

연구논문

## Accountability of Performance Oriented Contract Management: The Case of a Performance Based Cleanup Program in Florida

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### 〈 요약 〉

This study explores accountability relationships in innovative public programs that focus on improving performance through the market-oriented mechanism of contracting by analyzing the case of a Performance-Based Cleanup (PBC) program in Florida. Based on Romzek and Dubnick's (1987, 1994) framework, the study shows evidence that this program mostly relies on legal and professional accountability. The case analysis also shows that contract management programs may use different accountability mechanisms depending on the degree of the emphasis on performance. This study implies that public administrators need to understand different accountability relationships when they design contract management programs and choose effective tools for implementing the programs.

[ Key Words: accountability, performance, contract management, performance-based reform, pay for performance program ]

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## Introduction

Accountability is a fundamental concept in understanding why public administration exists. Elected officials or public managers engaging in the public sector have been concerned with accountability relationships for performance in their organizations. Accountability plays a fundamental role in the public sector because accountability relationships are expected to improve the democracy of government activities (Behn 2001; Romzek and Dubnick 1987). Accountability is also one of the essential notions of contemporary public administration because it is emphasized as a source to solve various problems in the public sector (Dubnick 2005). An important concept in understanding public administration, accountability has been of continuous interest for public administration scholars as well as practitioners in the public sector.

More interestingly, the concept of accountability as crucial in contemporary public administration is better understood in the context of the changing public administration paradigm because the changes make us rethink democratic accountability with different emphases and criteria (Behn 2001). Although we cannot easily define these changes in only a few words, the diverse efforts to innovate governmental activities in the public sector are characterized by performance-oriented initiatives. In other words, the primary goal of current public administration can be enhanced by performance through such reform initiatives.

Performance management should be of importance as it plays a critical role in accountability (Behn 2001, 2003; Hatry 1999). There have been growing studies on performance accountability for reform initiatives (Berry et. al 2000; Heinrich 2002; Johnston and Romzek 1999; Kelly 2005; Moynihan and Ingraham 2003; Romzek and Johnston 2005). This study explores accountability relationships in performance-oriented contracting programs. These programs are peculiar cases among contracting programs as performance management is officially assigned a primary goal of the programs, and thus it is valuable to examine how accountability structure is reflected in the programs. In particular, when they are adopted as alternatives to existing

contracting programs, better performance management may be achieved through different accountability mechanisms.

This study consists of four parts. The first two parts review the literature on the concepts and types of accountability and explore the significance of accountability in the contemporary performance-oriented management trend. The third part introduces a reform oriented case, a Performance Based Cleanup program in Florida, followed by an analysis of accountability relationships in this contract management program. The last part summarizes the dynamic aspects of the accountability mechanism in performance-based management programs.

## Literature Review on Accountability

Accountability is a comprehensive term that is difficult to define (Mulgan 2000). In a simple sense, it refers to answerability, which means direct, limited, and formal responses to demands or expectations from specific groups, institutions, or legal mandates. When the term is broadly understood, “public administration accountability involves means by which public agencies and their workers manage the diverse expectations generated within and outside the organization” (Romzek and Dubnick 1987, 228). In a more specific definition, it is “a relationship in which an individual or agency is held to answer for performance that involves some delegation of authority to act” (Romzek and Dubnick 1998, 8). Those to whom public officials or agencies are answerable must be legitimate sources of control with expectations for performance. The main implication of accountability is that it is a key to improving democracy in public activities by holding people accountable.

Although accountability can be described by the notion of answerability, such a definition is too narrow to fully capture reality because various accountability relationships can exist simultaneously. In reality, an essential feature of accountability relationships is environmental complexity, which includes multiple accountability

mechanisms as well as multiple actors (Kearns 1994, 1996; O'Connell 2005; Romzek 1999). While accountability has been studied by many public administration scholars, Romzek and Dubnick's (1987) typology is most widely used as it helps to systematically conceptualize multiple accountability relationships.

These are categorized into four different types of accountability relationships according to 1) sources of expectations and/or control and 2) degrees of autonomy: hierarchical, legal, political, and professional. Hierarchical accountability (low source of expectations/control and low degree of autonomy) is based on organizational directions and close supervision including rules and standard operating procedures. Obedience is the behavioral standard under this accountability relationship (Romzek 1998). The key features of hierarchical accountability are that individuals enjoy little discretion, and their actions depend on organizational rules and direction. Public employees, however, desire a psychological contract as well so that they can perform their work with discretion rather than stipulated rules.

Legal accountability (high source of expectations/control and low degree of autonomy) emphasizes compliance and detailed, external oversight to check performance. This type of accountability is characterized by close scrutiny from independent individuals or agencies to check appropriate behaviors and desirable outcomes. While performance oversight by external reviewers has advantages of emphasizing compliance with relevant external standards, such as laws, court rulings and audits, the reviews do not sanction against unacceptable performance or inappropriate behavior as they are outside of that command (Romzek 2000). A typical type of legal accountability often occurs in contracting. This accountability is achieved by adequately specifying the terms of the contract and monitoring performance (Johnston and Romzek 1999).

Political accountability relationships (high source of expectations/control and high degree of autonomy) focus on responsiveness to the concerns and expectations of key external stakeholders, such as elected officials, the general public, clientele, and so on. Responsiveness is an expected behavior in this type of accountability. Employees

working under political accountability hope to have discretion and the choice of how to respond to key stakeholders, especially the general public. However, there are limitations to the degree and scope of responsiveness. Political accountability does not involve inappropriate or irrational demands of the key stakeholders. The concern of employees is to adequately respond to their justifiable and feasible interests.

Professional accountability (low source of expectations/control and high degree of autonomy) emphasizes deference to the expertise of individuals who rely on their internalized norms for decision-making. This type of accountability can be derived from employee professionalism, organizational learning, and work experience. It is based on trusting employees to exercise their discretion responsibly in a manner consistent with accepted administrative and professional norms (Romzek 1998). Professional accountability is often presented at the outcome stage of strategic management. This stage reflects quantity and quality produced by outputs, and sometimes it involves results that are difficult to measure or quantify. To evaluate accountability of employees at the outcome stage, professional accountability is required because it allows for the exercise of discretion and the application of expertise.

The accountability relationships for performance management are aligned with managerial strategy and the degree of difficulty of core tasks. When performance focuses on inputs and routine tasks, hierarchical accountability is appropriate. On the other hand, when processes are emphasized as performance criteria and there are relatively routine tasks, legal accountability is the most appropriate. If outputs are of importance for managerial strategy, and tasks are connected to citizen satisfaction, political accountability is the most useful. Lastly, when outcomes are considered crucial and agencies have complex tasks, professional accountability is the most appropriate (Romzek and Dubnick 1994).

## Accountability in Performance-Based Reform Programs

While accountability has multiple and complex relationships, these should not all be emphasized with equal significance. Rather, some are preferred or emphasized more than others for holding public employees accountable for their performance (Romzek 1998). This means that the main forms of accountability used may shift by changes in the administrative environments.

Performance-based management is considered an effective policy tool for increasing governmental accountability, and since the 1960s, there have been diverse efforts for improving governmental performance (Heinrich 2002). Performance-based management has been considered a primary goal in the public sector since the advent of a market-oriented approach to administrative reforms. Both the New Public Management (NPM) trend that was adopted among OECD countries over the 1980s (Hood 1995), in a more academic context, and the reinventing government movement that was initiated by Osborne and Gaebler (1992), in a more practical context, pay attention to performance of public organizations and programs.

According to Dubnick (2005), there are two different types of performance: the quality of performance actions, referring to the actions being performed, and the quality of performance achievement, relating to results of the performance actions. The result-oriented view of performance is especially related to NPM in that performance achievement is emphasized, while attention to performance actions is low.

Regardless of the type of performance being emphasized, it is not uncommon to see diverse performance-based management initiatives. For example, programs designed to increase performance include performance planning, performance-based budgeting, total quality management (TQM), management by objectives (MBO), pay-for-performance, and so on (Heinrich 2002). In this context, accountability has been of importance since the advent of the reinvention reforms. Considering that performance or outcomes are a primary goal of diverse administrative reforms, different types of accountability can be considered for understanding the complex

relationships of performance (Romzek and Johnston 2005).

Under the traditional public administration paradigm, accountability was focused on a compliance-based approach. This traditional view of accountability emphasizes clearly defined rules, procedures, and punishment mechanisms to ensure the compliance of public employees. That is to say, accountability to rules, laws, or regulations is considered a main goal of public programs (Jos and Tompkins 2004). Changes in the public administration paradigm, however, have shifted the main focus of accountability.

A performance-based approach plays a key role under the NPM paradigm. Its main objective is to improve governmental performance by employing the principle of competition in the public sector. It focuses on efficiency, market-incentives, performance-based contracting, and aggressive entrepreneurship. This approach emphasizes monitoring and reviewing program results for performance improvement (Jos and Tompkins 2004; Kelly 2005). Of course, performance is not a new concept in relation to accountability in a contemporary public administration. The reason why this concept is dealt with more significantly is that it is emphasized as a core value of recent administrative reforms. The basic assumption of administrative reforms and innovations in the public sector is that those efforts will contribute to increasing the performance of government as well as its accountability. This accountability concept, emphasized under the new paradigm, shifts our attention to the performance of public programs, rather than on the changes of traditional accountability (Behn 2001; Romzek 1998).

In sum, accountability has multiple types and it cannot be understood through one alone. It does not seem that any specific type of accountability is best suited to performance-based programs. Due to this complexity, we may experience difficulties in finding appropriate accountability relationships in our efforts for improving performance. However, considering that current reforms emphasize outcomes through deregulation, discretion, and flexibility while deemphasizing input and process based on rigid rules and control, the best suited accountability relationships for the current

reforms may be professional and political types of accountability (Romzek 1998).

## Accountability in Contract Management: The Case of a Performance-Based Cleanup Program in Florida

While accountability has gained increasing attention in accordance with the implementation of diverse performance-based programs in contemporary public administration, several scholars have examined accountability in government contracting, a specific type of governmental effort to promote performance (Dicke 2000; Johnston and Romzek 1999; Johnston, Romzek, and Wood 2004; Martin 2000; Romzek and Johnston 2005). This study also addresses the issue of accountability in innovative public programs that focus on improving performance through the market-oriented mechanism of contracting, by analyzing accountability relationships in the case of a Performance-Based Cleanup (PBC) program in Florida. Based on the theoretical framework of accountability relationships, we explore how accountability is ensured in the performance-oriented contracting program.

Whereas the performance of government actors is usually measured by stakeholders in the context of direct service provisions, under the contracting system, accountability focuses on the performance of non-governmental actors. In spite of environmental differences, the four types of accountability addressed earlier are also expected to be present in the contracting context. Among them, legal, political, and professional accountability relationships are the most prevailing in contract management (Johnston and Romzek 1999). The specific characteristics of each form of accountability under contract management are explained in the case below.

### Performance-Based Cleanup Contracting in Florida

Pay for Performance (PFP), now succeeded by PBC in Florida, is a contracting

system in which a public or private entity is contracted to carry out environmental cleanup. PBC is broadly used for cleanups. In this study, we refer to PBC contracting for petroleum cleanup used at leaking underground storage tank (LUST) sites. PBC is an alternative way to contract for environmental cleanups. The most significant characteristic of PBC is that it strongly relies on market-based incentives to encourage cleanup contractors to keep expenses under control and achieve cleanup goals in as little time as possible. While PFP is used nationally, Florida is one of the states where it has the largest cleanup programs and increases the use of PBC.

The Florida petroleum cleanup program operates under two types of contract systems: Time and Material (T&M) contracting and PBC contracting. The most important difference between PBC and the traditional contracting approach is found on the basis of their payment systems. The T&M approach is known as preapproval, which is applied to the majority of sites. Under preapproval, payment is made upon completion of a predetermined scope of work regardless of the effectiveness of the contracted work in making measurable progress toward cleanup goals. As an alternative, PBC is used at a minority of sites. Under this system, payment is based on the achievement of predetermined contaminant reduction milestones.

The PBC program consists of typical reform efforts influenced by NPM, and as such it heavily relies on market mechanisms. Most of all, prices for cleanups are set by open competition among contractors and negotiation between government and contractors. Second, while saving costs for services, this new contracting program intends to use the innovative technologies of the private sector by providing incentives. As payment is based on performance, the incentives encourage private contractors to accomplish goals with the least amount of cost and time.

In 1996, the Florida legislature mandated that the Florida Department of Environmental Protection (FDEP) start PFP by initiating a pilot program on bidding for petroleum site cleanups. By 2002, a relatively small number of sites (239 sites of an estimated 2,225 undergoing active remediation) in the Florida program were being cleaned up under the new PFP payment mechanism. Now the FDEP is increasing its

use of PFP. A comparative study of performance under the differing contract approaches in Florida shows that PFP cleanups produce better results than those operating under preapproval by reducing costs and time in reaching at the intended goal (Cohen 2002). The Pay for Performance (PFP) Agreement has been replaced with the Performance Based Cleanup (PBC) Template effective July 1, 2003. There are two main changes: first, funding for agreements was modified so that funds are provided on an annual basis rather than encumbering the full amount for the agreements; and second, the new PBC templates simplified the specification of the agreement terms and conditions and standardized all related legal terms.

### Accountability in the Performance-Based Cleanup Program

The main purpose of this section is to explore how accountability relationships are designed under the PBC system. Specifically, we focus on accountability structures in new contract management, which is a more performance-oriented system than previous contracting systems. In this process, we rely on the accountability relationship framework proposed by Romzek and Dubnick (1987, 1994). While the accountability relationships of PBC have multiple types of accountability like other public programs, some are more likely to be emphasized.

*Hierarchical accountability* in contract management does not depend on direct supervision by government. Rather, this accountability can be imposed within contracting organizations. The mechanisms of hierarchical accountability applied in government organizations, such as directives, rules, and internal supervision, can be similarly applied to contractors (Johnston and Romzek 1999).

In PBC, the contract agreement does not require contractors to follow any rules or regulations regarding their organization's internal structure. Although the PBC agreements set specific goals that contractors should accomplish, contractors enjoy much discretion in the process of cleanups. Accordingly, in the relationships between FDEP and various private contractors, rules or standards applied to contractors'

hierarchy are generally not seen. It is thus assumed that private contractors will continue their existing hierarchical structure rather than being influenced by governmental factors.

*Legal accountability* in a contracting context is matched with a typical principal-agent relationship. The performance of contractors in the contract context is monitored by some external principals. In traditional public organizations, legal accountability for performance is usually ensured through oversight mechanisms for more objective evaluations of public programs. Under contract management, this accountability relationship may be modified because a main oversight role is played by the government organizations that contracted out the related programs. In PBC, legal accountability primarily consists of the oversight relationship between the FDEP and private contractors.

The PBC program includes several mechanisms for obtaining the compliance of private contractors to ensure legal accountability. While legal accountability is ensured by the audit processes, the PBC Work Order also requires contractors to maintain books, records, and documents that are directly pertinent to performance in accordance with generally accepted accounting principles. Thus, the FDEP, the State, or their authorized representatives, shall have access to those records for audit purposes during the term of the contract and for three years following completion of the Work Order. While cost recovery is pursued by audits to defend fraud or other illegal activities, audits are also used to revise and refine the FDEP's cost estimating policies and procedures.

Under the current PBC system, legal accountability is also ensured through multiple components for monitoring the PBC cleanup process. These components are specified in the agreements between FDEP and contractors and play an important role because the contract may be suspended or stopped if specified goals are not accomplished. The components include establishing baselines, determining endpoints, selecting key monitoring wells, specifying perimeter wells, calculating milestones, and maintaining cleanup levels. Specifically, milestones agreed upon between the FDEP

and contractors play an important role for legal accountability by increasing compliance of contractors because it provides foundations for performance payment.

Progress reporting is another mechanism used to ensure legal accountability. In PBC, private contractors should report their progress at least semiannually during the duration of the contract. These reports should contain all data collected during the cleanup process of the contracted site including all sampling data regardless of their consistency with a cleanup milestone.

Lastly, financial control has become a useful mechanism for legal accountability since PFP was replaced with PBC. As mentioned, one of the main characteristics in the change was to introduce annual-based budgeting. Even though the initiation of PFP focused on cost saving through payment based on performance, performance-oriented budgeting is emphasized more highly under PBC. The annual-based budgeting contributes to higher legal accountability by holding contractors more attentive to their performance, which provides a basis for budget distribution.

*Professional accountability* enables contract staffs to exercise their judgment or to make decisions based on norms or expertise in their practice. As contracting management leaves contracting experts to decide how to achieve intended results, professional accountability is ensured by giving staff professionals more discretion in their private firms (Johnston and Romzek 1999).

Under PBC, professional accountability is increased not by bureaucratic professionalism but by expertise in the private sector. Most of all, the technical expertise of private contractors is stressed in this type of accountability. By using professional knowledge and techniques for petroleum cleanups, private contractors can achieve higher performance in an efficient way. In addition, private contractors are not limited in utilizing their technology by specific rules of the FDEP. While relying on the expertise of the private sector, PBC gives contractors discretion to use technology to increase efficiency in their cleanups.

When expertise in the private sector proves successful at accomplishing intended

results, contractors with professional credentials are utilized more frequently for cleanups. A PBC contractor maintains equipment that is necessary for the completion of his job. When called back, the contractor can use this equipment at another cleanup, which lowers costs and increases company profits and price competitiveness. Also, superior equipment and previous experience of contractors provides incentives and leads to more timely achievement of goals. This process is possible through organizational learning. As companies are interested in developing their technologies to save costs and obtain higher earnings, it is expected that contractors will reinvest their time and efforts into technological development. In sum, professional accountability is enhanced by increasing contractors' expertise and knowledge of cleanups.

*Political accountability* focuses on the responsiveness of private contractors to key stakeholders in the contract management context. The performance of a contracted program is evaluated by the viewpoints of external constituencies based on program outputs and responsiveness. Customer-oriented service delivery is a typical example of a way to increase political accountability.

Under PBC, political accountability is ensured by a reduced budget and saved time. That is to say, the logic of increased political accountability is based on the satisfaction of stakeholders by enhanced performance in cleanups. As environmental goals in the cleanup program are made clear, the price for the cleanup is also accurate. This improved predictability makes it easier for legislators to decide on budgets and necessary funding. For tank owners, operators, environmentalists, and the general public, reduced time and costs through PBC are expected to increase satisfaction.

Accountability relationships under the PBC are summarized in Table 1. As PBC intends to give contractors as much discretion as possible for higher performance, it does not have a specific mechanism related to contractors' internal hierarchy. The accountability of PBC deeply relies on two types of accountability, legal and professional, and the accountability relationships involved are not very different from

Johnston and Romzek's argument (1999). However, one clear difference between their argument and the practice of PBC is that there are no particular mechanisms for political accountability.

Table 1. Accountability Relationships under Performance-Based Cleanup Contracting in Florida

|                       |      | Source of Expectations and Control                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                        |
|-----------------------|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       |      | Low                                                                                                                                                                                                                                                                                                | High                                                                                                                                                                                                                                                                                   |
| Degree of<br>Autonomy | Low  | <p><b><i>Hierarchical</i></b></p> <ul style="list-style-type: none"> <li>- Not observed</li> </ul>                                                                                                                                                                                                 | <p><b><i>Legal</i></b></p> <ul style="list-style-type: none"> <li>- Audit / requirement of record maintenance</li> <li>- <b>Multiple components for monitoring progress, including milestones</b></li> <li>- Reporting of progress</li> <li>- <b>Annual-based budgeting</b></li> </ul> |
|                       | High | <p><b><i>Professional</i></b></p> <ul style="list-style-type: none"> <li>- Technical expertise of the private contractors</li> <li>- Discretion in using technology for cleanups</li> <li>- <b>Organizational learning / Increased use of contractors with professional credentials</b></li> </ul> | <p><b><i>Political</i></b></p> <ul style="list-style-type: none"> <li>- Stakeholders' satisfaction by reduced budget, uncertainty, and time</li> </ul>                                                                                                                                 |

Note: Bold items represent newly adopted accountability mechanisms when the PBC replaced its predecessor Pay for Performance program.

Although both systems are based on contract management, PBC's emphasis on higher performance shows different accountability structures from that of the previous PFP contracting program. Among the presence of various accountability mechanisms, those that were newly adopted with the introduction of PBC include the components of monitoring process, annual-based budgeting, and organizational learning / increased use of contractors with professional credentials.

## Conclusions

Accountability has been studied as an important concept in public administration, and different types of accountability have been applied in diverse administrative contexts. Since new public management became a main discourse in contemporary public administration, accountability has been considered a crucial factor for improving the performance of governmental activities. Among those initiatives, contract management has been broadly used to accomplish higher performance.

This study explored accountability relationships of a performance-oriented contract program through the case of a Performance Based Cleanup program in Florida. Based on Romzek and Dubnick's framework, we find this new program mostly relies on legal and professional accountability. In other words, the case analysis of Florida's PBC program shows that this method of contract management for improving performance primarily focuses on 1) ensuring the compliance of private contractors by monitoring their performance activities through specific rules and regulations, and 2) taking advantage of the expertise of the private sector by providing higher autonomy and discretion to the private contractors.

The case analysis also shows that contract management programs may have different accountability mechanisms depending on how performance management is emphasized, although they rely on the same basic logic of contract management. Under PBC, a newer contract program for increasing performance in petroleum cleanup at leaking underground storage tanks, the components of monitoring process, annual based budgeting, and organizational learning / increased use of contractors with professional credentials were newly adopted mechanisms in comparison with its predecessor, the Pay for Performance program.

While accountability relationships under PBC are designed to increase legal and professional accountability, particular mechanisms are not used for political accountability, except for expecting that higher performance would satisfy diverse stakeholders, such as legislators, site owners, environmental groups, and the general

public. However, it is not easy to satisfy all stakeholders with diverse and sometimes conflicting interests. Another mechanism, such as the 360 degree evaluation, might contribute to increasing political accountability (Behn 2001; Romzek 1998).

This study has two practical implications for public administrators. First, they need to improve their understanding of different accountability relations in public programs, in general, and performance-oriented contracting programs, in particular, to ensure democratic responsiveness in the programs. Second, they could focus on certain accountability relations and choose specific tools that fit the accountability types when they design and implement public programs.

While this study examines a specific case of a PBC program in Florida, a comparative study with similar programs in other states and countries would be useful to expand our understanding of accountability relationships in performance-oriented contracting management. Also, more direct and in-depth analysis of the types of accountability used in different forms of contract systems would help us address the accountability issue in performance initiatives that are increasingly used in contemporary public administration.

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