

**CIVIL SERVANTS' PERCEPTIONS OF THE EFFECTIVENESS OF
THE PERFORMANCE CONTRACTING AT THE STATE LAW
OFFICES, KENYA.**

BY

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DECLARATION

I hereby declare that the work contained in this project is my original work and has not been previously in its entirety or in part submitted at any other University or institution for a ward of any degree.

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DEDICATION

I dedicate this work to my Late Dad, Herbert Kedenge. Although gone you were truly my inspiration and ultimately responsible for my success in life.

ACKNOWLEDGEMENT

First and foremost I thank my Lord Jesus Christ for giving me health, strength and perseverance to continue and finish this study. I would also like to thank my supervisor, S. N.M. Nzuve for making this a meaningful learning process. His guidance and encouragement throughout the process of formulating my ideas was invaluable. Secondly, I would like to thank My Moderator Mr. Ochoro for his ability to view things pragmatically was critical and priceless to the success of this study and needs to be commended. Thirdly I would like to thank the following individuals, without whom this project would not have been successful: All employees from State Law Office who took the time to complete all questionnaires and my staff mates at the Standard Chartered Bank especially Truphena Gaulk who had to shoulder more of my duties when I went around collecting data for the study. Finally, I thank my husband, Geoffrey, daughters Diana and Nicole, for their unconditional love, support and encouragement.

ABSTRACT

A Performance Contract is a freely negotiated performance agreement between government, acting as the owner of the organization and the representatives. It is an agreement between the Government and a manager of a public institution specifying expected levels of performance to be achieved. It is therefore a management tool for ensuring accountability for result by public officials, because it measures the extent to which they achieve targeted results. This study links perception and performance contracting in the sense that performance contracting is a management tool that an employer signs with an employee. The State Law Office derives its mandate from Section 26 of the Constitution of Kenya which provides for the Office of the Attorney General in the Public Service. The study set out to determine the civil servants perception of Performance Contracting (PC) at the State Law Office. It study adopted a descriptive survey design in order to facilitate the collection of information from a selected group of both the technical staff and the non-technical staff in State law Office. Applying the formular by Yamane 88 members of staff who were selected to participate in this study 88 participants were selected out of which only 73 responded out of which 39 of the respondents were male while the female were 34. This translates to 42% respondents being males and 58% of the respondents being female. Majority of them (63%) stated that the overall mandate of the SLO was to give legal advice to the executive and indicated that the attorney General was the overall legal officer of the government. When asked how faithful the SLO in discharging the mandate, only 37% indicated they were faithful while 33% said they were not faithful and 30% indicated that it was hard to tell. Looking at the State law Office Strategic plan reveals that out of 463 authorized state counsel establishment only 274 are in post. This is a clear indication of how understaffed the state law office is. The majority of the respondents 28.8% strongly agreed with the statement that Performance Contracting was a routine evaluation of work while 12 % strongly disagreed. The highest percentage, 79.5% were in agreement that performance contracting is a management tool for improving performance, while 13.7% disagreed. This was in total agreement with the statement that Performance Contracting is a management tool for measuring performance against negotiated performance targets. Results from the above show that performance contract is enhancing job satisfaction for the participants; hopefully their satisfaction would lead to improved job performance.

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ABBREVIATIONS

CE:	Chief Executive
ERS:	Economic Recovery Strategy
ERSWEC:	Economic Recovery Strategy for Wealth and Employment Creation
GOK:	Government of Kenya
ICT:	information Computing and Technology
KICC:	Kenyatta International Conference Centre
MCM:	Municipal Council of Maua
MDA:	Ministries, Departments and Agencies
PC:	Performance Contracting
RBM:	Result Based Management
ROK:	Republic of Kenya
SCs:	State Corporations
SLO:	State Law Office

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CHAPTER ONE: INTRODUCTION

1.1 Background to the study

A Performance Contract is a freely negotiated performance agreement between government, acting as the owner of the organization and the representatives. It clearly specifies the intentions, obligations, responsibilities and powers of the parties. It addresses economic, social and other tasks to be discharged for Economic or other desired gain. The fundamental principle of performance contracting is the devolved management style where emphasis is management by outcome rather than management by processes. It therefore provides a framework for changing behaviors in the context of devolved management structures (Abong'o 2006).

Performance Contracts in Kenya originated from the perception that the performance of the Public Sector had been consistently falling below the expectations of the Public. Performance Contracting is part of broader Public sector reforms aimed at improving efficiency and effectiveness in the management of Public service. The problems that have inhibited the performance of government agencies are largely common and have been identified as excessive controls, multiplicity of principles, frequent political interference, poor management and outright mismanagement (RBM Guide, 2005). While several approaches had been used to address these challenges, it was hoped that performance contract would be an effective tool for managing productivity.

1.1.1 The Concept Perception

Perception is the process by which organisms interpret and organize sensation to produce a meaningful experience of the world. It describes one's ultimate experience of the world and typically involves further processing of sensory input (Lindsay and Norman, 1977). Carterette

and Friedman, define perception as the active process of selecting, organizing, and interpreting information brought to the brain by the senses (Carterette and Friedman, 1978). While Krishnananda (1992), defines it a process of becoming conscious of an object. It is one of the means of obtaining valid knowledge in the world. The objects that are seen in the world are considered by the common man to exist outside his body and the senses, and he feels that the objects are reflected, as it were, in his mind in perception. In essence, perception is the process by which people interpret information around them. The information may not necessarily mean a true reflection of the situation, but could be how an individual received it in their own understanding to produce a meaningful experience of the world (Krishnananda, op.cit).

The fact that perception relies so much on individual interpretation of the world implies that it cannot be studied and understood in isolation; scientists link perception with other cognitive processes, such as learning, memory, judgment, performance and problem solving (Carterette and Friedman, 1978). This study links perception and performance contracting in the sense that performance contracting is a management tool that an employer signs with an employee setting out the performance measures and targets that should be achieved. The targets are negotiated hence agreeable to both the employer and the employee.

1.1.2 Performance contracting

Performance Contracting is part of the broader Public Sector Reforms aimed at improving efficiency and effectiveness in the management of the public service. A Performance Contract is a freely negotiated performance agreement between the Government, acting as the owner of a Government Agency, and the management of the Agency. It clearly specifies the intentions, obligations and responsibilities of the two contracting parties.

A performance contract constitutes a range of management instruments used to define responsibilities and expectations between parties to achieve mutually agreed results. It is a useful tool for articulating clearer definitions of objectives and supporting innovative management, monitoring and control methods and at the same time imparting managerial and operational autonomy to public service managers. It is therefore a management tool for ensuring accountability for results by public officials, because it measures the extent to which they achieve targeted results. According to Williams (2004), performance is multi-faceted. It is measured in terms of output and outcome, profit, internal processes and procedures, organizational structures, employee attitudes and organizational responsiveness to environment among others. Performance contract has been viewed as a management process that is supposed to improve staff performance so that what is measured gets done.

Government of Kenya introduced performance contracts in the public service through Legal Notice No. 93, the State Corporations (Performance Contracting) Regulations, in 2004 (Government of Kenya, 2004a). The need to improve performance in public service is further emphasized in the national strategic plans; Economic Recovery Strategy for Wealth and Employment Creation (2003-2007) and in the Vision 2030.

Performance contracts are expected to improve service delivery to the public by ensuring that top-level managers are accountable for results. They also ensure that resources are focused on the attainment of the key national policy priorities of the Government. Performance contracts enable the measuring and evaluating of performance, and relating rewards to measurable performance. The cycle of implementing PC includes the following steps: Setting Key Results Areas based on agreed priorities in the organization; Signing of contracts between the Chief Executive (CE) and the Principal; Desegregation of performance targets and signing of subcontracts between the CE

and heads of department; Quarterly and annual reporting of performance; and Quarterly and annual reviews of the contracts (Public Service Reform and Development Secretariat, 2006).

PCs clarify the goals and objectives of public agencies, including their obligations and responsibilities, and measure the extent of achievement of each objective. The cornerstone for designing a PC is the strategic plan of the public agency. The backbone of the PC is performance indicators, which are derived from the mission objectives of the agency. A standard PC contains the following elements: vision, mission, objectives, performance criteria, performance indicators and targets, commitments by Government/Principal, commitment by agency, frequency of monitoring and service charter. The parties to a performance contract consist of the Principal, that is the superior entity in the Government hierarchy, and the Agent, that is the subordinate entity in the same hierarchy (Public Service Reform and Development Secretariat 2006).

1.1.3 State law office

The State Law Office derives its mandate from Section 26 of the Constitution of Kenya which provides for the Office of the Attorney General in the Public Service. The State Law Office or Office of the Attorney General as it is commonly known has the overall responsibility of providing legal advice to the Government and its agencies. The Office of the Attorney General is responsible for ensuring that the Kenya Legal system effectively offers opportunity for the activities of the Public and Private Sector to be carried out within the ambit of the Law.

To fulfill its objectives the Office of the Attorney-General is currently divided into ten (10) Departments - Public Prosecutions, Civil Litigation, Legislative Drafting, Treaties and Agreements, Registrar-General, Kenya Law Reform Commission, Kenya School of Law, Administrator-General, Advocates Complaints Commission and Administration and Finance.

1.2 Statement of the Problem

Performance contracts is a process of performance management that leads to effective and efficient management practices, ensures improved staff performance, increased autonomy, and accelerated service delivery. The use of Performance Contracts has been acclaimed as an effective and promising means of improving the performance of public enterprises as well as government departments. Essentially, a Performance Contract is an agreement between a government and a public agency which establishes general goals for the agency, sets targets for measuring performance and provides incentives for achieving these targets. They include a variety of incentive-based mechanisms for controlling public agencies—controlling the outcome rather than the process. International experience with privatization suggests that the process of implementing a well-thought-out privatization program is a lengthy one. Therefore, in the interim, it is imperative that immediate steps be taken to increase the efficiency of the public enterprises and reduce further drain on the country's treasury resulting from their losses. A rigorous performance contract exercise reveals the “true” costs and benefits associated with a particular public enterprise.

1.2.1 The challenges experienced at the state law office

According to the strategic plan of the state law office, the State Law Office continues to encounter persistent challenges as it strives to offer quality legal services to its customers who include Government Ministries/Departments and the public in general. Some of these challenges include; inadequate professional and support staff slow pace of decentralization of our services to the districts and the continued drain of public funds as a result of lost court cases due to inadequate coordination arrangements between The State Law Office and Government Ministries

and Departments. Another critical challenge is the need to professionalize the public prosecutions (ROK,2007).

The Department of public prosecution has a staff complement of 122. Of these, 53 are State Counsels 21 of which are based at Nairobi while the other 32 are shared out among the provinces and districts throughout Kenya with the exception of North Eastern Province. The Department of Public Prosecutions faces numerous challenges. Chief among these challenges is the fact that crime has become more and more sophisticated. The scenario contributed by economic decline in Kenya, insecurity in neighboring countries, unemployment, poverty, globalization and the rising levels of education has been one of increase in criminal activities.

The challenges in the department can be highlighted as: Inadequate staff. This shortage is seen at both professional and support cadres and led to lack of proper preparedness in many cases, leading to adjournment of cases, backlog and congestion at remand homes. This has also led to delegation of prosecutorial functions to the Police who are not adequately trained in criminal law to enable them prosecute effectively. The other is inadequate training. Many cases nowadays involve use of modern technology such as the Internet. The inadequate training is partly due the shortage of staff. The department is not able to release staff for extended periods of time without severely affecting operations. The availability of funds is another constraint.

The department experiences other challenges like, poor working facilities. There is a serious need to upgrade the ICT network, provide for adequate transport, suitable office space, furniture and other working tools: unavailability of legal resources. The state of the library is wanting in the physical outlook, quality and relevance of the resource materials. There is a need to update the law reporting systems; inability to recruit and retain the best legal professionals. This is as a

result of the inadequate schemes of service as well as poor remuneration; population increase. This has stretched the capacity of the Department's ability to deal with the country's prosecutorial requirements; new and sophisticated forms of crime. These include cyber crime and internet fraud, terrorism, narcotics trade, money laundering, organized crime, corruption and criminal fraud; weak internal management and reporting systems. These internal weaknesses make management of prosecutorial services inefficient and hence ineffective.

1.2.2 Studies conducted in performance contracting

To understand the successes and challenges of implementing performance contracting in Kenya, Kobia and Mohammed (2006) carried out a survey among the civil servants. They developed a questionnaire from performance contracting literature and administered it to a sample of 280 senior public service course participants at the Kenya Institute of Administration. Data were collected from the course participants who were central in the implementation of performance contract in the government ministries and agencies. To investigate if the participants knew the goal of performance contracting, they asked them to state the goal of performance contracting in their ministries. A majority of the respondents (205 or 72.2 percent) summed the goal as the improvement of performance/enhance efficiency and effectiveness in service delivery through a transparent and accountable system. Further 206 or 73.6 percent acknowledged that their ministries had signed the second (2006/7) performance contract with the Government. The responses indicate that majority of the participants were conversant with performance contracting.

Regarding training in performance contracting, Kobia and Mohammed (2006) were fascinated to observe that only 57 respondents had received training in performance contracting while a majority 212 or 75.5 percent had not received any. It is interesting to note that 208 or 74.3%

indicated that they would require further training on all aspect of performance contracting. The study shows that over 60 percent of the respondents acknowledged that with the implementation of performance contracting, public servants were more involved in decision making, felt evaluation of the performance is done fairly, they knew where to seek assistance concerning meeting the targets and had assisted in understanding government policy documents.

To investigate participant's experience with the implementation of performance contract, the researchers asked several questions regarding whether the participants had signed performance contracts with their supervisor and whether they had experienced any problems with implementation of the performance contracting. The result was interesting as only 25 out of the 280 participants had signed the performance contract. They indicated some of the problems experienced during the implementation of the performance contract as, lack of adequate resources, resources not being released on time, and unplanned transfer of staff (Kobia & Mohammed, 2006).

When the results on performance of the various ministries were released in March 2010, at an event officiated over by President Kibaki, no criteria of arriving at the performance of the ministries and other Government agencies were given. In 2009, the results of performance for the previous financial year were held in abeyance and according to the Prime minister, the action was taken "because there were concerns that some of the key results did not seem to be in line with the position on the ground.

From the foregoing, it is evident therefore that over the last three periods of performance contracting, the general public has raised dissatisfaction on the results as they do not relate to performance (service delivery) on the ground as perceived and received by the public. The

dissatisfaction with the performance results has not only been limited to members of the public. Various Ministries, Departments and Agencies (MDA) have also challenged the announced results (ROK, 2010).

In a study carried out by Akaranga (2008), it was revealed that all government ministries and state corporations in Kenya had formally implemented performance contracts. According to the study, there was clear evidence of improvement in income over expenditure as well as service delivery in the state corporations and government ministries. This is evidenced by results for financial year 2005/6 where majority of state corporations posted excesses of revenue over expenditure (GOK, 2006). Akaranga argued that for it to have impact on the populace, the evaluation of this improved performance should be done not only by the government but also by the service users.

With respect to changes in customer relations, new interfaces and instruments had been installed, resulting in increased client-orientedness. Most state corporations and government ministries in Kenya, for instance, now have functional customer care and public relations offices. These offices have acted as valuable instruments for introducing a client focus. However, the functioning of these offices is hampered, in some cases, by the insufficiency of financial and human resources (Akaranga, 2008).

Other researchers on performance contracting include, Ochieng (2011) who looked at the Effects of performance contracting as a strategy for performance of parastatals in Kenya: a case of Kenya Revenue Authority. In this study he mainly looked at how performance contracting could be used as a strategy for performance (Ochieng 2011). Domonyag (2011) zeroed his study on the effectiveness of performance contracting on the efficiency of employee: a case of

Barclays Bank of Kenya (Domonyag,2011). This study although slightly similar to the current one, was in a private enterprise where benchmarks are set with or without the performance contracting unlike the current one which is looking at the effectiveness in the public enterprise. Additionally the current study is looking at the perception of the effectiveness of the performance contracting tool which has not been addressed by the currently available studies.

In his research on the Factors Affecting Implementation of Performance Contract Initiative at Municipal Council of Maua-Kenya (MCM), Omboi(2010) set out to determine how the introduction of PCs had affected service delivery, customer and employee satisfaction. In this objective, researcher analyzed a list of indicators of service recipients. GOK (2004) initiated performance contract in local authorities in order to improve on controlling operations in the area of service delivery, customer and employee satisfaction. Study showed that forty six percent of business respondents had noticed fairly positive changes in service delivery. The study findings agreed with those of Nellis (1995) that introduction of performance contract initiatives enhanced better service delivery by public institutions. In this research he also failed to look at neither the attitude nor the perception of the service providers on how effective the performance contacting tool.

In his study on The Process and Experience of Implementing Performance Contracts: A Case study of Kenya Power and Lighting Company Othielo(2011), set out to determine the processes, procedures and techniques adopted by the company in implementing performance contracting concept in public sector and the challenges encountered. He also sought to establish the employees' experiences and perceptions of the process. In that study he found out that the major challenges to the process included resistance to change by employees and managers, internalization of the new concept of performance contracting. These findings were as a result of

the study carried out in a parastatal. This leaves the following questions lingering, what results would be obtained if the study was in a public enterprise such as the state law office.

Other questions that could generate answers to help in addressing the research problem: Determining the public servants' perceptions of the effectiveness of the Performance Contracting Tool used by the Results Office in assessing the quality of service delivery to the public at the state law office, are: which roles of the public officers spelled out in the performance contracting document for the state law office?, How effective is the Performance Contracting (PC) tool used by the Results Office in assessing the performances in the public enterprises? What is the attitude of civil servants towards the Performance Contracting (PC) tools used by the Results Office in assessing the performances in the public enterprises? And what is the civil servants perception of the effectiveness of the Performance Contracting (PC) tools used by the Results Office in assessing the performances in the public enterprises. It is upon this background that the researcher seeks to determine the Staff perception of the Performance Contracting at the State Law Office.

1.3 Objectives of the Study

To determine the civil servants perception of Performance Contracting (PC) at the State Law Office.

1.4 Significance of the study

This study on the public servants' perceptions of the effectiveness of the Performance Contracting tool used by the Results Office in assessing the quality of service delivery to the public was of great importance in that the personnel in the results office who was enlightened on the effectiveness of the Performance Contracting (PC) tools they are using in assessing the performances in the public enterprises while the civil servants will have the opportunity to voice

their opinion on their perception of the Performance Contracting (PC) by the Results Office at the state law office.

The State Corporations (SCs) and other MDAs was able to obtain current information on the challenges and risks of performance contracting. Civil servants will gain knowledge on PC and most importantly will dispel the culture of hoarding information remove the mindset of individualism and suspicions that seems to have dogged the implementation. Likewise, this study will provide more information to the general public, private sector and development partners regarding performance contracting which will enhance their understanding of the same. Lastly, it will provide current literature regarding public sector reforms and performance contracting in government institutions to researchers and scholars.

CHAPTER TWO: LITERATURE REVIEW

2.1 Performance Contracting

The term performance contracting can be traced from France and Europe in the late 1960's and early 1970s in the context high inflation and unemployment which prevailed in those times. Corporatist governments such as France and United Kingdom used public enterprises to counter the problem. On the African continent Senegal was the first country when it signed Performance Contract with the National Railway in 1980(Okechukwu 2009). A recent World Bank study found 565 performance contracts in 32 developing countries, and an additional 103,000 contracts in China, as of June 1994(Shirley, 1998).

While performance contracting varies from country to country, and even from contract to contract, it is essentially a control mechanism that attempts to clarify objectives, establish performance targets, monitor performance, and evaluate results in comparison to the targets, in exchange for rewards for performance and substantial management autonomy—exactly those reform elements called for in the previous section. Performance contracting involves a process of negotiation between government and management to arrive at a detailed agreement that defines the rights and responsibilities of each party. Performance contracts often contain, in addition to the objectives, targets, incentives, and monitoring and evaluation procedures, a statement of the resources available for management to use, methods of dispute resolution, and reporting requirements. There may be very detailed requirements or prohibitions for either party. For instance, in the performance contract signed with the Senegal Electricity Company, the government agreed that it would force other organizations to pay their electricity bills (Shirley and Lixin, 2000).

Much was expected of performance contracts in developing countries, since they seemed a logical solution to the problems that state organizations faced, and since such contracts work in the private sector. Unfortunately, they have not worked well.-A World Bank study of twelve companies in Ghana, India, Korea, Mexico, the Philippines, and Senegal found no pattern of improvement associated with the performance contracts in productivity or profitability trends. Another study of manufacturing firms in China showed that the increasing use of performance contracts in China could not stem the fall in productivity among state enterprises. More important, the study found no robust, positive association between performance contracts and productivity. Taken together, the studies showed no evidence that performance contracts had improved efficiency (Shirley and Lixin, 2000).

Jody et al (2004) states that performance contracts define expectations of the concerned parties. They define work to be done, results to be attained, attributes (skills, knowledge and expertise) and competencies required to achieve these results. They also identify measures used to monitor, review and assess performance. While Peterson (2005) defines performance contracting as: "A freely negotiated performance agreement between the Government, acting as the owner of the Government agency, and the agency. It specifies the intentions, obligations and responsibilities of the parties."

Jenkins (2003) states that a performance contract is a management tool for measuring performance that establishes operational and management autonomy between government and public agencies. It reduces quantity of controls and enhances the quality of service. The performance contract privatizes the style of public sector management by focusing on results and not processes. It also measures performance and enables recognition and reward of good performance and sanction bad performance.

According to England (2000), a performance contract addresses economic, social or other tasks that an agency has to discharge for economic performance or for other desired results. It organizes and defines tasks so that management can perform them systematically, purposefully, and with reasonable probability of accomplishment. It also assists in developing points of view, concepts and approaches for determining what should be done and how to go about it. Performance contracts comprise determination of mutually agreed performance targets and review and evaluation of periodic and terminal performance.

Performance contracts should focus on two levels. For state corporations, the first level is between the government and the Board of Directors. Generally, Boards of Directors and management of public enterprises bind themselves to the achievement of mutually agreed targets, in return for operating autonomy and specified rewards. The second level is between the Board of Directors and the Chief Executive, since the Board is not in charge of routine management of the corporation. It assigns its responsibility assumed in the contract with the government through signing of a performance contract with the Chief Executive. For the civil service, the first level contract is signed between the President and the Ministers, Head of Public Service and the Permanent Secretaries with the respective ministries counter-signing.

According to Government of Kenya (GoK) 2007, a performance contract is a management tool for measuring negotiated performance targets. 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.

The Kenyan government acknowledges 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 Economic Recovery Strategy for Wealth and Employment Creation (ERS) of 2003-07, the government of Kenya outlined its commitment towards the improvement of the general performance in ministries and state owned corporations through the introduction of performance contracts. It is within this context that the Kenyan government introduced performance contract

is a management tool for measuring performance against negotiated performance targets (GoK, 2003). The contract specifies the mutual performance obligations, intentions and responsibilities between two parties. The objectives of introducing the performance contracts were to improve service delivery to the public by ensuring that top-level managers were accountable for results; improve efficiency levels and ensure that public resources were focused on attainment of the key national policy priorities of the government; and institutionalize performance oriented culture in the public service; measure and evaluate performance among others.

During the initiation phase, the performance contracts were introduced on a pilot basis in sixteen State Corporations, thirteen of them for the late 2004 to mid 2005. The remaining three were implemented from January 2005 through December 2005. In the evaluation stage the sixteen Corporations recorded an increase of 282 percent in pre-tax profits over the previous period (2003/04) and an increase of 14 percent over the set targets.

2.2 Performance Contracting in Kenya

The concept of performance Contracting was first introduced in the management of state corporations in 1989. A Parastatal Reform Strategy Paper, which was approved by cabinet in 1991, was the first official recognition of the concept of Performance Contracting as it was part of the policies that were recommended to streamline and improve the performance of State Corporations. The policies were: Contracting out Commercial activities to the private sector, Permitting private sector competition for existing state monopolies and the Improvements in the enabling environment of all strategic parastatals including removal of potentially conflicting objectives. Performance Contracts, where applicable was used to make transparent the cost of social services and to compensate the parastatals for their net costs.

The first two parastatals to be on Performance Contracting were Kenya Railways Corporation and the National Cereals and Produce Board. Kenya Railways signed PC's in April 1989 and National Cereals and produce Board signed in November 1990. The PC's of Kenya Railways Corporation and the National Cereals and produce Board eventually failed due to the lack of Political goodwill to drive this process. It was perceived as donor-driven, the PC's did not conform to the requirements of the three subsystems of PC's as they lacked the performance incentive system and there was no provision for the impact of external factors such as changes in GoK policy, inflation, exchange rate fluctuations that would have made evaluation fair(Kobia and Mohammed, 2006).

Kenya decided to re-introduce performance contracting in 2003. The initiative to introduce PC's in Kenya came from H.E. the president and was clearly spelt out in the Economic Recovery Strategy for wealth and Employment Creation (ERSWEC). In August 2003, the government appointed a committee to spearhead the introduction and implementation of Performance Contracts namely the performance Contracts Steering Committee. The government made a decision to introduce PC in state corporations on a pilot basis in 2004. Sixteen State Corporations signed the PC's by December 2004. The criteria for selecting the pilot companies included representation of diverse sectors and corporations with Strategic plans. Following the success in implementing performance contracts in state corporations, the government extended the process to Public Service beginning with Permanent Secretaries and accounting officers. Further, in April 2005, Government decided to place the management of 175 Local Authorities on Performance Contracts. Accordingly, five major municipalities completed Performance Contracts on 30th September 2005 on pilot basis; these are:

(i) City Council of Nairobi

- (ii) Mombasa Municipal Council
- (iii) Eldoret Municipal Council
- (iv) Kisumu Municipal Council
- (v) Nakuru Municipal Council

Implementation of the Process of Performance Contracting began only in 2004. The real impact of the process is yet to be fully visible. However, there is clear evidence of radical improvement particularly in the following aspects of the management of Public Service. Remarkable and unprecedented improvement in profit generation for commercial state corporations, significant improvement in service delivery and operations by such ministries as immigrations and registration of Persons, Agriculture, Provincial Administration and Internal Security, Health, finance and Water, significant improvement in operations and services by Nairobi City Council, Kisumu and Nakuru Municipalities and 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 (Kobia and Mohammed, 2006).

2.3 Benefits of Performance contracting

Implementation of Performance Contracting in Kenya has yielded significant benefits to the country. Some of the positive impacts of Performance Contracting noted in prior reviews and documents such as the Performance Contracting Review report (2010), the Sector Performance Standards (2010) and the National Customer Satisfaction Survey Report (2009) include:

- a) Performance Contract has refocused Ministries, Departments and Agencies (MDAs) on realizing their core mandates;

- b) Improved MDA performance e.g. improved profitability levels particularly in the Commercial State Corporations; improvements in the performance of the public service particularly through the introduction of citizen service delivery charters which refocused MDAs on identifying and delivering against service standards;
- c) Improvements in levels of transparency and accountability where obligations of all public agencies are included in the publicly signed performance contracts and in most cases uploaded on the agencies' website for stakeholder reference.

2.4 Purpose of Performance Contracting

Performance Contracting is part of the broader Public Sector Reforms aimed at improving efficiency and effectiveness in the management of the public service. A Performance Contract is a freely negotiated performance agreement between the Government, acting as the owner of a Government Agency, and the management of the Agency. It clearly specifies the intentions, obligations and responsibilities of the two contracting parties. Performance contracts are anchored on the development of strategic plans which present a roadmap for each agency. A Performance contract is therefore a management tool for ensuring accountability for results by public officials, because it measures the extent to which they achieve targeted results.

The main purpose of the performance contracting according to Armstrong and Baron (2004) therefore, 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 in spite 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.

2.5 Successes of Performance Contracting in Kenya

Implementation of Performance Contracting in Kenya has yielded significant benefits to the country. Some of the positive impacts of Performance Contracting noted including in prior reviews and documents such as the Performance Contracting Review report (2010), the Sector Performance Standards (2010) and the National Customer Satisfaction Survey Report (2009) are that, performance Contract has refocused Ministries, Departments and Agencies (MDAs) on realizing their core mandates. It has improved MDA performance e.g. improved profitability levels particularly in the Commercial State Corporations; improvements in the performance of the public service particularly through the introduction of citizen service delivery charters which

efocused MDAs on identifying and delivering against service standards, the level of transparency and accountability has highly improved.

2.6 The concept Perception

Flodgetts and Hegar (2005) define perception as a person's view of reality which is influenced by the person's values. Schermerhorn, et al (2004) offer a different definition of perception as the process by which people select, organize, interpret, retrieve and respond to information from the world around them. This information is obtained from the five senses (sight, hearing, touch, taste and smell). It is further mentioned that the perceptions or responses of any two persons are not necessarily identical even if they are both describing the same occurrence or event. It is through perception that people process information inputs into responses that involve feeling and action. Perception is another way to form impressions about oneself, other people and life daily experiences. Perception can also act as a filter or screen through which information will pass before it affects other people. The quality or accuracy of a person's perception has a major impact on his or her responses in a given situation (Schermerhorn, et al.; 2004:).

2.7 Staff Perception of Performance Contracting

Individuals behave in a given manner based not on the way their external environment actually is but, rather, on what they see or believe it to be. According to Robbins, Perception is a process by which individuals organize and interpret their sensory impressions in order to give meaning to their environment (Robbins, 2007). An organization may spend millions of dollars to create a pleasant work environment for its employees. However, in spite of these expenditures, if an employee believes that his or her job is lousy, that employee will behave accordingly. It is the employee's perception of a situation that becomes the basis for his or her behavior. The employee who perceives his/her supervisor as a hurdle reducer who helps him/her do a better job

and the employee who sees the same supervisor as “big brother, closely monitoring every motion, to ensure that I keep working” will differ in their behavioral responses to their supervisor. The difference has nothing to do with the reality of the supervisor’s actions; the difference in employee behavior is due to different perceptions (Martins, 2006).

The evidence suggests that what individuals perceive from their work situation will influence their productivity more than will the situation itself. Whether or not a job is actually interesting or challenging is irrelevant. Whether or not a manager successfully plans and organizes the work of his or her employees and actually helps them to structure their work more efficiently and effectively is far less important than how employees perceive the manager’s efforts. Similarly, issues like fair pay for work performed, the validity of performance appraisals, and the adequacy of working conditions are not judged by employees in a way that assures common perceptions, nor can we be assured that individuals will interpret conditions about their jobs in a favorable light. Therefore, to be able to influence productivity, it is necessary to assess how workers perceive their jobs.

Absenteeism, turnover, and job satisfaction are also reactions to the individual’s perceptions. Dissatisfaction with working conditions or the belief that there is a lack of promotion opportunities in the organization are judgments based on attempts to make some meaning out of one’s job. The employee’s conclusion that a job is good or bad is an interpretation. Managers must spend time understanding how each individual interprets reality and, where there is a significant difference between what is seen and what exists, try to eliminate the distortions. Failure to deal with the differences when individuals perceive the job in negative terms will result in increased absenteeism and turnover and lower job satisfaction.

2.8. Core Functions of the State Law Office

The core functions of the State Law Office include among others, being the principal legal advisor to the Government in relation to the matters such as Constitutional matters, by advising on appointment to constitutional offices, interpretation of the constitution in the government, and guardian of the constitution, advising on all prosecutions matters, undertaking all criminal prosecutions and representing the state in appeals and revisions, Undertaking civil litigations involving government and its agencies, Undertaking drafting of bills, subsidiary legislation, notice of appointments to state corporations, constitutional offices and public offices and supervision and maintenance of legal standards and ethics by ensuring that advocates conduct themselves professionally and that standards of legal services rendered to the public are improved and maintained.

The Attorney Generals other duties are providing registration services by undertaking duties of Registrar of business names, chattels transfers, adoptions books and newspapers, building societies, business companies, deed of arrangements, hire purchase agreements, legitimized persons, limited partnership, marriages, societies, trade unions and college of arms, Performing duties of official receiver, bankruptcy and company liquidation and the copyright office, providing public trustee services through deceased persons estates and minor trusts.

2.8.1. Organisation structure

Currently the Office of the Attorney-General is divided into ten (10) Departments. The specific functions of these departments are as follows:-

The Public Prosecution department is charged with the responsibility of undertaking Criminal Prosecutions, Representing the State in criminal prosecutions, appeals and revisions, Advising

Government Ministries/departments and State Corporations' on matters pertaining to the application of Criminal Law and undertaking the judicial review cases arising out of criminal proceedings. While the civil litigation department undertakes all civil litigations for and on behalf of the Government and Parastatals, advise Government on all Civil matters, undertakes arbitration for and on behalf Government Ministries and Departments.

The department of Registrar General is charged with the responsibility of overseeing and reviewing legal matters pertaining to the Registrar-General's activities, undertaking duties of Registrar of business names, chattels transfers, adoptions, books and newspapers, building societies, business companies, deed of arrangements, hire purchase agreements, legitimized persons, limited partnership, marriages, societies, trade unions and college of arms and to perform duties of official receiver, bankruptcy and company liquidation and the copyright office

The Department of Treaties and Agreement is responsible for negotiating, drafting and vetting local and international documents, agreements and Treaties and conventions for and on behalf of the Government Ministries, Departments and State Corporations and undertaking interpretations of local and international documents, agreements and treaties and conventions for and on behalf of Government Ministries, Departments and State Corporations and rendering any legal advice thereon. While the Kenya Law Reform department receives and consider any proposals for the reform of the law that may be made or referred to them; prepares and submits to the Attorney-General programmes for the examination of different branches of the law with a view to reform; undertake, pursuant to any programme approved by the Attorney-General, the examination of particular branches of the law and the formulation, by means of draft Bills or otherwise, of proposals for reform therein and to provide advice and information to ministries and departments

in the Government with regard to the reform or amendment of a branch of the law appropriate to that ministry or department.

The Administrator General department facilitates and maintains the rule of law in the administration of deceased person's estates and minors' trusts under the Public Trustee Act (Cap.168). It also facilitates and assists in the promotion of economic development by undertaking and supervising registration of unit trusts under Unit Trusts Act (Cap.521), sees to the collection of Government revenue in the form of estate duty and Public Trustee fees under Estate Duty Act (Cap.483) and Public Trustee Act (Cap.168), assists in the management of custodianship of enemy property during times of war and undertakes management of affairs of persons who are adjudged mentally incompetent.

There is also Advocate Complain Commission department at the Law office that ensures advocates conduct themselves professionally and that standards of legal services rendered to the public are improved and maintained and enquires into complaints against Advocates. While the Legislative Drafting Department deals with the drafting bills, subsidiary legislation, notices of appointment to state corporations, constitutional offices and public offices, Publishing Acts of Parliament and subsidiary legislation in the Kenya Gazette, Preparing amendments to legislative enactment already in existence, Preparing statutes for revision, Rendering advice to government ministries and state corporations on legislative and other legal matters and Overseeing the central library.

The finance and Administration department charged with the responsibility of performing the functions of accounting and authorized officer, Co-ordination of administrative matters,

budgetary, financial management and control of expenditure, Preparation of Recurrent and Development Estimates, Office organization and accommodation, dealing with Public Accounts Committee Matters and Parliamentary Questions, Public relations, general inquiries and complaints from members of public, Planning and implementation of development programmes, Procurement of supplies and services, Interpretation and implementation of personnel policies and civil service regulations and Maintenance of all financial records, collection of revenue and preparation of financial statements and appropriations accounts.

Finally is the Kenya School of Law. This is an academic institution established under section 6(2) of the Council of Legal Education Act (Cap. 16A Laws of Kenya) as read together with Paragraph 2 of the Second Schedule of that Act. The mandate of the School includes among others, organizing and conducting various programmes, courses, and research projects related to law.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Research Design

The study adopted a descriptive survey design in order to facilitate the collection of information from a selected group of both the technical staff and the non-technical staff in State law Office since the design involved observing and describing the behavior of a subject without influencing it in any way. Survey design was used to collect data from an identified group of persons with the objective of determining the current status of that group of persons with respect to the study objectives. This design was adopted as the suitable research design since it facilitates the collection of original data necessary to realize the research objectives.

3.2 Target Population

The target population for this study was all staff members, both technical and non-technical in the State Law offices that are charged with the responsibility of running of day to day activities.

3.3 Sampling Design

The sampling frame was obtained from the State Law Office (see appendix 2). The sampling frame consisted of all technical officers and the non-technical staff at the State Law Office. The State Law Office is currently divided into ten (10) Departments - Public Prosecutions, Civil Litigation, Legislative Drafting, Treaties and Agreements, Registrar-General, Kenya Law Reform Commission, Kenya School of Law, Administrator-General, Advocates Complaints Commission and Administration and Finance. The employees in the selected departments were included in the sampling frame.

Two-staged sampling process was used to select the sample for the study. The first stage was stratified sampling process as demonstrated in the sampling frame. Thus, each department was

considered as strata of both Legal and Non Legal staff. All the eight participating departments were each written on a piece of paper, put in a container and five randomly selected. In this process, the following departments were selected; Public Prosecutions, Civil Litigation, Registrar-General, Administrator-General and Advocates Complaints Commission. The following sampling frame in table 3.1 was obtained.

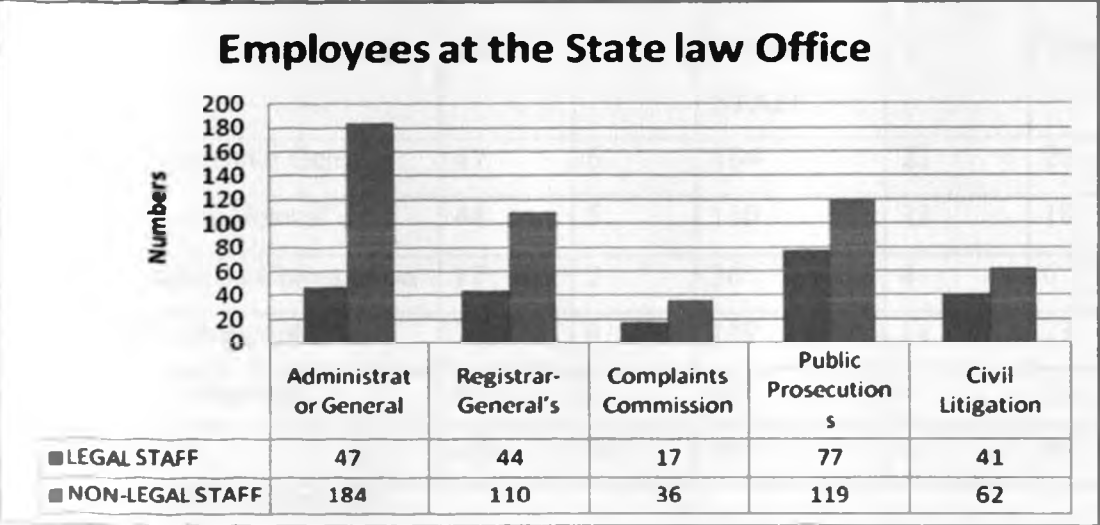
Table 3.1. Staff distribution at the state law office

NO.	DEPARTMENT	LEGAL STAFF	NON-LEGAL STAFF
1	Administrator General	47	184
2	Registrar-General's	44	110
3	Advocates Complaints Commission	17	36
4	Public Prosecutions	77	119
4	Civil Litigation	41	62
	TOTAL	226	511

Source. State law office strategic plan 2008-2013.

The second selection involved stratifying them into the legal staff and the non-legal staff as captured in the bar chart 3.1 below:

Chart 3.1: Employees at the State Law Office



Source: Strategic Plan 2008-2013

The next step was to randomly select from each stratum people to participate in the study so as to ensure a representative sample of the population in both Legal and Non Legal category of staff.

According to Yamane (1967) the simplified formula for calculating sample sizes is

$$n = \frac{N}{1 + N(e)^2}$$

Where e is the Precision Levels

N is the population

Considering a Confidence Level is 95% and a precision level of 10%

Working out for all the staff at the State Law Office yield the following results

$$= \frac{737}{1 + 737(0.1)^2}$$

$$= 88.058$$

This translates to 88 members of staff who were selected to participate in this study.

Proportionally this means that each department will produce the following participants as shown

in the table 3.2 below:

Table 3.2: Distribution of the selected sample.

NO.	DEPARTMENT	LEGAL STAFF	Sample 1	NON- LEGAL STAFF	Sample 2	Total Sample
1	Administrator General	47	6	184	22	28
2	Registrar-General's	44	5	110	13	18
3	Complaints Commission	17	2	36	4	6
4	Public Prosecutions	77	9	119	14	23
5	Civil Litigation	41	5	62	8	13
	TOTAL	275	27	687	61	88

Source: Strategic Plan 2008-2013

were collected. The others were not due to various reasons. In most cases on visiting to collect the questionnaire, the officers concerned were out of the office, either absent from work or on out of station assignment.

The return rate which is computed as:

$$\frac{\text{Number of questionnaire collected}}{\text{Number administered}} \times 100\%$$
$$\frac{73 \times 100\%}{88} = 83\%$$

Although there is no 'acceptable' response rate, some have argued that non-response is a predominantly random process, and that when the response rate is increased to >70%, most non-response biases seem to disappear (Lydeard ., 1996). Thus according to Lydeard, 1996, the 83% questionnaire collected is very good and will be free from any form of bias.

3.5 Data Collection

Both primary and secondary data was collected. Primary data was collected using a structured questionnaire. The questionnaire was divided into two major sections A and B. section A sought to gather demographic information about the respondents. Section B gathered information on the research questions. The questionnaire contained closed-ended questions with check boxes for the respondents to tick their responses and a few questions seeking the respondents to fill in their opinions. Data was also collected by way of observations and interviews with the key informants. These observations and conversations formed the source of qualitative primary data.

The research in general went well; there were however some challenges encountered during the data collection. The first logistical challenge was to get permission to conduct the research from the top management. It took about two months before the permission was granted and then only with restrictive conditions. The data collection was a challenge because this particular

government department, as a state organ, operates in terms of a rigid bureaucracy, combined with secrecy and protection of confidential information. To a certain extent, these characteristics delayed the research. However the data collection went on as planned.

The collected data was subjected to data cleaning process. Data cleaning, also called data cleansing or scrubbing, deals with detecting and removing errors and inconsistencies from data in order to improve the quality of data. Data quality problems are present in single data collections, such as files and databases, e.g., due to misspellings during data entry, missing information or other invalid data.

3.6 Ethical Issues

“Research design should always reflect careful attention to the ethical issues embodied in research projects. The essential purpose of ethical research planning is to protect the welfare and the rights of research participants, although there are many additional ethical considerations that should be addressed in the planning and implementation of research work. Obtaining consent from participants is not merely the signing of a consent form; consent should be voluntary and informed. This requires that participants receive full, non-technical and clear explanation of the tasks expected of them so that they can make an informed choice to participate voluntarily in the research” (Terre Blanche and Durrheim 1999).

An application letter for permission to conduct an interview was sent by the author to the SLO. It took a while before permission was granted by the SLO. Permission had been granted in principle by this government department for this study to be conducted, on condition that the names of the participants should not appear anywhere in the research report. A reassurance was

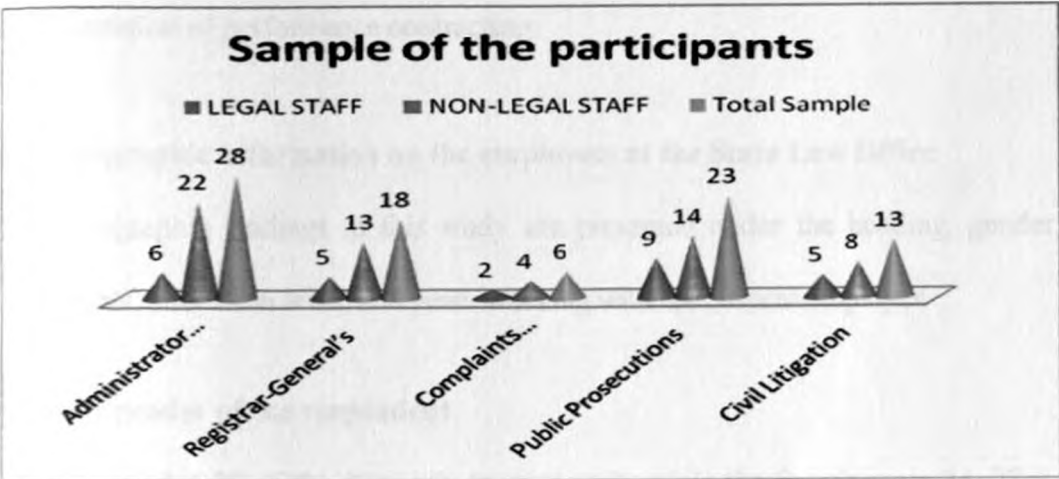
given to the management that that the conditions would be observed and complied with as expected. This was formalised through signing of a confidentiality statement by the researcher.

3.7 Data analysis

Quantitative data was analyzed using descriptive statistics such as percentages; frequency distribution, mean and median .Data analysis was supported by using SPSS software package. The findings were represented in tables, pie charts, and column bar charts. Qualitative data was analysed using content analysis with the support of SPSS software package as appropriate. The results obtained were checked against the background of the research question as informed by the piloting earlier done to ensure validity and reliability of the findings.

In the study, the number of the non-legal staff selected was higher than the number of the legal staff, thus 69% of the selected participants were the non-legal staff at the state law office and 31% were the legal staff. This is understandable since they form the largest percentage of employees at the State Law Office. This can be summarized as:

Chart 3.2. Sample of participants



Source: researchers sampling frame

The department that provided more participants was the administrator general which had 25% representation in the participating personnel. This was followed by public prosecution with 16% and registrar general with 15%. The department least represented was advocates complaints commission that has 4.5% participation followed by civil litigation that had 9%. This was not by choice but by the proportion of the employees in the department as compared to the entire staff number at the state law office.

3.4 Response rate

This refers to the number of respondents who complete a questionnaire compared to the number assigned, usually expressed as a percentage. In this study, since the questionnaires were administered by drop and collect later method, out of the 88 questionnaires administered, 73

CHAPTER FOUR: THE FINDINGS AND ANALYSIS

4.1 Introduction

In this chapter information on the findings and the analysis are presented under the various sub-heading such as; the demographic information on the respondents, Overall mandate of the SLO, performance contracting, perception of performance is contracting and attitudes towards implementation of performance contracting.

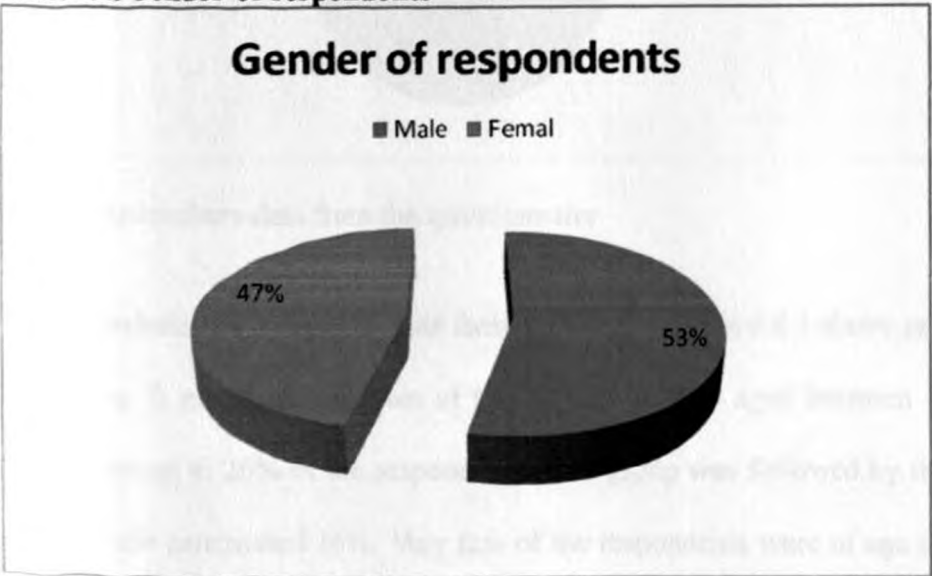
4.2 Demographic information on the employees at the State Law Office

The demographic findings in this study are presented under the heading, gender, age of the respondents, education level, and years working with the current employer.

4.2.1 The gender of the respondent

It was noted that 39 of the respondents were male while the female were 34. This translates to 53% respondents being males and 47% of the respondents being female. The information collected on the gender of the respondents is summarized in the chart 3 below:

Chart 4.1. Gender of respondents



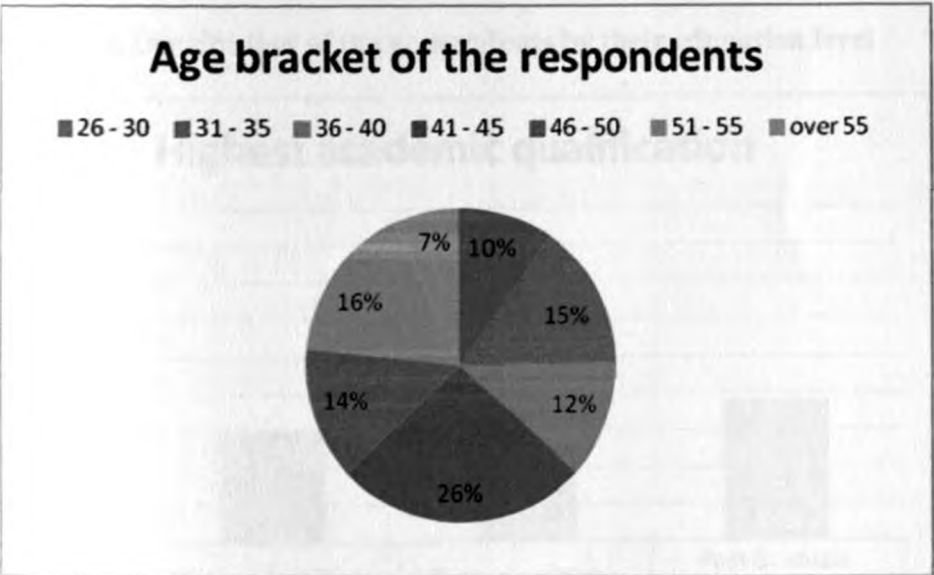
Source: Researchers data from the questionnaire

This agrees with Public Service minister Dalmas Otieno report on the Kenya’s first ever government audit of the civil service showing on gender, only four of the 48 ministries have employed more women than men. There are: Public Health (55 per cent), Medical Services (51 per cent), State Law Office (58 per cent) and Public Service Commission (59 per cent) (DN, July 4th, 2011).

4.2.2 Age of the respondents at the State Law Office

The respondents were asked to indicate their age range. The following responses were obtained

Figure 4.1; the age bracket of the respondents



Source: Researchers data from the questionnaire

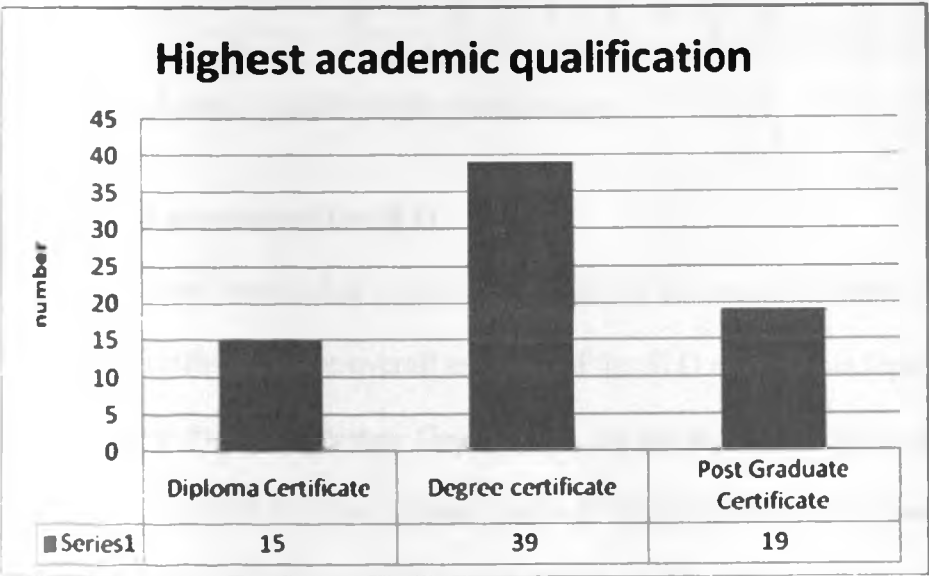
The respondents were asked to state their age bracket; Figure 4.1 above presents the summary of the finding. It emerged that most of the employee were aged between 41 and 45 years. This group made up to 26% of the respondents. This group was followed by those in the age bracket 51 to 55 who constituted 16%. Very few of the respondents were of age over 55year (7%). This could be explained by the new retirement rule that requires civil servants to retire at 60 and not at

age 55 as initially was. The employees in age bracket 26 – 30 years could be accounted for by the recent recruitment as recorded in the State laws Office strategic plan of 2008- 2013(ROK, 2008).

4.2.3 Academic level of the Support staff.

The majority of the respondents 39(53%) had a Bachelors degree certificate, while 19(26%) of the respondents had a Post Graduate certificate, with a paltry 15(21%) having a Diploma certificate. This could be explained by the very specialised roles these officers have to play. More so with the introduction of module11 programs in the public universities in Kenya a number of people have opted to advance their studies.

Figure 4.2. Distribution of the respondents by their education level



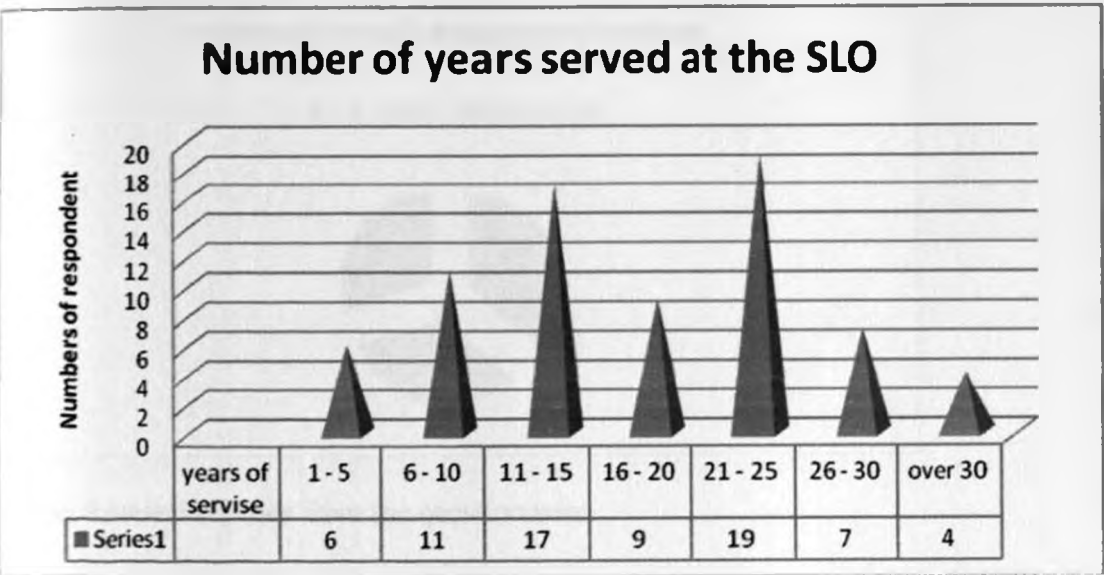
Source: Researchers data from the questionnaire

4.2.4 Years the respondents have worked with the State Law Office

The data collected revealed that 26% of the employees had worked for SLO for between 21 – 25 years. And 23% had been there for between 11 and 15 years. A paltry 8% had served the corporation for below 5 years. This could be accounted for by the recruitment done in 2007/08

financial year 165 Clerical officers and 46 support staff. An additional 52 State Counsels were recruited during the 2009/2010 financial year (ROK, 2008).

Figure 4.3 the distribution of the respondents by the years served in the corporation



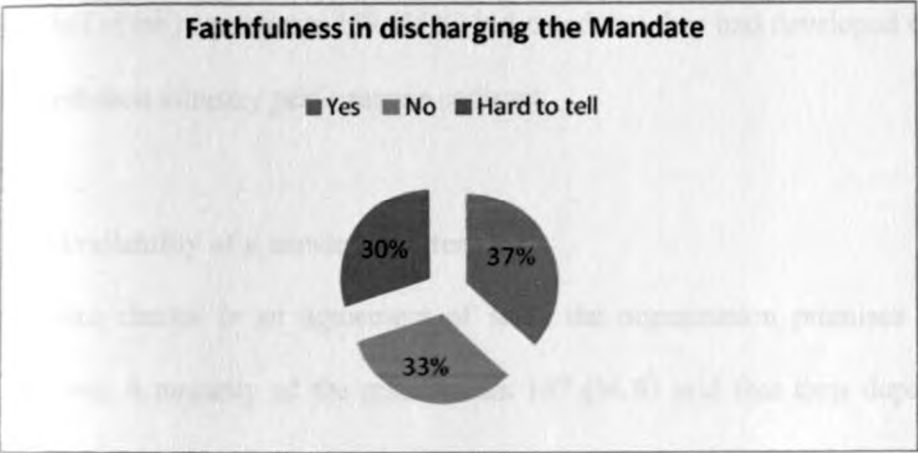
Source: Researchers data from the questionnaire

4.3. Overall mandate of the SLO

The respondents were asked to give a summary of the overall mandate of the SLO. Majority of them (63%) stated that the overall mandate of the SLO was to give legal advice to the executive and indicated that the attorney General was the overall legal officer of the government. This agreed with that stated in the strategic plan i.e. “The SLO derives its mandate from section 26 of the Constitution, which provides for the Office of the Attorney-General in Public Service. The role of the Attorney-General is to provide legal services to the Government. He is the Government’s Principal Legal Advisor. The Office is mandated to institute and undertake criminal proceedings against any person before any court other than Court Martial. In addition, the Attorney General offers a wide range of legal services to the public”(ROK, 2008).

When asked how faithful the SLO in discharging the mandate, only 37% indicated they were faithful while 33% said they were not faithful and 30% indicated that it was hard to tell.

Figure: 4.4 Faithfulness in discharging the mandate



Source: Researchers data from the questionnaire

This appears to be in agreement with the report prepared by the Oscar foundation which is quoted to have reported the “The State Law Office (SLO) hardly handles cases involving police officers to the logical conclusion. However, the SLO receives a numbers of complaints against police officers filed by individuals who have been aggrieved by known officers” (OFFLACK, 2006).

4.4 Performance contracting

The respondents were asked to respond to various questions concerning the performance contracting.

4.4.1 Knowledge of the strategic plan

The Strategic plan is a critical management tool in performance contracting. To establish if the ministries had developed strategic plans, the participants were asked whether their ministries had developed strategic plans. 242 (86.4%) indicated that their ministry had strategic plans, while

31(11.1%) indicated that they did not have. Closely related to strategic plan, is the departmental work plan aligned with performance contract. A majority of the respondents 223 (79.6 %) indicated that they had departmental work plan, while 43 (15.4%) had not. In addition, slightly over half of the respondents 159 (56%) indicated that they had developed individual work plan in line with their ministry performance contract.

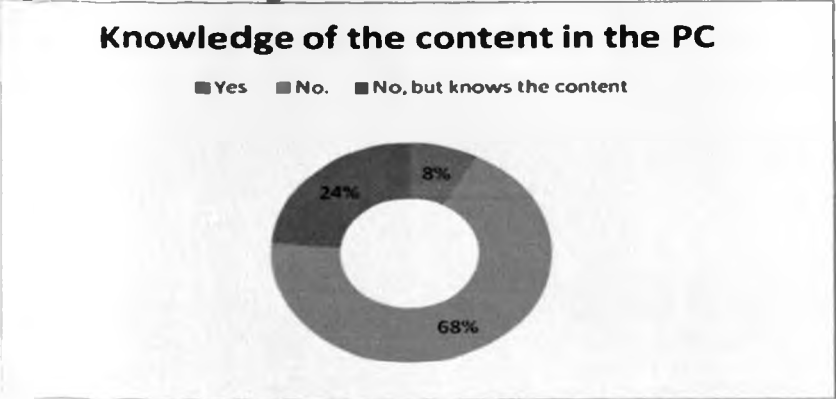
4.4.2 Availability of a service charter

A service charter is an agreement of what the organization promises to do to satisfy their customers. A majority of the respondents 187 (66.8) said that their department had developed service charters. However only 88 (31.4 %) were involved in the development of their Ministry’s service charter.

4.4.3 Understand the content of the performance contracting

When asked if they have ever read or gone through the performance contract signed between the SLO and the government, a whopping 69% were categorical they have never read it, while 23 % indicated that although they have not read it they have been briefed on its content by their sectional heads.

Figure 4.5 : Knowledge of the Contents of the PC



Source: Researchers data from the questionnaire

Only 8% had actually gone through it, this is understandable since these were the departmental heads who must have been given copies to read through understand and draw up individual targets for the members of their departments.

4.4.4 The key strategic objectives of the PC

The key strategic objectives as stated in the performance contract signed between the government and the state law office are that the SLO intends to Provide efficient, comprehensive and competent legal services to the Government and its agencies, create a conducive legal environment suitable for maintenance of law and order, and ideal for socio-economic development, facilitate promotion of a law-abiding culture for a cohesive and prosperous society and reduce the backlog of court cases. Others are to improve adjudication of complaints against practising advocates and undertake systematic decentralization of all legal services to the provincial/district level, develop a systematic and updated catalogue of all treaties and conventions to which Kenya is party, modernize and computerize the State Law Office, improve the professional competence and skills of the State Law Office and finally to update of all laws to facilitate socio-economic development and promotion of democracy(ROK 2010).

When asked to indicate the key strategic objectives the following report was obtained:

Table 4.1 key strategic objectives

Objective	Number of respondents	Percentage %
Provide efficient, comprehensive and competent legal services to the Government and its agencies.	71	97
Create a conducive legal environment suitable for maintenance of law and order, and ideal for socio-economic development.	65	89
Facilitate promotion of a law-abiding culture for a cohesive and prosperous society	45	62
Reduce the backlog of court cases.	59	81
Improve adjudication of complaints against practising advocates.	68	93
Undertake systematic decentralization of all legal services to the provincial/district level.	56	77
Develop a systematic and updated catalogue of all treaties and conventions to which Kenya is party.	51	70
Modernize and computerize the State Law Office.	70	96
Improve the professional competence and skills of the State Law Office.	66	90
Update of all laws to facilitate socio-economic development and promotion of democracy	62	85

Source: Researchers data from the questionnaire

Thus 97% of the respondents selected the provision of efficient, comprehensive and legal services to the government and its agencies. An equally larger number selected modernisation and computerization of the SLO and improve the adjudication of complaint against practicing lawyers. However the most shocking is that only 62% chose the facilitation of the law abiding culture for cohesive and prosperous society. This is can be explained by the fact that most Kenyans and now even the state law office believe that it's the role of the police to facilitate and promote law abiding culture among the citizens.

4.4.5 Key performance areas

When asked their various key performance areas most of the respondents indicated that the PC did not specifically address their key performance area however it was the head of department who drew up the work plan for each member of their department. This is supported by the statement in the strategic plan of the SLO.

4.5 Perception of performance contracting

4.5.1 Appropriate definition of performance contracting

In order to find out how State Law office staff understand or perceive the term “performance Contracting” the question which says “Which of the following do you consider as the appropriate definition of performance Contracting?” Was asked. The respondents were to select from the choice: SD-Strongly Disagree; D-Disagree; NC- No Commend; A- Agree; SA-Strongly Agree.

The results are shown in table 4.2 below:

Table 4.2-a: definition of performance Contracting

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance Contracting is the routine evaluation of work	9	12.3	13	17.8	10	13.7	20	27.4	21	28.8

Source: Researchers data from the questionnaire

The majority of the respondents 28.8% strongly agreed with the statement that Performance Contracting was a routine evaluation of work while 12 % strongly disagreed.

Table 4.2-b: definition of performance Contracting

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance Contracting is a management technique aimed at gathering feedback	5	6.8	7	9.6	6	8.2	27	37	28	38.4

Source: Researchers data from the questionnaire

On whether performance contracting is a management technique aimed at gathering feed back, the majority of the respondents(38.4%) indicated that they strongly agreed, while 37% indicated that they agreed, thus 75.4% gave this an overwhelming thumb up. A paltry 12% indicated that they disagreed while 6% said they had no comment.

Table 4.2-c: definition of performance Contracting

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance Contracting is a management tool for improving performance	4	5.5	6	8.2	5	6.8	31	42.5	27	37

Source: Researchers data from the questionnaire

The highest percentage, 79.5% were in agreement that performance contracting is a management tool for improving performance, while 13.7% disagreed. This was in total agreement with the statement that Performance Contracting is a management tool for measuring performance against negotiated performance targets.

Table 4.2-d: definition of performance Contracting

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance Contracting is a tool for staff compensation	22	30.1	26	35.6	11	15.1	7	9.6	7	9.6

Source: Researchers data from the questionnaire

Unlike the first responses, on whether Performance Contracting was a tool for staff compensation, the majority of the respondents (65.7) disagreed with only 19.2% agreeing with it.

Table 4.2-e: definition of performance Contracting

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance Contracting is a management tool used in favoring a few people on the job	23	31.5	25	34.2	7	9.6	9	12.3	9	12.3

Source: Researchers data from the questionnaire

On Performance Contracting is a management tool used in favoring a few people on the job, majority of the respondents (65.7%) disagreed while 24.6% agreed. From the analyses carried out majority of the respondents 66.2% felt that performance contracting is a routine evaluation of work performance. In order words, it is merely a form filling exercise. 24.6% saw it as a management tool used in favouring a few people on the job. This finding is in line with the findings of Evans (2005) who discovered that public servants feel uncomfortable with performance evaluation. This implies that key administrators should seek out ways of making performance evaluations more acceptable to the staff.

4.5.2 The influence of performance contracting on job performance

To find out “How performance contracting influence job performance” the respondent were required to tick in the appropriate box.

Table 4.3-a: influence of performance contracting on job performance

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance Contracting improves job performance	9	12.4	11	15.1	5	6.8	25	34.2	23	31.5

Source: Researchers data from the questionnaire

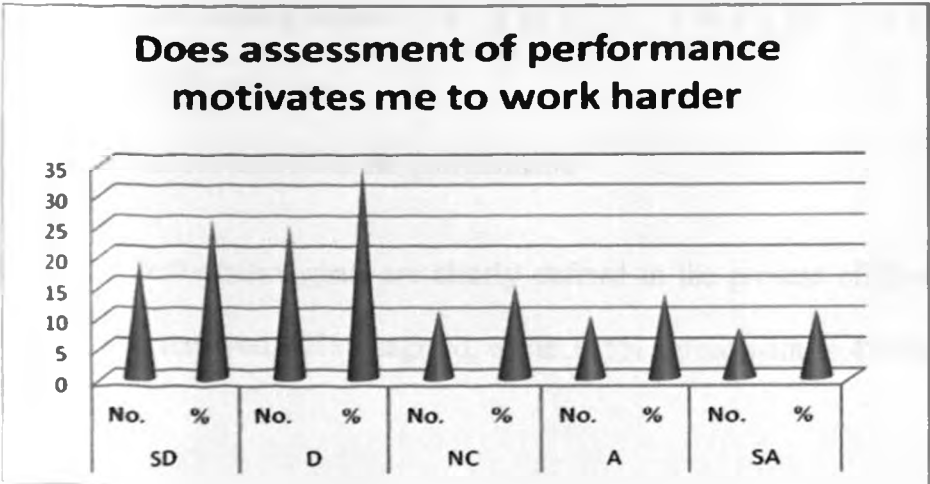
Most of the respondents agreed (65.7%) that performance contracting improves job performance if well implemented while 27.5% disagreed. However on whether the PC is a motivator, completely different results were obtained as shown below:

Table 4.3-b: influence of performance contracting on job performance

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
The assessment of performance motivates me to work harder	19	26	25	34.2	11	15.1	10	13.7	8	11

Graphically this can be represented as shown in the figure below:

Figure 4.6: influence of performance contracting on job performance



Source: Researchers data from the questionnaire

It emerged that at the state law office, the assessment of performance does motivate the workers. A whopping 60.2% disagreed with the statement while 24.7% agreed. This could be due to the fact that the performance contracting is not tied to some incentives other than the public recognition. This is supported by the evaluation report prepared for the prime minister's office which said "There have been proposals that the Government introduces a reward/sanctions scheme to boost the impact of Performance contracting in the public service".

These proposals were informed by the fact that public officials would feel more enthusiastic participating in an exercise that promises some reward. 92% of the institutions sampled by the evaluation team indicated that the PC be linked to some system of reward/sanction so long as the reward scheme is objectively and transparently agreed upon at the beginning of the year. Rewards would also ensure that employees are motivated.

Table 4.3-c: influence of performance contracting on job performance

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance goals clearly defined in the process of Contracting	16	21.9	22	30.1	12	16.4	11	15.1	12	16.4

Source: Researchers data from the questionnaire

On whether Performance goals are clearly defined in the process of Contracting, very varied responses were received. 52% disagreed, while 31.5% agreed with 16.4% being non-committal

Table 4.3-d: influence of performance contracting on job performance

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
My performance is adequately monitored during performance Contracting	19	26	21	28.8	12	16.4	15	20.5	17	23.3

Source: Researchers data from the questionnaire

When asked on whether their performance was adequately monitored during performance Contracting, 54.8% disagreed while 43.8% agreed, thus no clear cut conclusion can be made from this.

Table 4.3-e: influence of performance contracting on job performance

Response	SD		D		NC		A		SA	
	No.	%	No.	%	No.	%	No.	%	No.	%
Performance Contracting does not contribute to job performance	8	11	10	13.7	6	8.2	22	30.1	27	37

Source: Researchers data from the questionnaire

While responding to the statement that performance appraisal improves job performance, 69 (58.65%) agreed while 16(13.6) disagreed. Even when put negatively in number five (5) "Performance appraisal does not contribute to job performance, only 21(17.85%) of the respondents agreed while 58. (49.3%) disagreed. This implies that library staff perceive performance appraisal as having positive effect on job performance. The finding however disagrees with that of Nelson (2005), whose study showed that performance appraisal has no positive influence on the employee's job performance.

4.6 Attitudes towards Implementation of Performance Contracts

A majority of the respondents (63.9%) felt that the performance contract has helped improve communication with the public while (68.6%) agreed that performance contract would increase accountability among public officers. An overwhelming majority (77.5%) of the respondents felt that performance contracts had introduced setting of the individual job expectations and staff performance plans. A majority (74.2%) of the respondents indicated that with the introduction of performance contract, public servants are increasingly seeking to multi-skill and diversify to remain on the job. On resources, (62.1%) respondents indicated that they do not have adequate resources needed to meet their targets.

CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

The study set out to determine the civil servants perception of Performance Contracting (PC) at the State Law Office. Employees within public service act as the driving force which triggers development by implementing policies and hence a positive inclination of perception of the performance contracting was bound to have very far reaching positive effect.

5.1 The gender of the respondent

It was noted that 39 of the respondents were male while the female were 34. This translates to 53% respondents being males and 47% of the respondents being female. As much as this is very commendation in terms of number of female employed at the state law office, there is need to increase the number of males at the state law office. I recommend that: a study be carried out to determine the factors contributing to the increased number of female employees at the state law office.

5.2. Overall mandate of the SLO

The respondents were asked to give a summary of the overall mandate of the SLO. Majority of them (63%) stated that the overall mandate of the SLO was to give legal advice to the executive and indicated that the attorney General was the overall legal officer of the government. This agreed with that stated in the strategic plan i.e. "The SLO derives its mandate from section 26 of the Constitution, which provides for the Office of the Attorney-General in Public Service. The role of the Attorney-General is to provide legal services to the Government. He is the Government's Principal Legal Advisor. The Office is mandated to institute and undertake criminal proceedings against any person before any court other than Court Martial. In addition, the Attorney General offers a wide range of legal services to the public"(ROK, 2008).

When asked how faithful the SLO in discharging the mandate, only 37% indicated they were faithful while 33% said they were not faithful and 30% indicated that it was hard to tell. This appears to be in agreement with the report prepared by the Oscar foundation which is quoted to have reported the “The State Law Office (SLO) hardly handles cases involving police officers to the logical conclusion. However, the SLO receives a numbers of complaints against police officers filed by individuals who have been aggrieved by known officers” (OFFLACK, 2006).

Looking at the State law Office Strategic plan reveals that Out of 463 authorized state counsel establishment only 274 are in post. Careful analysis of the workload shows that a total of 1007 state counsel are required to effectively deliver services to the public(ROK 2010). This is a clear indication of how understaffed the state law office is. I recommend that the staffing shortfall at the State law office that is causing it to faithfully discharge their mandate needs to be addressed urgently.

5.3 Availability of a service charter

A service charter is an agreement of what the organization promises to do to satisfy their customers. A majority of the respondents (67.6) said that their department had developed service charters. However only (33.8 %) were involved in the development of their Ministry’s service charter. There is great need therefore that the development of a service charter starts from the departmental level so that every employee has an input on its content. Days of top-down flow of information are long gone, what remains is the down-up

5.4 Understand the content of the performance contracting

When asked if they have ever read or gone through the performance contract signed between the SLO and the government, a whopping 69% were categorical they have never read it, while 23 %

indicated that although they have not read it they have been briefed on its content by their sectional heads. There is need that such information needs to be communicated to all staff members whatever their level. This helps in getting all to bear responsibility of the out comes.

5.5 Key performance areas

When asked their various key performance areas most of the respondents indicated that the PC did not specifically address their key performance area however it was the head of department who drew up the work plan for each member of their department. This is supported by the statement in the strategic plan of the SLO which indicates that. Since the PC is a general document, the various sectional heads and heads of department need to break it down into work plans for all members of their department.

5.6 Perception of performance contracting

The majority of the respondents 28.8% strongly agreed with the statement that Performance Contracting was a routine evaluation of work while 12 % strongly disagreed. On whether performance contracting is a management technique aimed at gathering feed back, the majority of the respondents(38.4%) indicated that they strongly agreed, while 37% indicated that they agreed, thus 75.4% gave this an overwhelming thumb up. A paltry 12% indicated that they disagreed while 6% said they had no comment.

The highest percentage, 79.5% were in agreement that performance contracting is a management tool for improving performance, while 13.7% disagreed. This was in total agreement with the statement that Performance Contracting is a management tool for measuring performance against negotiated performance targets.

Unlike the first responses, on whether Performance Contracting was a tool for staff compensation, the majority of the respondents (65.7) disagreed with only 19.2% agreeing with it. On Performance Contracting is a management tool used in favoring a few people on the job, majority of the respondents (65.7%) disagreed while 24.6% agreed.

From the analyses carried out majority of the respondents 66.2% felt that performance contracting is a routine evaluation of work performance. In other words, it is merely a form filling exercise. 24.6% saw it as a management tool used in favouring a few people on the job. This finding is in line with the findings of Evans (2005) who discovered that public servants feel uncomfortable with performance evaluation. This implies that key administrators should seek out ways of making performance evaluations more acceptable to the staff.

It emerged that at the state law office, the assessment of performance does motivate the workers. A whopping 60.2% disagreed with the statement while 24.7% agreed. This could be due to the fact that the performance contracting is not tied to some incentives other than the public recognition. This is supported by the evaluation report prepared for the prime minister's office which said "There have been proposals that the Government introduces a reward/sanctions scheme to boost the impact of Performance contracting in the public service".

These proposals were informed by the fact that public officials would feel more enthusiastic participating in an exercise that promises some reward. 92% of the institutions sampled by the evaluation team indicated that the PC be linked to some system of reward/sanction so long as the reward scheme is objectively and transparently agreed upon at the beginning of the year. Rewards would also ensure that employees are motivated.

5.7 Attitudes towards Implementation of Performance Contracts

A majority of the respondents (63.9%) felt that the performance contract has helped improve communication with the public while (68.6%) agreed that performance contract would increase accountability among public officers. An overwhelming majority (77.5%) of the respondents felt that performance contracts had introduced setting of the individual job expectations and staff performance plans. A majority (74.2%) of the respondents indicated that with the introduction of performance contract, public servants are increasingly seeking to multi-skill and diversify to remain on the job. On resources, (62.1%) respondents indicated that they do not have adequate resources needed to meet their targets.

Results from the above analysis indicate that the participant's views regarding performance contracting are positive and support the objectives of performance contracting objectives. In other words, performance contract is enhancing job satisfaction for the participants; hopefully their satisfaction would lead to improved job performance.

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6.0 APPENDIX

6.1 Appendix 1: Questionnaire

I wish to assure you that the information given here will strictly be used for the study and not anything else. The questionnaire consists of two sections A and B. In sections A Demographic information on the respondent was gathered. In section B information relating to the content of study was gathered. Please answer all questions in the spaces given below using a tick where possible.

Section A

I. Background Information

1. Name (optional) _____

2. Gender

1. Male

☐

2. Female

☐

3. Department (optional) _____

4. Years worked at the state law office

1 – 5

6 – 10

11 – 15

16 – 20

21 – 25

Over 25 years

5. Highest Academic Qualification

Diploma

Bachelors degree

Masters Degree

Doctorate Degree

Section B

6. Are you aware of the existence of a Performance contracting at the state law office

Yes

☐

No

☐

7. Would you say that PC evaluations in this organization is organized and conducted in a timely manner?

Yes

☐

No

☐

8. What is the frequency of reporting findings from PC evaluations in your organization?

Monthly	Quarterly	Bi-annually	Annually

9. Would you say that various stakeholders are actively involved during PC evaluations and reporting of targeted 'Results for Kenyans'?

Yes

☐

No

☐

10. On the overall, does the PC evaluations tools enhance public confidence in the service delivery?

Strongly Agree	Agree	Indifferent	Disagree	Strongly Disagree

11. Would you say that the officers in your organization possess a sense of ownership and responsibility for the existing PC tools(s)?

Yes ☐

No ☐

12. What would you summarize to be the overall mandate of the State Law office in Kenya?

13. In your view, is the current State law office faithful in discharging the above mandate?

Yes	
No	
Hard to tell	

14. Have you gone through the performance contract that was signed between the state law office and the Government?

Yes	
No	

i) What are the key objectives of the performance contract?

ii) What are your key performance areas?

iii) What are your key performance indicators?

iv) What tools are applied in assessing performance?

v) What process and systems are followed assessing performance?

22 Do you have a service charter?

Yes	
No	

23. Are there any set goals either for individual members or collectively?

Yes ☐

No ☐

If yes, explain;

24 If No, in 23 above, how does your office evaluate performance of the institution?

Employee perception of performance contracting

The respondents were required to agree strongly(SA), agree (A), disagree (D) or strongly disagree (SD) to the statements in the tables below. In order to find out how State Law office staff understand or perceive the term “performance Contracting” the question which says “Which of the following do you consider as the appropriate definition of performance Contracting?” was asked.

	SD	D	NC	A	SA
Performance Contracting is the routine evaluation of work					
Performance Contracting is a management technique aimed at gathering feedback					
Performance Contracting is a management tool for improving performance					
Performance Contracting is a tool for staff compensation					
Performance Contracting is a management tool used in favoring a few people on the job					

To find out “what Influences of performance contracting on job performance” the respondent wasrequired to tick in the appropriate box.

	SD	D	NC	A	SA
Performance Contracting improves job performance					
The assessment of performance motivates me to work harder					
Performance goals are clearly defined in the process of Contracting					
My performance is adequately monitored during performance Contracting					
Performance Contracting does not contribute to job performance					

6.2: Appendix 2. Sampling Frame

	DEPARTMENT	LEGAL STAFF	NON-LEGAL STAFF
1	Attorney General	1	0
2	Administration & Planning	4	154
3	Administrator General	47	184
4	Registrar-General's	44	110
5	Complaints Commission	17	36
6	Legislative Drafting	18	12
7	Public Prosecutions	77	119
8	Civil Litigation	41	62
9	Treaties And Agreements	26	10
	TOTAL	275	687

Table 1: Distribution of professional and non-professional staff at the state Law office

Source: Republic of Kenya (2008). The State Law Office Strategic Plan 2008-2013. Nairobi.

Government printers