management is thus intended to help drive change efforts from process to results orientation in the public service.

Performance management aims at by and large to attaining operational effectiveness which in a broader sense refers to a number of practices that allow an organization to better utilize its resources. The quest for productivity, quality and speed has spawned a remarkable number of management tools and techniques; total quality management, benchmarking, re-engineering and change management to mention just a few. All these, if pursued from strategy angle leads to emphasis being put on the wrong place. Typically, public agencies either are not clear about their goals or are aiming at the wrong goals. This lack of clarity can be attributed to the fact that most public agencies have to deal with multiple principals who have multiple (and often conflicting) interests (Triveldi 2000). This leads to fuzziness in the agencies perception of what is expected of them.

Defining performance is therefore enlightening in many public sector organizations. They begin to ask the right questions and realize that they need to do whatever they have defined well and deliver that efficiently. Emphasis in reforming the public sector has therefore been slowly shifting in many developing countries more towards operational effectiveness, which entails doing what one is doing better. With defined outcomes and appropriate benchmarks to measure the outcomes, the rampant lack of focus is brought into the open. Managers begin to ask the right questions, redefine the problem they are trying to solve and diagnose that problem anew.

In organizations where performance measurement systems are already established, and resources are already devoted to providing credible performance data in a timely fashion, performance data can be used effectively to support these change efforts. Where performance measurement systems are not as institutionalized, efforts to develop useful performance measures can support change efforts in several ways. Performance data can be used to:

- Inform useful deliberations among key stakeholders about why and where change is needed—“to make the case for change”;
- Focus on aspects of programmatic performance likely to be affected by change; and
- Track the effects of changes to reinforce and reward employees for achievement of desired outcomes of change efforts.

Performance measurement, therefore, for some very good reasons has been widely seen in many developing countries as a way of improving public service delivery. Kervasdoue (2007) asserts that “No one would disagree that performance evaluation is necessary in public affairs. Governments and their bureaucrats must be accountable to their citizens about all use of taxes and public funds. Comparison of the use of these funds for the analysis of public service performance is the only way of justifying their use, other than simple arguments of authority.”

In different settings, different paths are therefore being followed towards a similar set of goals—a management system that emphasizes the centrality of the citizen or customer, as well as accountability for results. In New-Zealand and Britain, systemic and radical reform measures have been adopted utilizing the new managerialism inclination of the New Public Management to the full, to re-orient the public service and to decentralize its functions. In other settings such as Singapore and Malaysia, new approaches have been added to the existing administrative tool-kit available to government. New managerial tools have facilitated incremental reform, enhancing managerialism without radically destabilizing the more traditional features of the public service. (Commonwealth: 1995).

### History of Public Service Reforms in Kenya

The Civil Service inherited at independence had not been designed to grapple with development needs of post-independence Kenya. The pre-occupation of the administration throughout the colonial period had been with system maintenance. As a result the only institutions that were well developed were those responsible for maintenance of law and order. The reforms being undertaken are nevertheless a continuation of activities which the government has engaged in since independence. What is important to take account of is that the launching of the on-going reform efforts was necessitated by need to address the declining performance of the Public Service in spite of the many reforms which had been carried out.

The implementation of systematically planned public sector reforms in Kenya can be broadly classified into two generations. The first generation saw the introduction of civil service reforms coming soon after the structural adjustment programmes. Logically, the primary focus of these first generation reforms was to deal with the emerging economic challenges brought about by globalization and also the after shock waves of the structural adjustment programmes. The reforms were about dealing with issues that needed both immediate attention and solution, and reshaping the state for long term goals.

These challenges are clearly stated in the introduction of the Civil Service Reform Strategy document (1993) “As the third decade of independence draws to a close, Kenyans are facing new challenges in economic management and public policy. Quality public services remain a priority, but cost considerations have become significantly more important. Not only must Kenyans needs be met, they must be met efficiently. Pervasive reform of the Civil Service is therefore required. In response to

this imperative, a wide ranging review of the structure and functions of the Civil Service has been conducted, and extensive recommendations and an action plan for reform have been developed.”

It had become evident that the Government was unable to sustain service delivery standards to the satisfaction of the citizens and pressure was mounting. Attempting to meet the high wage bill and maintain services demanded finance beyond that obtained through revenue and as a result the Government was forced to borrow money from the domestic market. Rising domestic debt forced up interest rates that were a major cause of slow down in the economic growth and rising levels of poverty. With national economic and global competitive success becoming increasingly determined by open markets, dynamic enterprises and highly skilled workforce, the public service had to enter the equation as an active player; proactively developing and responding to growing expectations of service quality. While the public service was being forced to produce more from fewer resources, it also had to ensure that those products were the right ones.

In 1993 the Government formally initiated the Civil Service Reform Programme (CSRP). The CSRP was envisaged for implementation in three phases. The first phase 1993-1998, focused on cost containment, the second phase 1998-2001 focused on performance improvement and the last phase focused on refinement, consolidation and sustenance of reform gains. The epicenter of the three phases of reform was to build a public service that is capable of meeting the challenges of improving service delivery to Kenyans.

The endeavor to improve service delivery saw a number of performance improvement initiatives being put in place. These included emphasis on the adoption of private sector business management ethos in the lines of New Public Management principles. The reform programme in Kenya as in many countries, promised a lot both to the citizens and the public servants, promises which were not being fulfilled fast enough. With very little results to show after about five years of implementing reforms, the Government through a World Bank sponsored programme and policy hired a team of private sector ‘experts’ into the public sector through short term contracts to inject the sense of urgency in improving service delivery which was thought to be lacking in career public servants.

These experts who were invariably referred to as ‘Technocrats or the “Dream Team” held the following key positions: Head of the Public Service and Secretary to Cabinet, Permanent Secretary to Treasury, Permanent Secretaries in the key Ministries of Agriculture and Energy, Investment Secretary who also doubled up as the Head of the Government Privatization Programme. In addition to these top positions, around the same time a number of private sector management practitioners were hired on contracts into the public sector to head some key departments of the Ministry of Finance. The choices as to which departments the technocrats led were carefully chosen. These were seen as the key ministries whose growth would impact on the entire economy.

Just as in the case of hiring of Derek Lewis to lead the UK Prison Service, because of his track record in restructuring media companies and turning them round, so were the expectations with the 'dream team'. Lewis was seen as a 'hard-edged private-sector manager' who could 'deal with the prison shambles' (FT, 1995). Similarly the 'Dream Team' was seen as the ideal set of experts to restructure, turn around the Public Service and the economy. It was clear that the Government was in a hurry or under some pressure to show quick results.

It is also apparent that whereas, the objective(s) of the civil service reforms in Kenya were broad and covered different aspects, the central theme running throughout was transformation of service delivery systems and processes in order to improve productivity, efficiency and effectiveness in service delivery. It was felt that whereas it would take time to increase the financial resources to the levels required, improvements to management could have an immediate impact and enhance service performance through making better use of the resources that were available.

## **SECOND GENERATION REFORMS: TOWARDS PERFORMANCE MEASUREMENT**

The change of regime in 2002 and the subsequent launch of the Economic Recovery Strategy for Wealth and Employment Creation (ERS) in 2004 marked a watershed for ushering in the second generation reforms. A new government, elected on a platform of change, pledged to pursue a national development strategy that sought to instill rapid and sustained economic growth and reduce the high incidence of poverty through wealth and employment creation. This strategy was to be implemented by: (a) creating a competitive market conditions for private sector led growth; (b) directing resources towards wealth and employment creation; (c) supporting both effective and efficient public sector performance and service delivery. (GOK-ERS 2004)

The main distinguishing factor between the implementation of first and the second generation reforms lies in the shift in gears in the urgency in delivery of results. As government moved away from a concern to do towards a concern to ensure that things are done, the managerial focus has equally increasingly been inclined away from formal process and towards speedy results. Although this striking managerial shift was strongest in developed and newly industrialized countries, it has also been slowly taking root in the rest of developing countries as seen in the Kenyan reform model. One would not therefore be far off the mark to posit that it is indeed a global trend. And Kenya is just picking the queue.

In Kenya reforms have attempted to improve the context for private sector development. They are aimed at changing the perception about government from being viewed as an obstacle to development which must be removed, to seeing it as a potential solution which must be appropriately targeted. Numerous measures undertaken before did not provide a framework for guiding behavior towards attainment of results or ensured

accountability in the use of public resources and efficiency in service delivery, until 2003 when the Government outlined its commitment to improve performance, corporate governance and management in the public service through the introduction of Performance Contracts (PC) in its policy framework paper “Economic Recovery Strategy for Wealth and Employment Creation (2003-2007).

## **INTRODUCTION OF RESULTS BASED MANAGEMENT AND PERFORMANCE CONTRACTS**

With this global push, it was not surprising that soon after launching the ERS in 2004, in the same year the Government introduced Results Based Management (RBM) in the Public Service as a deliberate policy in order to improve performance, service delivery and governance (GOK, 2004). Result Based Management (RBM) is a participatory and team based management approach designed to achieve defined results by improving planning, programming, management efficiency, effectiveness, accountability and transparency (CIDA, 2000). The introduction and institutionalization of RBM concept in the public service was aimed at refocusing the public servants mind-set on results in service delivery to citizens. RBM was therefore to help focus attention and resources on the achievement of definite objectives and the targets prescribed in the Economic Recovery Strategy.

It was expected that the adoption of RBM within the public service would enable each ministry/department and public service organizations come up with clear performance objectives in line with the ERS targets, delineate the activities to help in the achievement of such objectives and determine the roles to be played by each individual staff member involved in the service delivery process. RBM strategy would refocus the operational systems in both financial and human resources arrangements with more emphasis placed on results and not mere adherence to procedures. The shift to results orientation entailed a transformation of current procedures and practices focused on processes to those focused on achieving results. The key elements of RBM picked up were:

- Performance target setting- the process of setting performance targets for ministries/departments, groups or individual in carrying out specific work assignments.
  - Performance Planning- the process of establishing a shared understanding of what is to be achieved, and how it is to be achieved and managing resources to ensure successful implementation.
  - Performance Monitoring and Reporting
- I. Performance appraisal- the process of evaluating organization, group or individual performance against predetermined targets.

With the public service reforms laying more and more emphasis on performance management, the introduction of performance contracts was not a surprise, reform initiatives had shown telltale signs of eventual movement in that direction. The performance contracts were introduced as a management tool for measuring performance against negotiated performance targets (Kobia and Mohammed, 2006).

They were a freely negotiated agreement between the government acting as the owner of an agency and the management of the agency (Greiling, 2005). Although signed at the corporate level, the outcome also to a large extent reflected on the performance of the individual managers, especially the chief executive officers.

While addressing Cabinet Ministers and Permanent Secretaries/Accounting Officers at a sensitization workshop on Performance Contracts in the Public Service in 2005, His Excellency the President of Kenya, noted “The public service is pivotal institution in our society. It is the facilitator of all national activities and provides leadership benchmark for the rest of the economy. Generally, when public service performs optimally, all other sectors perform well. An efficient and performing public service is a major factor in enhancing economic growth and prosperity.

## **WHAT DOES PERFORMANCE CONTRACT MEAN IN KENYA?**

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. The performance contracting practice hence mirrors very closely the OECD definition ‘as a range of management instruments used to define responsibilities and expectations between parties to achieve mutually agreed results’.

The government of Kenya guide-books on performance contracting defines it as a ‘management tool for measuring performance against negotiated performance targets. It further states that a performance contract is a freely negotiated performance agreement between the government, acting as the owner of the agency and, the management of the agency. The Performance Contract specifies the mutual performance obligations, intentions and responsibilities between the two parties.

The relationship in the negotiation of the contract is therefore what Elmore (2007) terms an *exchange* involving *reciprocity*: capacity for performance, and *vice versa*. The first

Approximation of this principle would look something like: *For every unit of performance I demand of you, I (Government) have an equal responsibility to provide you with a unit of capacity. If I provide the capacity, you are obliged to provide the performance. If I default on capacity, you may default on performance.*

Reciprocity therefore operates as a political governor or control system on the relationship between the government and the agencies they seek to influence. The success of this policy principle requires acknowledgement of the reciprocal relationship between principal and agent.

## **RATIONALE FOR PERFORMANCE CONTRACTING IN KENYA**

Traditionally, the shortcomings of the public sector were seen as organizational problems capable of solution by appropriate application of political will, powerful ideas and managerial will. The overriding concern with economic growth has led to a re-focusing. Over the years, poor performance of the public sector, especially in the management of public resources has hindered the realization of sustainable economic growth. Some of the factors adversely affecting performance include: excessive regulations and controls, frequent political interference, poor management, outright mismanagement and bloated staff establishment. To improve performance, the Government has been undertaking a number of reform measures.

The challenge of securing commitment for results is profound, particularly at this time when the rhetoric of public service performance improvement is as prevalent as the reality. This commitment takes a willingness to commit before hand, take responsibility for, to own and to accept praise and blame for delivery of services agreed upon in a performance contract.

The public service reform programme in Kenya and in many developing countries have identified several themes which are key and are in tandem with the international trends in the quest for a new role and style of government. Reformists also acknowledge that there is no single solution which will lead to success. It is nevertheless becoming very clear that there is a new managerial approach without which success is unlikely.

Similar reasoning influenced the introduction of performance based accountability system in the United States of America almost two decades ago in the education system. Performance-based accountability systems in the United States education sector just like in the rest of the public sector share the common assumption that information about performance improves quality and reliability of service. Creating public information about the public sector's performance, the theory goes, improves the quality of service. (Elmore 2007)

## **OPERATIONALIZATION OF PERFORMANCE CONTRACTS**

All governments would like to be more efficient, more cost effective, more accountable and more responsive. The difficulty is that although failure flaunts itself and is easily spotted, success is more modest. It is easier to identify what the public service must escape from than to point out exactly where it must go. In 1990 the Government approved the introduction of Performance Contracts in the management of public agencies. A few state corporations attempted to develop variants of performance contracts that were however, not implemented. In 2003, the Government made a commitment to introduce performance contracts strategy as a management tool to ensure accountability for results and transparency in the management of public resources. To that end a Performance Contracts Steering Committee (PCSC) was established in August 2003 and gazetted on 8<sup>th</sup> April, 2005 with a mandate to spearhead the introduction and implementation in the entire public sector.

In the implementation of performance contracts, the steering committee is assisted by an Ad-hoc Negotiations and Evaluation Task Forces whose members are drawn from outside the public service. The ad-hoc task forces are responsible for negotiating and evaluating performance contracts of ministries/departments, state corporations and local authorities on behalf of the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service. The task-forces are independent and comprises of eminent private sector practitioners, retired public servants with a track record, business executives and academia. This ensures independence in the entire process of setting performance targets and in their evaluation.

The steering committee developed tools and instruments for introducing and implementing performance contracts and evaluating the same. These include subsidiary legislation for state corporations and local authorities; model performance contracts and matrices; training manual and information booklet; and guidelines for contracting and evaluation of ministries/departments, state corporations and local authorities. Of particular significance is the inclusion of citizens' service delivery charters and customer satisfaction surveys in the performance contract strategy. These are vital instruments for enhancing and measuring the quality of service delivery and by extension ultimately may lead to reduced incidences of corruption.

In addition to the development of tools and instruments, preparations made for the introduction of performance contracts included a series of sensitization/training workshops conducted since 2004. These workshops targeted Permanent Secretaries, Chairpersons as well as Chief Executive Officers of State Corporations and Local Authorities, and Heads of Department. In 2005 a total of 1,054 people went through such training and in 2006 a total of 1,943 drawn from the above category were trained in a two day workshops, which ran for about three months.

The performance contracts for the central government ministries for the financial year 2005/6 were negotiated by the ad-hoc negotiating task force and subsequently signed on February 7<sup>th</sup> 2006 at a ceremony witnessed by His Excellency, the President of the Republic of Kenya. This emphasizes the importance of performance contracting to the political leadership.

Consequently, the expected outcomes of the introduction of performance contracts include: improved service delivery; improved efficiency in resources utilization; institutionalization of a performance-oriented culture in the public service; measurement and evaluation of performance; reduction or elimination of reliance of public agencies on exchequer funding and enhancing overall performance. 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 (Jones and Thompson: 2007). Performance evaluation, and by extension contracting is therefore based on the premise that 'what gets measured gets done'

## PERFORMANCE EVALUATION CRITERIA AND METHODOLOGY

The process of identifying performance targets is carried out after the budget process has been completed and institutions informed about their resource allocation. This ensures that targets are realistic and achievable within the available resources. The targets emanate from the institutions and are freely negotiated and not imposed arbitrarily by the government. The process of negotiation is carried out in two phases.

The first phase is the pre-negotiation consultations. At this stage the negotiating parties carry out a SWOT analysis in order to determine the institution's performance capacity. This helps to determine whether the targets being developed are realistic, achievable, measurable, growth oriented and benchmarked to performance of similar institutions. This stage in the process is a storming stage where parties hold lengthy meetings, often disagreeing but finally come to a consensus.

The second phase in the negotiation process is where all issues agreed upon are factored into the performance contract. The draft contract is then submitted to the performance contracting secretariat for vetting. The vetting process ensures among other things that the contracts comply with the guidelines and that they are linked to the strategic objectives of the institutions, anchored on the strategic plans, growth oriented and relevant to the mandate of the institution.

The performance contracts are signed at two levels. In case of government ministries, the contract is signed between the Head of the Public Service and Secretary to the Cabinet, representing the Government on the one side and the permanent secretary of a ministry on the other side. To ensure that ministers, who represent the political body, are bound by the commitments of their permanent secretaries, they are required to counter sign the performance contracts.

In the case of state corporations, the first level is between the government and the board of directors. The permanent secretary representing the parent ministry of the corporation signs with the board of directors on behalf of the government, while the board chair and one independent director sign on behalf of the board. The board subsequently signs a performance contract with the chief executive to transfer the responsibility of achieving the targets to the management. This guarantees operational autonomy given that board of directors are not executive and are not therefore involved in the day-to-day management of their corporations. Similar arrangements are replicated in the local authorities where the first level entails signing the contract between the chairperson/mayor of a council and the permanent secretary in charge of local government.

The evaluation exercise is done ex ante. Thus performance evaluation by the ad hoc evaluation committee is based on a comparison of achievements against the targets agreed at the signing of the contract. The negotiation of targets to be included in the contract is conducted by the ad hoc negotiation committee. The final contract is

however between the government and the agency. The performance indicators are agency specific and are developed by the respective agencies upon agreeing on the targets.

The actual achievements of the agencies are rated against the set performance targets negotiated and agreed upon at the beginning of the period. The resultant difference is resolved into weighted scores and ultimate performance denominated to a composite score- the value of a weighted average of the raw scores in a performance agreement (Triveldi, 2000). The critical requirement for each target is that they must be growth oriented and therefore must be improving with time. The performance rating instrument is based on the following attributes and criteria:

<b>Performance</b>	<b>Criteria</b>
Excellent	Achievement between 30 and 100% above target
Very Good	Achievement of target
Good	Achievement below target but above previous year
Fair	Achievement equal to previous year
Poor	Achievement below previous year.

## **POSSIBLE CHALLENGE AREAS**

Whereas the general public and even some high ranking public servants may very much welcome the idea of performance contracting and measuring performance, it might not be readily accepted by everybody. Especially those who might feel exposed (negatively in terms of poor performance) by the outcomes. In other cases resistance may come in the grading structure, those who feel that no grading system can even out the effects of lumping big and small ministries together. In the state corporations similar sentiments can be expressed that it is unfair to grade state corporations operating in different sectors of the economy together. Despite the application of composite score, which allows for comparisons of different ministries and state corporations, some ministries and even state corporations would still prefer to be grouped and ranked differently citing their uniqueness emerging from their areas of service delivery (industry), size in terms of turn over, number of employees and even their mandate.

Regardless of the uneasiness with lumping all ministries in one category, all state corporations in another and local authorities in the third category, the results of the first round of performance contracting were well received.

The separation of the negotiation committee and the evaluation committee may have its challenges. It may be argued that for consistency and to help put the evaluation into

perspective, it may be advisable for the same team that has done the negotiation to also undertake the evaluation. Since both the negotiation and evaluation teams are independent the magnitude of these challenges may however be drastically reduced by the vetting process, which allows for review of agreed targets to ensure conformity to trends and policy.

The success may also bring with it some challenges. The winners expect to be rewarded, over and above the normal pay. However, the initial rounds of performance contracting took place before the finalization and approval of reward and sanction system. It was not just the high performers who did expect to be rewarded; the public also expected the bad performers to be punished. When this does not happen it may demoralize the high performers but also cast aspersions on the rationale and motivation for the whole exercise. On a broader note it is important to view a performance contract as part and parcel of a wider performance management system, but not as a stand alone operating outside the established human resource regulations.

## LESSONS LEARNED

Performance contracts were introduced on a pilot basis in 16 state corporations: 13 of them for a period starting 1<sup>st</sup> October 2004 and ending 30<sup>th</sup> June 2005 and three of them for the period starting 1<sup>st</sup> January 2005 and ending December 2005. The 16 state corporations recorded an increase of 282% in net pre-tax profits over the previous period (2003/4) and an increase of 14% over set targets. In absolute terms, the state corporations achieved Ksh. 9.3 billion (US \$ 137 million) against a combined target of Ksh. 8.2 billion (US \$ 121 million) and a previous year performance of Ksh. 2.4 billion (US \$ 35 million). The lessons learned in the pilot state corporations were used and incorporated in the introduction of performance contracts in the entire public sector for the period starting 1<sup>st</sup> July 2005 and ending 30<sup>th</sup> June 2006.

For the period 1<sup>st</sup> July 2005 to 30<sup>th</sup> June 2006 a total of 35 out of the current 38 ministries/departments signed the performance contracts and a total of 34 evaluated. The table below details their distribution by performance grades.

Performance	Number	Percentage (%)
Excellent	Nil	0
Very Good	19	56
Good	14	41
Fair	Nil	0
Poor	1	3
<b>Total</b>	<b>34</b>	<b>100</b>

The shortfall in the total number of ministries and those evaluated arose from the following factors, one ministry submitted the annual performance report late, while two other ministries and one department were established after the commencement of the performance contract period for that year. The results show that 56% of the ministries/departments achieved very good, 41% good, while 3% achieved poor performance.

From the outcome performance contracting viewed against the challenge of improving service delivery and as a performance management system on the whole has proven this far to be good and a necessary step. While recognizing that its implementation may have brought with it other challenges to public sector agencies and even to the evaluators and negotiators, including high temptations to cheat in reporting of results to score highly, its execution has added value in reforming the bureaucracy from the business as usual attitude.

The process has compelled government agencies to restructure extensively and to re-engineer their operations in order to turn around and operate profitably or to more efficiently and effectively perform their mandates. For the period during which performance contracting process has been in operation, there is a clear evidence of radical improvement particularly in profit generation for commercial enterprises and significant improvement in delivery of services in cases of other public institutions.

The successful introduction is partly attributed to the political goodwill and leadership which in this case has been provided by the highest office in the land, the presidency. The enthusiasm and commitment of the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service has also significantly contributed to this success. The independent ad-hoc committees has brought into the process a high degree of autonomy from the management of public service, in addition to infusing credibility, objectivity and professionalism into the entire exercise. The strategy has also been implemented in an inclusive and interactive manner such that there have been very limited cases of organizations claiming unfair evaluation or being denied an opportunity for expression of opinions and ideas.

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 measurement is an effective tool for management of public resources.

Performance contracting has provided an avenue for comparing public agencies through reliable benchmarks especially during the negotiation period where members of the independent team are drawn from different leading industry players. It has also offered the opportunity to achieve a high degree of accountability and transparency in performance target setting. The ranking of public agencies is an indicator and reflection

of ability of each agency and its management to meet agreed performance targets and enhance healthy competition among public agencies while improving performance and service delivery.

Elaborate development of relevant measures does not necessarily ensure that they will be used, but consistent leadership is needed to institutionalize use of these performance measures. Buy-in to use performance measures in managerial decision making requires consistent consultation among users. A climate supportive of performance measurement, within the network of stakeholders involved in the change effort, may be hard to cultivate but can reap benefits. Experience has shown that it is important to emphasize positive, not punitive, uses of the performance data to get buy-in and to avoid setting targets until there is experience with performance.

## CONCLUSIONS

The major thrust of the reform agenda that Kenya has been pursuing involves the adoption and introduction of multiplicity of measures intended to improve service delivery. These measures originated from the need to show demonstrable gains from reform following the pains imposed by the structural adjustment reform period; responding to public demands for accountability and transparency; influence of new public management ideas as well as a shift to market economies and private sector-led economic development among others.

Specifically a review of performance contracting in different countries shows the primary objectives for introduction of the concept are diverse. In Belgium it was introduced in the early nineties with the main aim of realizing savings. Bouckaert, Verhoest and De Corte (1999) notes that performance contracting in addition to cost saving, can allow for considerable autonomy in financial, human resources and internal organization management. In New Zealand the practice was driven by the separation of policy advice from policy implementation which provided chief executives with broad authority to run their organizations since the late 1980s. With this freedom to manage, performance contracts became an important tool to ensure that managers were accountable for their responsibilities (OECD 1999)

In addressing accountability in the public sector therefore, the New Zealand public management model focuses strongly on the concept of performance. To achieve this, the government developed and emphasized contractual relationships using a range of contractual instruments to improve efficiency and effectiveness in public institutions.

Similarly the strategy focus for performance contracting in Kenya is aimed at transforming the public service delivery system and making it a net contributor to the growth of the economy. Notwithstanding, the considerable debate and concern about the dysfunctional aspects of performance measurements in the public sector, performance contracting is firmly taking root. It has generally served to clarify roles and responsibilities and to improve performance. It is also clear that performance

contracting in some areas have proven to be more successful than in others. Improving the system like introducing change in any organization is an evolutionary process. The environment within which the public sector reform is taking place is continually changing and the current practices will continually be subjected to review and assessment. Three years from the piloting of performance contracting in 16 state corporations there are pleasant results. Performance contracting must therefore be continually reviewed and adapted to assist organizations improve their service delivery.

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ISSN	ISSN 1662-1387