Introducing Performance Contracts in the Dominican Republic

Joanna Watkins, Juan Tomás Monegro, Pedro Arizti

In the last decade, governments around the world have designed and used performance contracts, with mixed experiences. Many see them as a useful mechanism to improve management processes; enhance the effectiveness and efficiency of public programs; and as a way to introduce performance incentives in public administrations. During 2011, the Dominican government introduced the concept of ‘performance contracts,’ established in article 14 of the Public Sector’s Organic Budget Law, No. 423-06, and two pilot contracts have been introduced in the ministries of Health and Education. These performance contracts cover both institutional and program performance, including commitments regarding institutional objectives and goals and those of prioritized public programs, in the framework of the policies addressed in the Public Sector’s 2012-2015 National Plan. The experience of implementing the contracts is very recent, and hence, difficult to evaluate, and the sustainability and success of these innovative instruments face a number of important challenges.

I. Background on Performance Contracts

First introduced in Europe, ‘performance contract’ arrangements are now increasingly being used by governments around the world as a management tool to improve public sector performance. This interest reflects a broader trend of using new public management techniques to reform traditional public sector structures and processes through: (i) an increased focus on performance management and the analysis of the efficiency, effectiveness, and quality of public services, and (ii) a move to more decentralized managerial environments, where managers have greater flexibility over inputs. In this context, performance contracts have been introduced to provide greater clarity over what public agencies will achieve.

Here we use the term performance contracts to encompass a range of management instruments – contractual and quasi-contractual – which define responsibility and expectations between parties to achieve mutually agreed results.\(^1\) Countries use slightly different terminology, such as ‘results agreements,’ ‘framework agreement,’ or ‘memorandum of understanding’ for such instruments (see Box 1), but most use the language of contracting and performance standards, and apply these tools between different levels and entities across the public administration, commonly:

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February 2012

- Between a minister and an agency head;  
- Between a central agency and a budget-funded agency;  
- Individually for agency heads;  
- Between two independent agencies;  
- Between the central government and a subnational government; and  
- Between a public agency and a private or not-for-profit organization for the supply of goods and services.  

Box 1. Background and terms used in performance contracts

Performance contracts first emerged in Europe in the 1960s and ’70s in the context of overseeing public enterprises, as a way of embedding performance targets in contractual agreements with state-owned enterprises (SOEs). They have been used in a number of OECD countries, as well as in Pakistan, Korea, India, and elsewhere. Since then, they have evolved from being used only for SOEs, and are now used as management instruments more broadly across the public administration. As a result, performance contracts vary in the degree to which they are legally enforceable contracts. When they are used with private suppliers, they may be legally enforceable; however, when they are used between different public sector entities, they generally are not. Among OECD countries, there are a wide variety of quasi-contractual arrangements being used: framework agreements, organizational performance agreements, chief executive performance agreements, funder-provider agreements, intergovernmental performance contracts and partnership agreements, and customer service agreements. In Latin America, terms for such arrangements include: Contrat/Convenio por resultados y desempeño; Contratos de rendimientos; Contrat du plan; and Compromiso de resultado.


Performance contracts often function as a framework to focus the attention of institutions, central agencies, and politicians on improving performance. Countries pursue different objectives for introducing performance contracts. For example to:

- Clarify which objectives managers should aim for (to avoid a multiplicity of objectives).  
- Achieve productivity, efficiency, and effectiveness targets (for example, case processing durations, waiting times, and levels of user and staff satisfaction).  
- Improve the coordination of planning and implementation of programs.

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The World Bank
• Improve coordination and communication between various government agencies (in particular, to provide better feedback to central agencies on entity performance).
• Provide a way of benchmarking among agencies.
• Elicit a fair and explicit understanding of public agency performance.
• Instill accountability and transparency in service delivery and the use of public money.
• Grant increased autonomy to agencies.
• Institutionalize a performance culture.
• Link rewards to measurable performance.
• Enable agencies to receive formal validation of their strategic initiatives by the center.

However, performance contracts cannot in themselves create results. They work mainly because of the formal and informal incentive structures surrounding them. Formally, performance contracts may distribute monetary incentives to achieve results (either on a collective or individual basis). Informally, they create peer pressure and learning opportunities during ex post discussions on an individual or entity’s performance. At the same time, there are significant risks from the inappropriate use of performance contracting. These include:

• The risk of inappropriately restricting freedom to manage (for example, over-specification may inappropriately restrict the ability of the supplier/producer to manage the process).
• The possible loss of or damage to trust, and a general lowering of the quality of the relationship between the actors involved (particularly when authority over inputs is not delegated).
• The use of performance targets may induce counterproductive behavior on the part of agencies if outputs or outcomes are hard to specify ex ante and to measure ex post, and if there are significant information asymmetries.
• The more formal the accountability mechanisms or incentives, the more managers are likely to define the performance expected of them in a narrow manner.4

Finally, although experiences are broad and country and institutional contexts vary substantially, international experiences with designing and implementing performance contracts have yielded important lessons that can be useful for other countries.5 Lessons include the following:

• Performance contracts should be freely negotiated between relevant parties.
• There should be a third party to (a) ensure that performance contracts have been negotiated freely and are fair to both parties, and (b) evaluate the performance of the contracts ex post.
• To avoid ambiguity or uncertainty, the meaning of success and associated measures must be clear from the start; therefore, the performance contract document must clearly specify indicators of success and their relative priorities.

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5 These lessons are adapted from a PowerPoint presentation by the World Bank’s Prajapati Trivedi and from Petrie, Murray, 2002.
• Adherence to performance contract commitments should matter, and there should be consequences for ‘good’ and ‘bad’ performance. Thus there must be an explicit system of incentives (financial or nonfinancial) to motivate people to take performance contracts seriously while at the same time mitigating the risks of ‘gaming’ and other counterproductive behavior or consequences.

• The method and modality for collecting, reporting, and validating information should be agreed at the time a performance contract is signed.

• Performance contracts must deal explicitly with unknowns, specifying contingencies ex ante to make ex post evaluation of performance fair.

• It is important to avoid ambiguity or uncertainty over roles, clarify agency accountability for the conduct of those roles or highlight the presence of conflicting roles, and suggest any need to reallocate roles among agencies.

• When authority has been delegated, it may be necessary to specify the circumstances that would justify intervention by the contract principal in the management and operation of the agency.

II. Performance Contracts in the Dominican Republic

In 2006, to strengthen institutional budget management and accountability, and at the same time to introduce performance management techniques in the public sector, the Dominican Republic took the first steps in introducing performance contracting in the form of “Contratos por Resultados y Desempeño” (hereafter convenios). These convenios were intended as an instrument for the continual improvement of program and institutional performance, providing a flexible managerial link between the provision of budget resources and the desired improvements in the social sector’s performance, as reflected in baselines, indicators, and targets for outputs and outcomes.

The initiative was led by three main Government actors: the Ministry of Finance (Ministerio de Hacienda, or MH); the Ministry of Economy, Planning and Development (Ministerio de Economía, Planificación y Desarrollo, or MEPyD), which leads the planning, monitoring, and evaluation agenda; and the Ministry of Public Administration (Ministerio de Administración Pública, or MAP), which is in charge of institutional performance. The Government established a dedicated unit in MEPyD to support and coordinate the implementation of the convenios and decided to approach the implementation of the convenios on a pilot basis, designating a limited number of sector ministries to participate in the initial stage. In 2011, the Government also approved a regulation in Article 14 of the Organic Budget Law to establish the rules and criteria for the development, negotiation, approval, implementation, and monitoring and evaluation of results for the convenios.6

A. Pilot Implementation Phase
The Ministries of Health and Education were chosen to implement the first convenios on a pilot basis. Before the first convenios were signed, a series of diagnostics of basic conditions were used to prepare institutional strengthening plans to help the Ministries improve their planning

6 Propuesta de reglamentación del Articulo 14 de la Ley No. 423-06.
and management systems, a prerequisite for the implementation of the convenios. These plans also helped identify the programs that were better suited for implementing the first convenios. Once a plan was in place for addressing institutional weaknesses, work began on developing the performance indicators, baselines, and targets for inclusion in the contracts. Table 1 summarizes the phases and main achievements in the pilot introduction of the convenios.7

Table 1. Phases in the introduction, monitoring, and evaluation of the convenios

<table>
<thead>
<tr>
<th>Phase</th>
<th>Activities</th>
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<tbody>
<tr>
<td>Phase I. Identification of institutions</td>
<td>Signing of the agreement to initiate the process by MEPyD, MH, MAP, and the sector agencies.</td>
</tr>
<tr>
<td>Phase II. Evaluation of basic preconditions</td>
<td>Diagnostic to assess the status of key functions (strategic and operational planning, budget, management, and monitoring).</td>
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<tr>
<td>Phase III. Institutional strengthening</td>
<td>Signing of technical assistance agreements for capacity building and implementation of capacity-building plan.</td>
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<td>Phase IV. Establishment of performance agreements</td>
<td>Development of performance indicators (outcome, output, intermediate), baselines, and targets at institutional and program levels, and signing of performance contracts.</td>
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<tr>
<td>Phase V. Monitoring, self evaluation, and validation</td>
<td>Monitoring of progress on the technical assistance and performance contracts, presentation of self-evaluation reports, and preparation of a validation report.</td>
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<td>Phase VI. Dissemination of findings</td>
<td>Presentation of self-evaluations and validation report to the Cabinet and the public at large, identification of lessons learned for improving future performance contracts.</td>
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B. Key actors and roles

The convenios that were signed with the Ministries of Education and Health entail an agreement between three central Government institutions (MH, MEPyD, MAP) on the one hand, and the heads of ministries/agencies on the other (Table 2 outlines the roles of the main institutions). Each contract details the performance commitments to improve the management of the institution, as well as one or more priority programs, within the broader framework of institutional goals established in the national development strategy.

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7 For more details, see the November 2009 Government document “Gestión Orientada a Resultados y Contratos por Resultados y Desempeño,” technical annex, on http://www.stp.gov.do/.
Table 2. Institution and Roles in Performance Contracting

<table>
<thead>
<tr>
<th>Institution</th>
<th>Roles</th>
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<tr>
<td>MH</td>
<td>• Signs the contracts.</td>
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<tr>
<td></td>
<td>• Determines the amount and dates for the transfer of resources and budget</td>
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<td></td>
<td>for institutions and agencies.</td>
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<td></td>
<td>• Evaluates the budget execution.</td>
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<td></td>
<td>• Commits to transfer the whole budget resources on time.</td>
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<tr>
<td>MEPyD</td>
<td>• Signs the contracts.</td>
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<tr>
<td></td>
<td>• Leads the process for defining and regulating the contracts with MH and</td>
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<tr>
<td></td>
<td>MAP.</td>
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<tr>
<td></td>
<td>• Carries out the management in order to obtain international cooperation,</td>
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<tr>
<td></td>
<td>for the strengthening of capacities in planning and the improvement of</td>
</tr>
<tr>
<td></td>
<td>management quality. At the end of the process validates self-evaluation</td>
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<tr>
<td></td>
<td>of performance agreements prepared by sector Ministries with MAP.</td>
</tr>
<tr>
<td>MAP</td>
<td>• Signs the contracts.</td>
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<tr>
<td></td>
<td>• At the end of the process validates self-evaluation of performance</td>
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<td></td>
<td>agreements prepared by sector Ministries with MEPyD, with an</td>
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<td></td>
<td>emphasis on institutional performance, and prepares a report regarding</td>
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<td></td>
<td>the degree of accomplishment.</td>
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<tr>
<td>Sector ministry</td>
<td>• Signs the contracts.</td>
</tr>
<tr>
<td></td>
<td>• Proposes areas, targets, and indicators for the contracts.</td>
</tr>
<tr>
<td></td>
<td>• At the end of the process uses self-assessments reports on progress to</td>
</tr>
<tr>
<td></td>
<td>MEPyD.</td>
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<td></td>
<td>• Establishes improvement plans.</td>
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</tbody>
</table>

C. Content and implementation cycle

The convenios cover both institutional and program performance. They include commitments regarding (a) institutional objectives and goals that are verifiable by performance indicators, involving such managerial and institutional processes and systems as planning, procurement, monitoring, personnel, statistics, and organizational structure; and (b) objectives and goals of priority public programs, involving elements related to the volume and quality of goods and services delivered by the program.

For the Ministry of Education, the convenio includes such institutional objectives and targets as the publication of manuals that define all functions in the Ministry and guide the classification of each position, and the development of a platform for monitoring the sector. In addition, the convenio includes a series of goals in terms of results—such as the rehabilitation or construction of a certain number of classrooms in priority areas or the training of around 3,500 teachers identified through a capacity diagnostic. In the health sector, the main focus of the convenio is on improving the coverage and efficiency of vaccination and strengthening the logistical capacity of health centers to provide vaccinations.
The *convenios* are expected to meet certain standards—they must be simple, yet robust, as well as sustainable over time and relevant; prepared in a participatory way and accepted by all key actors; and define measurable metrics. In light of manager’s low levels of control over financial and human inputs, the process does not link financial incentives to contract performance; however, contract performance information will be presented to the President and Council of Ministers, as well as the public. The *convenios* will last for one to three years, with the initial set developed to line up with the annual budget cycle (see Figure 1). At the end of the process, after a self-assessment by the sectors and validation by MEPyD and MAP, findings will be presented to the Council of Ministers.

### III. Challenges and next steps

All actors involved have assessed the experience of implementing the *convenios* throughout the pilot phase as positive and see the value of both the process and the instrument. Nonetheless, the introduction of the *convenios* in the Dominican Republic faces a number of important challenges:

- **Number of actors.** Having all the key actors involved is an asset, but it also adds complexity and delays to the process. The multiplicity of central institutions involved in the development of the *convenios* presents coordination challenges and sometimes conflicting perspectives.
• **Budget predictability.** The *convenios* have a ‘double-sided’ accountability mechanism since they explicitly detail sector targets and objectives, but also put pressure on the MH to provide the necessary inputs to produce those outputs in a timely manner. Traditionally weak budget predictability in the Dominican Republic poses a serious challenge for these instruments.

• **Incentives.** The regulation in Article 14 of the Organic Budget Law contemplates an array of incentives that have not been used in the pilot phase for fear of putting too much initial pressure on the instrument. So far, only the public Cabinet presentation and the external validation of the sector achievements are the pressure points to stimulate performance. Going forward a more sophisticated system needs to be developed to reward/punish good/bad performance.

• **Timing.** After this first pilot phase, all key actors need to agree on aligning the instrument cycle to the budget cycle, taking into consideration other key milestones such as elections.

• **Target calibration.** Target setting is an art, and more detailed guidance needs to be provided to sector teams to inform the process of defining objectives and targets. It is critical to have *convenios* with targets which are neither unachievable (given the resources and timing), nor unambitious (easily achieved by institutional inertia alone). Therefore, teams need guidance on how to strike the right balance in setting targets.

Some critical actions for the future consolidation of the *convenios* include: (a) monitoring and evaluating the *convenios* commitments, their validation, and the presentation of the findings to the Cabinet; (b) developing a plan for the expansion of *convenios* to new programs and agencies; and (c) institutionalizing of the link between the Budget Division in the Ministry of Finance and the Planning Division of MEPyD.