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Concept of performance contracting –Kenyan scenario/experience

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Abstract
The paper explores the development of the concept of performance contracting (PC) in supporting public sector reforms in Kenya; it further explores the contextualization of the concept in the Kenyan scene and its implementation. Design/Methodology/Approach – This article is informed by a literature review on performance contracting initiatives, and their implementation and applications across diverse settings in Kenya. Design/Methodology/Approach – This article is informed by a literature review on performance contracting initiatives, and their implementation and applications across diverse settings in Kenya. Findings – Sustaining performance gains derived from the PC is central to improving public sector service delivery in Kenya and concerted efforts must be made to inculcate sustainability, while continuously improving public offerings.
Originality – Paper sheds further light onto how the current Performance contracting initiatives in public service departments and their implementation.
Type of paper: Literature Review
Key Words: Performance contracting initiatives, Continuous Improvement, Public service delivery.

1. Introduction

1.1 What is a performance contract?

The definition of Performance Contracts itself has been a subject of considerable debate among the scholars and human resource practitioners. A few definitions however, will suffice in explaining what the concept means. Performance Contracting is a branch of management science referred to as Management Control Systems.

Lane (1987) defines a contract as,
'*a binding agreement between two or more parties for performing, or refraining from performing some specified act(s) in exchange for lawful consideration'.*

On the other hand, The American Heritage Dictionary (2009) defines performance as,
'…the results of activities of an organization or investment over a given period of time.'

With this in mind "Performance contracting" therefore, can be defined as,
'*a binding agreement between two or more parties for performing, or refrains from performing some specified act (s) over a specified period of time. It is a branch of management control systems which provide information that is intended for managers in performing their jobs and to assist organizations in developing and maintaining viable patterns of behaviour* '(CAPAM, 2005).

Suresh Kumar (1994), defines it as

"...performance contract as a Memorandum of Understanding (MOU). MOU is rooted in an evaluation system, which not only looks at performance comprehensively but also
ensures forces improvement of performance managements and industries by making the autonomy and accountability aspect clearer and more transparent.."

OECD (1999), defines Performance Contract as,

"…a range of management instruments used to define responsibility and expectations between parties to achieve mutually agreeable results".

In the Kenyan public service scene a Performance contract is thus defined as a,
"*… freely negotiated performance agreement between Government, organization and individuals on one hand and the agency itself …"*
(Kenya, Sensitization Training Manual, 2004).

It is thus an agreement between two parties that clearly specify their mutual performance obligations, and the agency itself.

While Smith (1999), argues that a common definition of performance contracting can be found, there are a considerable variety of uses and forms for quasi-contractual arrangements. In this paper performance contracting is used as a management tool to help public sector executives and policy makers to define responsibilities and expectations between the contracting parties to achieve common mutually agreed goals.

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. Liberation management means that public sector managers are relieved from a plethora of cumbersome and unnecessary rules and regulations, which usually hinders quick decision making in the organization (Gianakis, 2002). The debate in the public sector has been more complex than just increasing the effectiveness of strategic management systems and narrowing the gap between ambitious strategies and annual planning.
The main concern has been to improve external accountability and increase internal efficiency and effectiveness at the same time. In particular, performance contracting 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 (Greiling, 2006).

2. The concept of performance contracting

2.1. Origin of Performance Contracting

The term performance contracting can be traced from France in the late 1960's and other countries including India, Pakistan and Korea (OECD, 1997). It has been adopted in developing countries in Africa, including Nigeria, Gambia, Ghana and now Kenya (Kobia and Mohamed, 2006).
Prior to this period the business environment was rather stable and therefore strategic planning was entrusted in the hands of the top management of the organization. This practice was counterproductive as managers who were implementers of the strategic plans were not involved at the formulation stage. Aosa (2000) supports this view when he argues in his study that due to increased environmental turbulence in the early 1970's, especially 1973 top executives were forced to recast the way they looked at their business for survival. They redefined performance management as a proactive management tool for achieving business goals and objectives, through a structured and continual process of motivating, measuring and rewarding individual and team performance. Earlier, management tools for example the *Carrot-and-Stick* policies and behaviour which were common in the 19^{th} Century Industrial Age had become increasingly irrelevant to modern management practices and therefore, this called for more flexibility and adaptability in strategic planning, forcing managers responsible for implementing strategies be involved in all stages of strategy formulation (Barclays Africa, 1997).
However, Steiner (1983) speculates that many of the strategic planning systems failed to link planning to resource allocation and did not place emphasis on strategy implementation. He further observes that the existing systems failed to reward managers and employees for strategic thinking, creativity and innovation. This led to disenchantment with strategic planning and thus forcing managers to believe that it was of little or no value to the organization. Despite these problems practitioners and academics like Porter (1983) came in support of strategic planning by placing emphasis on strategy implementation.
In Canada the government's approach to performance contracting and management were rooted in early 1990's expenditure management systems designed to cut costs during a period of budget deficits (Kernaghan & Siegel, 1999) and in France they were first introduced in the Directorate General for Taxes (DGI) specifically designed to respond to two main concerns (Grapinet, 1999). First, as tools meant to ensure consistency in a decentralized context and second, as tools to enhance pressure on the entire services network in order to improve performance.

2.2 Performance measurement

Performance measurement is often taken to be crucial to the delivery of improved services as part of New Public Management. 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
non-profit 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,

"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).

2.3 Purpose of performance contracting

An organization's purpose defines the ways in which it relates to its environment. If this purpose is fulfilled, the organization will survive and prosper (Luo & Peng, 1999). The main purpose of the 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.

Hope (2001) points out that performance contracts specify the mutual performance obligations, intentions and the responsibilities, which a government requires public officials or management of public agencies or ministries to meet over a stated period of time. As part of the performance orientation in government, the common purposes of performance contracting are to clarify the objectives of service organizations and their relationship with government, and facilitate performance evaluation based on results instead of conformity with bureaucratic rules and regulations which have killed thinking, innovation and creativity in the public sector (Hitt *et al.* 1999).

Grapinet (1999) posits that the performance contracting involves a highly structured phase of evaluating results which he considers to be an extremely rigorous technical exercise on one hand and on the other hand a morale-boosting exercise for managers and staff. The performance contract does not actually go into resource appropriations which, although needed for practically all resources, are automatic. He further argues that members of staff are not sufficiently involved in drawing up contracts, a task which inspite of exhortations from central government is still largely the preserve of managers. In management terms, this means that performance goals are all too often perceived as being imposed from above rather than from a collective thought process.

Gore (1996) recognizes the importance of performance contracting when he admits that in the United States federal government, performance contracts are in one way or the other changing the way many bosses do their jobs. Gore (1996) believes that many managers have changed their attitude towards workers, which in turn has encouraged innovation and good customer service. On the other hand, Hill and Gillespie (1996) argue that performance contracting is expected to increase accountability because clear and explicit managerial targets, combined with managerial autonomy and incentives to perform, make it easier to establish the basis for managerial accountability and to achieve outputs. Further, Therkildsen (2001) speculates 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 as being witnessed in many developing nations.

This would include selecting options and the development of an action plan to access the opportunities identified (Armstrong, 2006). Similarly, under performance monitoring, the staff member provides regular feedback to the manager on their progress towards the achievements of the agreed performance objectives. The manager provides regular formal and informal feedback on their assessment of the staff member's achievements.

Within the context of performance evaluation, Armstrong and Baron (2004), argue that the manager and the staff member should regularly (periodically) evaluate the staff member's performance and the achievement of the objectives in the work plan as well as the agreed training and development plan. This phase should then feed into the next cycle of the performance management process. Lastly, with regard to rewarding outstanding performance, there is need to reward outstanding work, which is recognized from the evaluation reports. The top performers need to be rewarded in various ways ranging from recognition to award of medals and other material endowments (Armstrong, 2006).

However, according to Moy (2005) the performance based contract process in federal government in Washington D.C. relates heavily to the federal guidelines established by the *Office of Federal Procurement Policy*. Despite differences in the federal and state perspectives, Moy (2005) comes up with Seven Steps to Performance Based Service Acquisition, which he speculates, that provide an overview of the contracting process.

Firstly, there is an integrated solutions team whose main task is to ensure that senior management involvement and support is in place. The team defines roles and responsibilities, empowers team members and identifies stakeholders, nurture consensus, develop and maintain the knowledge base over the project life, and establish a link between program mission and team members' performance.

Secondly, the problem that needs to be solved is described. This links acquisition to mission and performance objectives, defines desired results at a high level, decides what constitutes success, and determines the current level of performance.

Thirdly, examines the private sector and public sector solutions. This includes taking a team approach to market research, spending time learning from public sector counterparts, considering one-on-one meetings with industry and documenting market research.

Fourthly, develop a performance work statement or statement of objectives, which

Involves conducting an analysis of work to be performed, capturing the results of the analysis in a matrix, writing the performance work statement, and allowing the contractor solve the problem, including the labor mix.

The fifth step deals with how to measure and manage performance. This involves a review of the success determinants (i.e. Where do you want to go and how will you know when you get there), relying on commercial quality standards, if applicable. Ensure that the contractor proposes the metrics and the quality assurance plan, select only a few meaningful measures on which to judge success, including contractual language for negotiated changes to the metrics and measures, consider “award term” (i.e. ties the length of contract to the performance), consider other incentive tools, recognize the power of profit as motivator, and most importantly, consider the relationship.

The sixth step is selection of the right contractor who should be advised of the best practices and trends in performance based contracting. Lastly, it deals with managing performance by keeping the team together, adjusting roles and responsibilities, assigning accountability for managing contract performance, adding the contractor to the team at a formal kick-off meeting, regularly reviewing performance in a contract performance improvement working group, and reporting on the contractor’s past performance.

On the other hand, Schwella (1988) speculates that performance-contracting processes tend to be fairly standard. Processes should address agency objectives. The amount of detail provided depends on the level of guidance required to support the needs of business units. Performance contracting process typically involves four main stages namely work plan management, skills development, performance monitoring and evaluation, and rewarding of outstanding performance. In terms of work plan management, he argues that this is to be based upon business strategic plans and other related corporate documents. A staff member and manager agree on the key responsibilities and targets to be achieved during the period under review. The plan also sets out how the staff members’ performance will be measured or evaluated against the set objectives. The performance aspect of the plan obtains agreement on what has to be done to achieve objectives, raise standards and improve performance. In terms of skills development, the staff member and the manager identify and agree on the training requirements; development and information needs of the staff member to meet their performance, which to a large extent will meet the business needs. This includes selecting options and the development of an action plan to access the opportunities identified (Armstrong, 2006). Similarly, under performance monitoring, the staff member provides regular feedback to the manager on their progress towards the achievements of the agreed performance objectives. The manager provides regular formal and informal feedback on their assessment of the staff member’s achievements.

Within the context of performance evaluation, Armstrong and Baron (2004) speculate that the staff member’s performance and the achievement of the objectives in the work plan needs to be evaluated periodically. Lastly, with regard to rewarding outstanding performance, there is need to reward outstanding work, which is recognized from the evaluation reports. The top performers are to be rewarded in various ways ranging from recognition to award of medals and other material endowments (Armstrong and Baron, 2004; Armstrong, 2006).

2.4 What does performance contract mean in Kenya?

2.4.1 Background

The Government of Kenya introduced Performance Contracting in the Public Service as one of the tools to improve service delivery. Since its introduction in 2004, when only a few State Corporations were participating, Performance Contracting is now being implemented in a majority of the Ministries, Departments and Agencies (MDAs). The decision to extend its coverage to all MDAs was as a result of the benefits that were beginning to be manifest in participating institutions through improved administrative and financial performance as well as improved service delivery. Ministries were for the first time being required to work towards set targets, draw out service charters with their clients and compare their performance with the best in the world. The results of these efforts were so significant that they won international recognition with various African countries wishing to learn from Kenya’s experience (GoK, 2010[2]).

In Kenya, the concept of Performance Contracting is defined as a freely negotiated performance agreement between the Government and the respective Ministry, Department or Agency which clearly specifies the intentions, obligations and responsibilities of the two contracting parties. As such, it stipulates the results to be achieved by the contracted party and the commitments of Government as the contracting party (GoK, 2010[2]).

It is a freely negotiated performance agreement between the government, acting as the owner of public agency on one hand, and the management of the agency on the other hand. The performance contract specifies the mutual performance obligations, intentions and the responsibilities of the two parties. Similarly, it also addresses economic/social and other tasks to be discharged for economic or other gain. It organizes and defines tasks so that management could perform them systematically, purposefully and with reasonable probability of achievement. These also assist in developing points of view, concepts and approaches to determine what should be done and how to go about doing it. The expected outcome of the introduction of the performance contracts includes improved service delivery, improved efficiency in resource utilization, institutionalization of a performance-oriented culture in the public service, measurement and evaluation of performance, linking rewards and sanctions to measurable performance, retention or elimination of reliance of public agencies on exchequer funding, instilling accountability for results at all levels and enhancing performance (GoK, 2007).

The Kenyan government does acknowledge that over the years there has been poor performance in the public sector, especially in the management of public resources which has hindered the realization of sustainable economic growth (GoK, 2005). The government reiterates in the Economic Recovery Strategy (ERS) some of the factors that adversely affect the performance of the public sector. These include excessive regulations and controls, frequent political interference, poor management, outright mismanagement and bloated staff establishment. To improve performance, the government has continued to undertake a number of reform measures. However, these measures have not provided a framework for guiding behavior towards attainment of results or ensured accountability in the use of public resources and efficiency in service delivery. The initiatives for instance lack the performance information system, comprehensive performance evaluation system and performance incentive system (GoK, 2005).

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 as implemented in Kenya 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 guidebooks 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. The ultimate objective is to improve the quality of the lives of our citizens.

To achieve this objective, countries the world over have expended considerable effort to create efficiencies in the exploitation and utilization of national resources, and to benchmark service delivery standards to the highest possible levels. The most successful countries are, in many cases neither the largest, nor highly endowed with physical resources. The backwardness of highly resourced countries in the third world, including countries in continental Asia, South America and Africa on the one hand, and the relative
advancement of otherwise resource -deficit countries on the other, is adequate evidence that comparative advantage in resource endowment is not a critical factor in economic development. Success stories in the world have leveraged largely on competitive advantage, by continuously building efficiencies in the management of their public services. This is because of the realization that performance of the public service defines and indeed forms the glass ceiling for the performance of the private and other sectors.

The introduction of Performance Contracts as the national management accountability framework in Kenya was premised on this need- to build the country's competitive advantage around the performance of the Public Service. The system redefined public sector 'performance' to mean focusing on outputs and outcomes, not on inputs, processes, or preoccupation with activities.

To succeed, the relatively new system has entailed:

a) Inculcating ethics and new value systems of honesty, probity, patriotism and respect for the nation's diversity;
b) Re-organizing the governance machinery to achieve higher levels of competence, transparency and accountability, and to minimize waste in government spending;
c) Enlisting the support of stakeholders from the private and other sectors to participate in growing the national economy;
d) Changing the role of the state from that of a sole provider of employment and services, to the new role of creating an enabling environment for wealth and employment creation;

e) Creating a lean, efficient and working government, and- by curtailing wasteful public expenditure- freeing resources to fund development programs and people issues(GoK,2010).
Implementation of reforms to improve our Public Service performance followed closely on the lines of what came to be adopted by the United Nations as *"The Vienna Declaration on Building Trust in Government",* at the Global Forum on Reinventing Government, held in Vienna, Austria, in 2007.

The Vienna Declaration identified the following initiatives to strengthen the confidence of citizens in their government.
1. Prioritizing **S**ervice **D**elivery and **A**ccess.
2. Increasing **T**ransparency and **A**ccountability to **C**ombat **C**orruption.
3. Improving Access to ICT.
4. Supporting **E**ffective **C**ivil Society **E**ngagement.
5. Enabling **P**ublic-**P**rivate **P**artnerships.
6. Promoting **I**nnovations in **P**ublic **S**ector **R**eforms.

These, along with the need to link development programmes and the benefits of economic growth to the '*mwananchi'*[3] at the grassroots; have been the areas of concentration in institutionalizing performance management in Kenya.

2.4.2 Rationale for performance contracting in Kenya

A *Performance Contract* is a management tool for measuring performance against negotiated performance targets. It is a freely negotiated performance agreement between the Government, acting as the owner of a public agency, and the management of the agency. The Performance Contract specifies the mutual performance obligations, intentions and responsibilities of the two parties

The expected outcomes of the introduction of Performance Contracts include:

- Improved efficiency in service delivery to the public by ensuring that, holders of public office are held accountable for results;
- Improvement in performance and efficiency in resource utilization and ensuring that public resources are focused on attainment of the key national policy priorities;
- Institutionalization of a performance -oriented culture in the Public Service;
- Ability to measure and evaluate performance;
- Ability to link 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;
- Reduction or elimination of reliance on Exchequer funding by Public Agencies;
- Ability to strategize the management of public resources;
- Recreating a culture of results-oriented management in the Public Service (GoK, 2010).

The decision to implement the performance contracting took several steps before the eventual adoption. Some of the major policy decisions being:

- The policy decision to introduce Performance Contracts in the management of public resources was conveyed in the Economic Recovery Strategy for Wealth and Employment Creation (2003-2007). Further, Kenya's Vision 2030 has recognized performance contracting among the key strategies to strengthen public administration and service delivery. The strategies will, in this regard, focus on deepening the use of citizen service delivery charters as accountability tools, and entrenching performance as a culture in the Public Service.

- On 15th January 2004, the Government, *vide* Cabinet Memo No.CAB (03) 115, 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.
- To roll out the strategy, the Government established the Performance Contracts Steering Committee (PCSC) in August 2003. The Committee was gazetted on 8th April 2005. The PCSC is responsible for the overall administration and co-ordination of Performance Contracts in the public service. In the process of implementing Performance contracts, the Committee is assisted by an Ad-Hoc Negotiation/Evaluation Task Force comprising experts drawn from outside the public service. The Ad-Hoc Task Forces are responsible for negotiating Performance Contracts, evaluating and moderating performance of Ministries/Departments on behalf of the Permanent Secretary, Secretary to the Cabinet and Head of Public Service. The Ad-Hoc Evaluation Task Force also evaluates and moderates the performance of State Corporations, Local Authorities and Tertiary Institutions.

- Performance Contracts were first introduced on 1st October 2004, in (sixteen) 16 largely commercial State Corporations. In 2005/2006, all the then 35 Government Ministries/Departments, 116 State Corporations and five pilot Local Authorities signed Performance Contracts and were evaluated in September 2006. In 2006/2007, all the 38 Government Ministries/Departments, 127 State Corporations and 175 Local Authorities signed Performance Contracts and were evaluated in October, 2007. During 2007/2008 all the 38 Government Ministries/Departments, 130 State Corporations and 175 Local Authorities signed Performance Contracts and were evaluated in October 2008. Evaluation of performance in respect of the Financial Year 2008/2009 involved 45 Ministries/Departments, 139 State Corporations, 175 Local Authorities and 68 Tertiary Institutions.

- In the performance evaluation reports, the Ad-Hoc Evaluation Task Force concluded that, performance contracting is, on the whole a valid and necessary strategy. It observed further, that the success of the strategy 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. The enthusiasm, commitment, competence and focus provided by the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service, together with the Permanent Secretary, Performance Contracting Department (PCD) have significantly contributed to the success of the Strategy.

The efforts of these were capped in an address on 20th July 2007, on the occasion to receive the United Nations Public Service Award, which Kenya won in the first category on improving Transparency, Accountability and Responsiveness in the Public Service, His Excellency the President Hon. Mwai Kibaki, C.G.H., M.P., observed that:

> *"Performance Contracting is a local initiative which has benefited from best practices from countries world over which have successfully implemented the system. It has also been fully locally funded and is not donor driven. This is clear evidence that our public servants have the requisite capacity and competence to help the country realize Vision 2030."*

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 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 (GoK, 2010).

3. The process of performance contracting and evaluation in Kenya

In Kenya, performance contracting is a hybrid system that has borrowed from international best practices and the Balanced Score Card. The Performance Contracting and Evaluation system best practices were drawn from: South Korea, India, China, USA, United Kingdom, China, Malaysia and Morocco but domesticated to suit the local context. Balanced Score Card as an evaluation tool provides a logical connection between the *Vision, Mission and Strategic* Objectives with the desired results in terms of Customer and Stakeholder needs, financial/budget, internal processes and capacity building (learning and growth). It also links strategic objectives to long term targets and annual budgets (GoK, 2010[2]).

The decision to extend its coverage to all MDAs was as a result of the benefits that were beginning to be manifest in participating institutions through improved administrative and financial performance as well as improved service delivery. Ministries were for the first time being required to work towards set targets, draw out service charters with their clients and compare their performance with the best in the world. The results of these efforts were so significant that they won international recognition with various African countries wishing to learn from Kenya's experience (GoK, 2010).

Performance Contracting is a key component of the performance based practices adopted by the Government of Kenya. Performance Contracting was first introduced in Kenya through the Parastatal Reform Strategy Paper which was approved in 1991. This strategy paper saw the introduction of performance contracting on a pilot basis to two agencies: Kenya Railways Corporation and the National Cereals and Produce Board (GoK, 2010). The decision to extend its coverage to all MDAs was as a result of the benefits that were beginning to be manifest in participating institutions through improved administrative and financial performance as well as improved service delivery. Ministries were for the first time being required to work towards set targets, draw out service charters with their clients and compare their performance with the best in the world. The results of these efforts were so significant that they won international recognition with various African countries wishing to learn from Kenya's experience (GoK, 2010 [2]).

Currently it is now being implemented in a total of four hundred and sixty two (462) public institutions. Performance contracting was re-introduced into the Kenyan Public Service in 2004 as part of the Civil Service Reform instituted under the Economic Recovery Strategy for Wealth and Employment Creation. The re-introduction of Performance Contracting in Kenya 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 of performance contracting is overseen by an institutional framework anchored in the executive arm of Government (GoK, 2010[2]).

In the evaluation of the performance contracts, the parameters for Performance Evaluation are founded on performance criteria categories. For each cluster of public institution, the performance criteria categories and total sub-weights are preset. Under each criteria category, a set of indicators are defined. In computing the performance score, the evaluator is expected to determine the level to which the performance an institution is affected by exogenous factors. The evaluation of the performance of public agencies entails the rating of actual achievements against performance targets negotiated and agreed upon at the beginning of the year (GoK, 2010[2]).

The Performance Contracting Department has continued to develop tools and instruments for implementing Performance Contracts and evaluating performance which include: subsidiary legislations for State Corporations and Local Authorities; Model Performance Contracts; Performance Contracts Matrices; Training Manuals and Information Booklets; Guidelines for Drafting and Implementing Performance Contracts and Evaluation of Performance. Of particular significance, has been the inclusion in the Performance Contracts, of Citizens' Service Delivery Charters, Customer Satisfaction and Employee Satisfaction surveys as strong instruments for enhancing and measuring the quality of service delivery and eradicating corruption (GoK, 2010).

Considerable importance is attached to the process of negotiating Performance Contracts and evaluating performance. An Ad-Hoc Task Force appointed by the Permanent Secretary, Secretary to the Cabinet and Head of Public Service to negotiate Performance Contracts with Permanent Secretaries/Accounting Officers is already in place. The Ad-Hoc Task Force members comprise eminent persons drawn from various bodies such as: Professional associations, academia, business community and retired senior public servants.

The Ad-Hoc Negotiations Task Force doubles up as the Ad-Hoc Evaluation Team to evaluate performance of Ministries/Departments, State Corporations, Local Authorities and Tertiary Institutions. The Task Force members have been adequately trained on the process of negotiations and evaluation of Performance Contracts.

For the purpose of continuous monitoring and reporting on performance, Public Agencies are required to file quarterly and annual performance reports in prescribed formats. Performance evaluation for each public agency is based on the signed Performance Contract and the Annual Performance Report (GoK, 2010).

Evaluation of the performance of Ministries/Departments, State Corporations, Local Authorities and Tertiary Institutions were carried out by the Ad-Hoc Evaluation Task Force in September/October 2009.

A team of Moderators drawn from the Ad-Hoc Task Force was appointed to:

- Ensure the evaluated Performance Contract is the same as the signed/vetted contract;
- Ensure uniformity in the interpretation and the application of the guidelines in the primary evaluation;
- Ensure accuracy in the computation and the arithmetic;
- Ensure correct application of the formulae;
- Ensure that all indicators in respective matrices have been included in the evaluated Performance Contract;
- Ensure that units of measure have been applied uniformly;
- Give due consideration to exogenous factors and ensure that these are not brought to bear (positively or negatively) on the performance of the Public Agencies;
- Engage Primary Evaluators in cases of material/significant differences with primary evaluation results to create a consensus;
- Identify and document critical experiences and lessons learnt in the processes of negotiation, evaluation and moderation;
- Make recommendations on the way forward in the implementation of Performance Contracts; and
- Compile a performance evaluation report.

4. Impacts of performance contracting in Kenya

Implementation of the Process of Performance Contracting began only in 2004. The real impact of the process is yet to be fully visible. However, according to Kobia and Mohammed, (2006), there is clear evidence of some radical improvement particularly in the following aspects of the management of Public Service:
(i) Remarkable and unprecedented improvement in profit generation for commercial state Corporations
(ii) 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.
(iii) Significant improvement in the operations and services by some local authority bodies e.g. Nairobi City Council, Kisumu and Nakuru Municipalities.
(iv) Unprecedented improvement 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, KICC etc.

5. Conclusion

From, the ongoing discussion it is clear that there has been some improvement in the performance of the public service and the related Government agencies. However the full realization of the performance contracting in Kenya are yet to be realized .In this regard therefore the authors do recommend in-depth analysis of the various MDA's. It would also be good to get an in-depth analysis of each sector so as to be able to get a better understanding of how the various sectors are performing. Further they do recommend that more studies need to be done with a view to establish the challenges that the various MDA's could facing in the implementation of the new concept of performance contracting. This, it is felt would help to address such problems and hence make the concept workable and greater benefits.

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