Performance Contracts

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Whatever model of reform that is chosen for reforming public utilities, it has been found that these reforms can be made more effective if there is a performance contract in place between the utility and the government or regulator with incentives to meet and outperform that plan. This performance plan may be included in an informal Performance Contract, Contract Plan or a more formal, legally binding intergovernmental loan or grant agreement. It is likely to be supported by employment contracts for management that contain incentives to ensure that the utility meets the performance targets.

General Features of Performance Contracts for PPPs

Here are some general issues to consider in performance contracts:

- Parties - between utility and government or ministry responsible for utility;
- Enforceability - generally not legally binding on the parties - therefore incentive mechanism has to be built in to ensure that the parties respect the terms. If legally binding, need to consider sovereign immunity and whether government can be legally bound;
- Objectives of contract - what are the objectives that the parties are trying to achieve - important to specify as the contract is likely to be monitored (see below) and management incentives will depend on performance, these are likely to include:
    - improved governance of utility;
    - restructuring of utility (using one of forms discussed above), with possibility of grooming for private sector involvement;
    - financial objectives (making utility financially viable and credit worthy);
    - extending service area or connections;
    - developing customer awareness on usage;
    - improving billing and customer service;
    - improving operations - reducing informal connections, leakage, improving maintenance and rehabilitation;
    - develop capital expenditure program for new investment and major renewals;
    - human resources management - improving productivity and/or reduction in overall staff, recruitment, retention and training of staff, rationalizing reward system;
    - management effectiveness - appraisal scheme, incentive scheme and training;
    - transparency in accounting and in operations - ensuring performance standards and objectives are reached;
    - IT objectives;
- Performance criteria - against which performance of utility in achieving objectives will be measured - these may be developed over time by review committee (see below) if insufficient information;
- Government support -
    - Existing debt - if it is unfeasible for utility to service existing debt, rescheduling or assumption of debt by government;
    - subsidies (general or specific to new connections etc) and conditions attached to them;
- Tariff policy - review of existing policy and proposal of amendments;
- Provision of information to Government - ensure transparency - accounts, investment plans, performance records, etc.;

- Approval procedures - for expenditure above certain thresholds - process for approval by government or other responsible entity;
- Performance contract management - review committee established with representatives from Government and from utility (and other stakeholders) to review performance of utility and to set performance levels as review processes are completed and more information is established;
- Sanctions on utility for failure to meet performance standards.

Examples of PPP Performance Contracts

Water Sector

Sample Performance Contract - Water and Sanitation - developed in the water and sanitation sector for a country in Africa. English language.

A number of countries in East Africa, namely Kenya, Uganda and Tanzania, have seen substantial improvements in service delivery and cost recovery from their public water authorities achieved through performance contracts. Often these performance contracts are put in place along-side incentive mechanisms for management and employees built into their service contracts. The following materials relate to the performance contract entered into in Uganda:

Uganda

- Performance Contract between Government of Uganda and NWSC (2003).
- Paper on NWSC, Improving Performance through internal reforms by the Public Sector
- Cost Recovery Mechanisms - The Success of NWSC and its relevancy for other African Countries, by Muhairwe, W. T.

Kenya

This is an example of a performance contract between a Government and a water services regulatory board - Performance Contract between Government of Kenya and Water Services Regulatory Board 2007 (PDF)

Energy Sector

- Sample Performance Contract - Energy- developed in the energy sector for a country in Africa. English language.

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