

PERFORMANCE CONTRACT BETWEEN



THE GOVERNMENT OF KENYA

AND



**THE BOARD OF DIRECTORS OF THE
WATER SERVICES REGULATORY BOARD**

PERIOD: JULY 1ST 2006 TO JUNE 30TH 2007

PERFORMANCE CONTRACT

This Performance Contract (hereinafter referred to as “Contract”) is entered into between the Government of the Republic of Kenya (hereinafter referred to as “GoK”) through its Ministry of Water and Irrigation of P.O. Box 49720-00100, Nairobi (together with its assignees and successors) of the one part, and the Board of Directors of Water Services Regulatory Board (*corporation*) (hereinafter referred to as the “the Board”), a state corporation having its registered office at NHIF Building, 9th Floor (together with its assignees and successors) of P.O. Box 41621-00100 of the other part.

WHEREAS

The GoK is committed to clearly defining the working relationship between itself and the state corporations.

The parties recognize the need for adequate and reasonable managerial and operational autonomy to facilitate achievement by the Board and management of Water Services Regulatory Board (*corporation*) of the agreed and freely negotiated performance targets set out in this contract;

The parties are desirous of enhancing transparency in the management of public resources and accountability for results;

The Board has indicated its capacity and competence to perform the duties and undertake the functions specified under this Contract;

NOW THEREFORE, the parties hereto agree as follows:

Part I

(a) (i) Mandate

The Water Services Regulatory Board is responsible for the regulation of the provision of Water and Sanitation Services; licensing Water Services Boards (WSBs) and approving the Services Provision Agreements between the Water services Boards and their contracted Water Services Providers (WSPs), setting regulation rules, standards and guidelines, monitoring the performance of WSBs, WSPs and enforcing laws and regulations.

(ii) Vision of the Board

“To be the leading regulator for water supply and sanitation services in Africa”.

(b) Mission of the Board

“To regulate water supply and sanitation services in Kenya by setting rules and standards, monitoring and enforcements of laws and regulations, to ensure that the consumers are protected and have access to efficient, adequate, affordable and sustainable services for their basic and economic development needs”.

(c) Objectives of the Board.

1. *Effective regulation of the provision of water supply and sanitation services*
2. *Effective monitoring and enforcement of laws and regulations.*
3. *Strengthen the institution capacity of the Board to carry out its mandate as a regulator.*
4. *Ensure easy access to information for the provision of water supply and sanitation services.*
5. *To mainstream gender, HIV/AIDS and governance.*

Part II

Commitments and Responsibilities of Corporation (Board / Management)

The Board undertakes to perform the following tasks:

- i. Developing strategic plans and ensuring they are linked to National policy such as ERS, National Development Plan, e.t.c
- ii. Identifying performance targets
- iii. Assigning weights to performance indicators
- iv. Negotiating performance targets/signing performance contract
- v. Ensuring achievement of performance targets

- vi. Preparing employees in the organization for the desired changes in working styles, attitudes and work ethics.
- vii. Preparing the employees in the organization for the desired changes in working styles, attitudes and work ethics;
- viii. Signing performance Contract with the Board's senior management Team;
- ix. Service Provision Agreements between the Water Service Boards and the Water Service Providers;
- x. Enforcing laws and regulations;
- xi. Building capacity of staff and Directors of the Board.

Part III

Commitments and obligations of the Government

The Government, in order to enable the Board to meet its side of the contract, undertakes to fulfill the following:

- i) Timely release of funds
- ii) To approve our recommendation on tariffs, adjustments and regulatory levy within four (4) months after our submission;
- iii) To provide feedback and commentaries to the Regulatory Board on quarterly and annual reports within 30 days from date of receipt;
- iv) To respond to the board correspondence within seven (7) days;

Part IV

Frequency of Monitoring and Information Flow

The Board undertakes to submit quarterly and annual performance reports in the prescribed format in accordance with Legal Notice No. 93 of State Corporations.

Part V

Duration of the Performance Contract

This Performance Contract will run for a period of 12 Months commencing 1st July 2006 to 30th June 2007.

Signed:

.....Date.....

Prof. Francis John Gichaga. MBS, EBS
Chairman, Water Services Regulatory Board

.....Date.....

Mrs Jane N. Njagi
Director, Water Services Regulatory Board

Government of Kenya

..... Date.....

Eng. Mahboub M. Maalim, CBS
Permanent Secretary, Ministry of Water and Irrigation

Counter – signed:

.....Date.....

Joseph K. Kinyua, CBS
Permanent Secretary, Ministry of Finance

**PERFORMANCE EVALUATION CRITERIA, CRITERIA WEIGHTS AND PERFORMANCE TARGETS FOR
NON-COMMERCIAL STATE CORPORATION (WATER SERVICES REGULATORY BOARD)**

		WT	YR	PC Target YR	Best Ever	Key Comp								
			(0)					90% Excel	60-74% Good	50-59% Fair	<49% Poor	Achiev.	Raw Score	Weigh score
			2005/06	2006/07										
	Unit													
A	Financial													
	1.Compliance with set budgetary levels	Status	3	100%	100%	100%								
	2.Cost reduction	Kshs'000	2	229	400	229								
	3.A-in-A Revenue	mKsh.	9	24	35	24								
	4.Utilization of allocated funds	%	5	85%	100%	85%								
	5. Development Index	%	1	0.6	0.8	0.6								
	<i>Weight Sub-Total</i>		20											
B	Service Delivery:													
	1. Implementation of service delivery charter	%	10	Service Charter developed	100%	Service Charter developed								
	2 Customer Satisfaction													
	• Complete baseline survey	Time	5	12 months	3 months	N/A								
	• Implementation of emerging issues	%	5	N/A	20%	N/A								
	<i>Weight Sub-total</i>		20											
C	Non-financial													
	1. Review and Compliance with strategic plan	%	10	100%	100%	100%								
	2. Acquisition of ISO 9000 certification	%	5	25%	35%	25%								
	<i>Weight sub total</i>		15											

D	Operations														
	1. Finalize and operationalize water service standards	%	3	70%	100%	70%									
	2. Finalize and operationalize Water rules	%	2	90%	100%	90%									
	3. Finalize and operationalize guidelines	%	3	40%	60%	40%									
	4. Implement Communication strategy	%	2	60%	75%	60%									
	5. Finalize Human Resources Policy	%	2	50%	90%	50%									
	6. Approve and Implement-model Service Provision Agreements	%	3	60%	80%	60%									
	7. Finalize issuing of licences to Water Service Boards	%	3	7 No Interim Licences Issued	100%	7 No. Interim License issued									
	8. Evaluate performance of the Water Service Boards	%	3	40%	100%	40%									
	9. To Established information and documentation unit	%	2	10%	30%	10%									
	10. Gender mainstreaming	%	1	50%	50%	50%									
	11. Project Implementation														
(i) Timeliness	%	2	100%	100%	100%										
(ii) Quality	%	1	100%	100%	100%										
(iii) Relevance	%	1	100%	100%	100%										
(iv) Cost Efficiency	%	1	100%	100%	100%										
(v) Completion rate	%	1	100%	100%	100%										
<i>Weight Sub-total</i>		30													

E	Dynamic/Qualitative Organisation Capacity													
	1. Skills Development (Training)	%	1	50%	100%	50%								
	2. Automation (ICT)	%	1	15%	40%	15%								
	3. Work Environment													
	(i) Baseline Survey	time	0.5	N/A	3months	N/A								
	(ii) Implementation of emerging issues	%	0.5	N/A	50%	N/A								
	(iii) Service delivery innovation	No.	1	N/A	1	N/A								
	(iv) Employees satisfaction	%	1	25%	60%	25%								
(v) Repair and Maintenance	%	1	100%	100%	100%									
(vi) Safety Measures	%	1	100%	100%	100%									

	(vii) Statutory Requirements	%	2	100%	100%	100%								
	(viii) Corruption Eradication	%	4	100%	100%	100%								
	(ix) HIV/AIDS behavioural change	%	2	100%	100%	100%								
	Weights Sub total		15											
	Weight Total		100%											

Annex 2:

Explanation Notes

A1. Compliance with Budgetary provision

The Board's expenditure for the financial year was incurred within the approved Budget and compliance will continue.

A2. Cost Reduction

The Board saved about Ksh.229, 445 as a result of conducting market survey before awarding tenders. The Board also intends to take the following measures.

- Encourage printing on both sides of the papers,
- Introduce prepaid Telephone cards with ceiling for all departments.
- Maintain the services of a fuel supplier with a view to control fuel consumption and associated costs.
- Ensure no misuse of the Boards vehicles.
- Conduct market surveys to ascertain the prices quoted on tenders with a view to obtain the best value for money.

A 3. A-in-A Revenue

The Board collected a sum of shs 24 million out of the set target of Ksh.15million for the year from the following boards;

Athi Water Services Board	-	19.5
L. Victoria South Water Services Board	-	0.6
Tana Water Services Board	-	0.8
Coast Water Services Board	-	2.6
Rift Valley Water Services Board	-	0.5
Northern Water Services Board		Nil
Lake Victoria North Water Services Board	-	Nil
Total		<u>24.0 Million</u>

The Board has targeted to collect k shs 35million in the next financial year as more SPAs are approved

A4 Utilization of Allocated funds.

85% of the approved budget was utilized. The budget for personnel emoluments was not fully utilized since the Board had not recruited its entire staff.

A5. Development Index

The recurrent expenditure for the financial year 2005/2006 was kshs 20.4 million while the Development expenditure was kshs 12.5 million therefore the Development Index is $12.5/20.4 = 0.6$.

B1. Service Charter

The draft customer charter was prepared and is available. The same will be finalized and circulated.

B2. Customer Satisfaction

The questionnaires for conducting a customer satisfaction survey have been developed and the survey will be carried out when funds become available.

The service provision agreement provides that the survey be conducted in every two years. The Board is aware that Athi Water Service Board has carried out a consumer survey.

C1. Compliance with Strategic Plan

The Board complied with the strategic plan objectives. We intend to review our strategic plan during the year.

C2. Acquisition of ISO 9000

The board has completed five out of the 14 steps towards acquisition of ISO 9000 certification. These steps are;

- 1) Commitment by the Top Management
- 2) Appointment of Management Representative
- 3) Appointment of the Project Team
- 4) Establishment of Quality Policy
- 5) Training of Managers

The remaining 9 steps are;

- 1) Preparation of the documentation;
- 2) Training of other staff;
- 3) Implementation of the system
- 4) Training of the Internal Auditors
- 5) Internal Auditing
- 6) Improvement of systems and documentation
- 7) Application for certification
- 8) Certification audit
- 9) Certification.

The Board intends to undertake two activities out of the remaining nine i.e. Preparation of the documentation and the Training of staff during the financial year

D1 Water Services standards

Standards on water services provision were reviewed. The document has been subjected to stakeholder consultation and now awaiting adoption by the board prior to gazette in order to give it the force of law. The Board will enforce the standards and measure compliance with the benchmarks set and circulated.

D2. Water services rules.

Draft water services rules have been developed. This will be subjected to the stakeholder consultation and subsequently gazetted. The stakeholders will be sensitized and rules will be posted in the website.

D3. Development of Guidelines

The following draft guidelines have been developed; Tariffs, Business planning, Corporate governance and reporting.

D4. Communication strategy

The board's draft communication strategy has been developed and awaiting adoption by the board before implementation.

D5. Human Resources Policy

The draft human resources policy is available. The Board will finalize and implement the same.

D6. Service Provision Agreements

The following SPAs have been developed; Category 1 for Urban, Category 11 for community projects, Category 111 for community projects operated by a 3rd party. The Board is developing category iv for Bulk water supply and an MOU for small scale service providers. The Board approved 13 SPAs and targets to approve 60 more in the next financial year. The Board will monitor and evaluate performance and monitor compliance with the SPAs.

D7. License for water services provision

The Board has issued 7 interim licenses. The final license for water services provision has been developed and will be issued on compliance by Water Services Boards.

D8. Performance of Water Services Boards and Providers

The Board received and evaluated report from Water Service Boards. The evaluation reports will be published.

D9. Information and Documentation Unit

The Board has created a documentation unit and will expand the unit by acquiring more documents for the unit.

D10 Gender.

The Board is gender sensitive and will continue to mainstream gender. The Service Provision Agreement and Licenses will be gender sensitive.

D11. (i) Projects Implementation

The Board develops regulatory tools for implementation by the Water services Boards and providers and has so far developed the necessary tools.

(ii). Timeliness.

The Board had insufficient staff to complete the projects on time.

(iii) Quality.

The quality of documents produced was 100%.

(iv) Relevance.

All the projects undertaken by the Board were relevant to the Board's mandate.

(v) Cost Efficiency.

The Services and products provided by the Board were cost effective and efficient.

(vi) Completion.

The projects undertaken by the Board were not 100% completed due to shortage of staff.

E1. Skills development.

The Board trained 9 members of staff and 4 members of the Board and will implement the Training Needs Assessment report.

E2. Automation ICT

The Board established a Website and will expand it.

E3. Work Environment

This target was not applicable in 2005/2006. However the Board will conduct a work environment survey and produce a report .

(ii) Service Delivery.

The Research Development unit is along term vision of the Board. However the Board has undertaken research on guidelines, rules, tariffs, and best practices in Water Services Provision. The Board will continue to collaborate with other institutions on; water policy, tariff setting, best practices, operational standards and conflict resolution.

(iii) Employee satisfaction

The Board was unable to conduct a survey since only 2 members of staff were in employment. The Board will conduct the survey after the staff is recruited.

(iv) Repair and Maintenance

The Board has prepared a maintenance assessment report and will continue to ensure that:-

- All vehicles are routinely maintained by dealers
- Computers and printers have maintenance contracts

(v) Safety Measures

The Board has taken the following measures to safeguard safety:-

- Fitted all vehicles with safety belts
- Identified emergency doors and left them open during office hours.
- Procurement of First Aid Kits.
- Installed Car Track facilities in all motor vehicles.

The following additional steps will also be taken;

- Insure staff and Board Members.
- Train staff on the management of security documents.
- Ensure regular servicing of fire extinguishers
- Participate in fire drilling

(vi) Statutory Requirements

The Board complied with all government circulars. The Board also completed its annual accounts for the year 2004/2005 and submitted to the Auditor General Corporations on 30th September 2005. All taxes recovered from the suppliers and PAYE from employees was paid to Kenya Revenue Authority. Compliance with statutory requirements will continue.

(vii) Corruption Eradication.

The Board has established structures to ensure eradication of corruption as follows:-

- Appointed of Internal Auditor
- Enhanced checks and balances by the division of responsibilities
- Take action on contents of the suggestion Box
- Trained Managers
- Adhered to procurement rules
- Encouraged open office set up.
- Conducted Market surveys in advance in order to avoid inflated prices.

This is a continuous exercise

(viii) HIV and AIDS:

The Board has conducted seminars and workshops to sensitize members of staff on behavioral change. They have particularly been advised to visit VCT Centers near their homes and seek guidance and in particular to know their status. In addition Members of staff are encouraged to come public with their status without fear of discrimination.

The Board will continue to:-

- Encourage staff to go for VCT and declare their status
- Come up with support program for affected staff
- Install condom dispensers in strategic places
- Advise about ARVs in accordance with Ministry of Health directives.
- Visit an Aids orphan home

Annex 2:**Water Services Regulatory Board Performance Targets****Objective 1: Effective regulation of water supply and sanitation services****Performance Targets:**

- (i) Model of Service Provision Agreement for Bulk Water Supply developed and in use by May 2007
- (ii) Model of memorandum of understanding (MoU) between main WSP and small scale water service provider developed and in use by May 2007
- (iii) Ensure compliance with conditions for issuance of the License by June 2007
- (iv) Comparative performance analysis report of the WSB and WSPs prepared and available by June 2007

Objective 2: Effective monitoring and enforcement of laws and regulations**Performance Targets:**

- (i) Develop customer service charter by June 2007
- (ii) Develop customer complaint procedures by June 2007
- (iii) Management Information System developed and Implemented by June 2007

Objective 3: *Strengthen the institutional capacity of the Board to carry out its mandate as a regulator.*

Performance Targets:

- (i) Recruit staff by December 2006
- (ii) Terms and conditions of service improved by September 2006
- (iii) Training needs analysis report implemented by June 2007
- (iv) Employee satisfaction report prepared by March 2007

Objective 4: *Ensure easy access to information and transparency in the provision of water services to the public*

Performance Targets:

- (i) Communication strategy implemented by June 2007
- (ii) Prepare annual evaluation reports
- (iii) Boards annual reports prepared and available by March 2007
- (iv) Expand the Boards documentation unit by June 2007
- (v) Continuously update the WSRB Website.
- (vi) Prepare the Board's Final accounts and submit a draft to the Auditors by 30th September 2006

Objective 5: *To mainstream pro-poor approaches, good governance, HIV/Aids and gender*

Performance Targets:

- (i) Aids Control sub-unit work plan prepared and implemented by June 2007
- (ii) Integrity Officers trained by June 2007
- (iii) Mainstream gender.
- (iv) Build capacity on good corporate governance by June 2007.