

## **Legislative Council Panel on Public Service Use of Agency Workers**

### **Purpose**

This paper updates Members on the use of agency workers by Bureaux/Departments (B/Ds).

### **Background**

2. Agency workers generally refer to the manpower supplied by employment agencies under service contracts with B/Ds concerned. They work under the direct supervision of the procuring B/Ds. They do not have a contractual employment relationship with the B/Ds concerned. The procurement of agency worker service is governed by the relevant Stores and Procurement Regulations and Financial Circulars. It is also subject to the Government's procurement principles of value for money, transparency, open and fair competition and accountability.

### **Guidelines on Use of Agency Workers**

3. In April 2010, the Civil Service Bureau (CSB) issued a set of guidelines on the proper use of agency workers<sup>1</sup>, covering the three main areas of scope of using agency workers, approving authority, and wage requirement. To strengthen the control on the use of the agency workers, CSB issued a set of supplementary guidelines in April 2011 on the renewal or re-letting of service contracts for the supply of agency workers, and on the wage requirement to be followed by employment agencies providing

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<sup>1</sup> For the purpose of these guidelines, agency workers do not include information technology manpower supplied by technical service providers under a term contract centrally administered by the Office of the Government Chief Information Officer (commonly known as "T-contract staff") and service bureau staff providing public library service in the Leisure and Cultural Services Department.

agency workers to B/Ds following the coming into effect of the Statutory Minimum Wage (SMW) in May 2011.

4. The gist of these guidelines are summarised in paragraphs 5 to 9 below.

(a) Scope of using agency workers

5. B/Ds may only use agency workers under one or more of the following circumstances –

- (i) to meet urgent or unforeseen service needs or unexpected surge in service demands for the short-term;
- (ii) to fill short-term manpower gap;
- (iii) to provide short-term manpower to deliver service the mode of which will be changed shortly; or
- (iv) to meet service needs which entail irregular work pattern or where the nature of the work involved renders it difficult to recruit and retain staff.

As a general guideline, the short-term service demands under the circumstances at (i), (ii) and (iii) above should last for no more than nine months.

(b) Approving authority

6. To ensure the proper use of agency workers and to maintain consistency in the use of such workers by individual B/Ds, every proposal to procure the service of an employment agency to supply agency workers is required to be considered and approved personally by a directorate officer at Directorate Pay Scale D2 or above of the concerned B/D.

(c) Wage requirement

7. When inviting quotations or tenders for the supply of agency workers, B/Ds have to require all bidders to state the amount of wages they would pay to their employees to be assigned to work in the procuring B/Ds (should their bids be successful). They have to inform the bidders that their

bids would not be considered if the amount of wages stated in the bids are lower than the higher of the two benchmarks stated below –

- (a) the prevailing SMW plus one paid rest day for every period of seven days; or
- (b) the relevant average monthly wages for a relevant industry/occupation as published in the Census & Statistics Quarterly Report of Wage and Payroll Statistics for December 2010 (for non-skilled workers<sup>2</sup> to be assigned to work in the procuring B/Ds if the bids are successful) or the average monthly wages for “General Workers for all selected industries” as published in the above mentioned Report (for employees other than non-skilled workers to be assigned to work in the procuring B/Ds if the bids are successful).

8. B/Ds are also required to specify in the service contracts that the wages of the agency workers assigned to work in the procuring B/Ds cannot be less than the stated wages in the bids for the whole duration of the concerned contracts and the mechanism to monitor compliance with the wage requirement as well as sanctions to be imposed in the case of non-compliance.

(d) Renewal or re-letting of service contracts

9. Renewal or re-letting of contracts should only be pursued with strong justification. B/Ds are required to seek approval from CSB if an existing contract for the supply of agency workers is to be renewed/re-let where the aggregated period of service under the existing and renewed/re-let contracts is expected to exceed 15 months. For example, extension of an existing nine-month contract by more than six months requires the approval of CSB. B/Ds have to provide full justifications to demonstrate that renewal or re-letting of contracts is operationally essential and that there are no other more appropriate means to meet the service need. This arrangement does not apply to term contracts under which agency workers are not required on a continuous basis throughout the contract period but are

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<sup>2</sup> Non-skilled workers are those performing functions comparable to the duties of civil servants in the Model Scale 1 grades, namely the grades of Car Park Attendant II, Explosives Depot Attendant, Ganger, Gardener, Property Attendant, Supplies Attendant, Ward Attendant, Workman I, Workshop Attendant and Workman II.

supplied only as and when needed by the procuring B/Ds.

### **Position of Agency Workers as at 30 September 2011**

10. As at 30 September 2011, there were 1 687 agency workers working in B/Ds. This represented a reduction of 25% compared with the position in September 2010. A breakdown of the distribution of agency workers by B/Ds is at **Annex**. The agency workers were involved mainly in providing general office and technical support, in undertaking project co-ordination work and delivering customer services. Around 40% (or 665) were sourced to meet urgent or unforeseen service needs or unexpected surge in service demands for the short-term. Another 24% (or 413) were deployed to fill short-term manpower gap, mainly arising from the time required to recruit civil servants and/or NCSC staff. Another 19% (or 319) were procured to deliver services the mode of which would likely be changed shortly. The remaining 17% (or 290) were deployed to meet service needs that entailed an irregular work pattern or where the nature of work involved rendered it difficult to recruit and retain staff.

11. The service of the above stated agency workers were procured under 471 contracts, of which some 80% were limited to the provision of one to three workers on a per contract basis. Most of the agency workers (72% or 1 219) were sourced from service contracts lasting nine months or less. Another 18% (or 309) were sourced from service contracts lasting more than nine months but not exceeding 15 months. The remainder (10% or 159) were mostly sourced from “term contracts” under which agency workers would be supplied only as and when needed by the procuring B/Ds.

### **Way Forward**

12. We will continue to monitor the use of agency workers by B/Ds.

**A breakdown of the number of agency workers by bureaux/departments  
(position as at 30 September 2011)**

<b>Bureau/Department</b>	<b>Number of agency workers *</b>
Agriculture, Fisheries and Conservation Department	21
Buildings Department	125
Chief Secretary and Financial Secretary's Office	20
Civil Aid Service	1
Civil Aviation Department	2
Civil Engineering and Development Department	4
Civil Service Bureau	2
Commerce and Economic Development Bureau	11
Constitutional and Mainland Affairs Bureau	5
Correctional Services Department	33
Customs and Excise Department	11
Department of Health	294
Department of Justice	16
Development Bureau	12
Drainage Services Department	18
Education Bureau	150
Electrical and Mechanical Services Department	15
Environment Bureau	4
Environmental Protection Department	27
Financial Services and the Treasury Bureau	6
Fire Services Department	24
Food and Environmental Hygiene Department	37
Food and Health Bureau	12
Government Flying Service	1
Government Laboratory	9
Government Logistics Department	1
Home Affairs Bureau	24
Hong Kong Police Force	11
Immigration Department	88
Information Services Department	21
Innovation and Technology Commission	2
Invest Hong Kong	1
Labour Department	40
Lands Department	65
Leisure and Cultural Services Department	188
Marine Department	8
Official Receiver's Office	12
Planning Department	9
Rating and Valuation Department	54
Registration and Electoral Office	107
Security Bureau	7
Student Financial Assistance Agency	22

<b>Bureau/Department</b>	<b>Number of agency workers *</b>
Transport and Housing Bureau	5
Transport Department	60
Water Supplies Department	102
<b>Total</b>	<b>1 687</b>

\* Excluding the T-contract and Service Bureau staff.