

立法會 *Legislative Council*

LC Paper No. CB(4)625/12-13(05)

Ref: CB1/PL/PS

Panel on Public Service

Meeting on 3 June 2013

Updated background brief on the use of agency workers

Purpose

This paper provides background information on the use of agency workers by Government bureaux/departments ("B/Ds"), and summarizes the major views and concerns on the subject expressed by members of the Panel on Public Service ("the Panel") in previous discussions.

Background

2. According to the Administration¹, agency workers generally refer to the manpower supplied by employment agencies under service contracts with B/Ds concerned. These workers work under the direct supervision of the procuring B/Ds, but 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.

3. As advised by the Administration in January 2010², the use of agency workers by B/Ds could be broadly grouped into the following three main areas –

- (a) information technology ("IT") service - Some of the IT manpower required by B/Ds is secured through technical service providers engaged under a term contract centrally

¹ LC Paper No. [CB\(1\)1498/11-12\(05\)](#)

² LC Paper No. [CB\(1\)860/09-10\(03\)](#)

administered by the Office of the Government Chief Information Officer. The IT staff supplied by technical service providers are known as "T-contract staff". They complement the service provided by civil servants in the IT grades and non-civil service contract ("NCSC") staff. In its reply to a Member's written question on the 2013-14 Draft Estimates of Expenditure, the Administration provided information on the respective numbers of T-contract staff and IT staff directly employed by the Government in B/Ds in the past five years. The Administration's reply is reproduced in **Appendix I**.

- (b) public library service - The practice of securing some of the manpower needed in the provision of public library service through employment agencies dated back to the former Urban Council days. Under this practice, the Leisure and Cultural Services Department ("LCSD") contracts with the chosen employment agency a pre-determined total number of man-hours of manpower to be supplied by the agency on an hourly paid basis. The contracted man-hours of manpower are drawn by LCSD as and when needed during the duration of the contract. The staff supplied by these agencies are known as "service bureau staff". They assist the core workforce to deliver services during peak demand periods, such as lunch hours, after-school hours, weekends and public holidays.
- (c) other types of services including mainly –
 - (i) general office support and customer service, e.g. entering and compiling data, answering telephone enquiries, providing logistic support to short-term campaigns;
 - (ii) publicity and promotion, and event management, e.g. organizing cultural events, preparing publications and promotional materials; and
 - (iii) research-related work and technical support, e.g. collecting and analysing data, assisting in stage setting, developing multi-media resource materials.

Guidelines on the use of agency workers

4. In April 2010, the Civil Service Bureau ("CSB") issued a set of guidelines to B/Ds on the proper use of agency workers³, covering the scope of using agency workers, approval authority and wage requirement. In April 2011, CSB issued a set of supplementary guidelines 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 agency workers to B/Ds following the coming into effect of the Statutory Minimum Wage ("SMW") in May 2011⁴.

Employment situation of agency workers

5. As at 30 September 2011, there were 1 687 agency workers⁵ working in B/Ds, representing a reduction of 25% compared with the position in September 2010⁶. These agency workers were involved mainly in providing general office and technical support, undertaking project co-ordination work and delivering customer services. Around 40% of the agency workers were sourced to meet urgent or unforeseen service needs or unexpected surge in service demands for the short term. Another 24% were deployed to fill short-term manpower gap, mainly arising from the time required to recruit civil servants and/or NCSC staff. Another 19% were procured to deliver services the mode of which would likely be changed shortly. The remaining 17% 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. Most of the agency workers (72%) were sourced from service contracts lasting nine months or less. Another 18% were sourced from service contracts lasting more than nine months but not exceeding 15 months. The remaining 10% were mostly sourced from "term contracts" under which agency workers would be supplied as and when needed by the procuring B/Ds.

³ For the purpose of these guidelines, agency workers do not include T-contract staff supplied by technical service providers under a term contract centrally administered by the Office of the Government Chief Information Officer and service bureau staff providing public library service in LCSD.

⁴ A gist of these guidelines was provided in paragraphs 3 to 9 of the Administration's paper LC Paper No. [CB\(1\)1498/11-12\(05\)](#).

⁵ Excluding the T-contract and service bureau staff

⁶ A table showing the number of agency workers procured by individual B/Ds in 2009, 2010 and 2011 is in **Appendix II**.

Discussions at the Panel on Public Service

6. The Panel discussed the use of agency workers on 18 January 2010, 20 December 2010 and 16 April 2012. At the meeting on 18 January 2010, the Panel received views from relevant staff unions/associations. The major views and concerns expressed by Panel members and the Administration's responses are summarized in the ensuing paragraphs.

Call for reduction in the use of agency workers

7. Some members considered that while the employment terms for NCSC staff were not good, those offered to agency workers were even worse, as they were deprived of wage increases, severance payment, maternity leave, fringe benefits, and job security etc. The use of agency workers would have the effect of suppressing the general wage level of employees and give rise to social conflicts caused by middle-man exploitation and "different pay for the same job". They urged the Administration to reduce or discontinue the use of agency workers, and engage additional NCSC staff or civil servants to take up the work performed by agency workers.

8. The Administration advised that agency workers were only used to meet urgent or unforeseen service needs or unexpected surge in service demands for the short term. As a general guideline, the short-term service demands under the circumstances where agency workers could be used should last for no more than nine months, while NCSC staff would usually be employed for at least one year. To prevent abusive use of agency workers, CSB had issued guidelines to B/Ds on the proper use of agency workers and had held regular meetings with B/Ds to keep abreast of the situation of the use of agency workers.

Protection for agency workers

9. On members' concern as to whether the wage levels of agency workers had been duly adjusted after SMW came into effect on 1 May 2011, the Administration advised that as a minimum, employment agencies were required to pay agency workers either the wages calculated at the prevailing SMW rate or the relevant average monthly wages as published in the Census & Statistics Quarterly Report of Wage and Payroll Statistics, whichever was the higher.

10. A member suggested that the wages of agency workers should be set at a level equivalent to the entry pay points of their civil service counterparts. The Administration had reservations about this proposal because while agency workers were employed to perform relatively specific tasks, their

civil service counterparts were required to be capable of performing a wide variety of tasks in the Government. The entry requirements of the two in terms of qualifications and work experience were different.

11. Some members emphasized the need to ensure sufficient deterrence against employment agencies' malpractices of labour exploitation, and urged the Administration to devise a system under which employment agencies having records of such malpractices would be deducted points or even prohibited from bidding for Government service contracts again. The Administration responded that a marking scheme and a demerit point system were already in place which required procuring B/Ds to take into account bidders' past record of compliance with certain statutory and contractual obligations. Procuring B/Ds could make reference to the relevant details and put in place similar arrangements in procuring the service of employment agencies to supply agency workers.

12. Some members proposed that the Administration should consider centralizing the recruitment and co-ordination of the supply of non-skilled workers so as to avoid middle-man exploitation. The Administration responded that since the duties required to be performed by agency workers varied substantially between B/Ds, it was neither desirable nor viable to centrally maintain a pool of staff to meet individual B/Ds' service needs as they arose.

Other issues

13. Noting that 80% of the contracts for the 1 687 agency workers as at 30 September 2011 were limited to the provision of one to three workers on a per contract basis, a member considered that as managing the contracts between the Government and the agencies involved high administrative costs, it might be more cost-effective for the B/Ds concerned to recruit civil servants to meet the service demands.

14. The Administration responded that to ensure efficient use of public resources, B/Ds were reminded from time to time to constantly review existing service needs and to re-prioritize or redeploy resources as appropriate to meet new service needs. The administrative costs incurred in administering contracts were inevitable as the procurement of all agency workers service contracts had to comply with the stipulations in the Store and Procurement Regulations in order to ensure the integrity and impartiality of the procurement process.

15. At the Panel meeting on 16 April 2012, some members noted with concern that the Buildings Department, Department of Health, Education Bureau, LCSD and Water Supplies Department engaged a fairly large number of agency workers and the Immigration Department substantially increased the use of agency workers in 2011. The Administration affirmed that these B/Ds had complied with the criteria for using agency workers as stipulated in CSB's guidelines, and provided supplementary information on the use of agency workers by these B/Ds after the meeting⁷.

Council question

16. Dr Hon PAN Pey-chyou raised an oral question on the use of agency workers in the Government at the Council meeting on 2 March 2011. In reply, the Administration provided information on (a) the actual expenditure incurred by B/Ds in the procurement of employment agency service in the 2008-09, 2009-10 and 2010-11 financial years; (b) a breakdown of the manpower supplied by employment agencies working in B/Ds as at 30 September 2010 by different academic qualification groups; and (c) the wage requirements specified in the service contracts with employment agencies. The hyperlink to the question and the Administration's reply is in **Appendix III**.

Recent development

17. At the Panel meeting held on 18 March 2013, members agreed to Hon LEE Cheuk-yan's proposal that the use of agency workers, including the use of "T-contract staff", should be discussed by the Panel. CSB and the Office of the Government Chief Information Officer will update the Panel on the use of agency workers and T-contract staff at the Panel meeting scheduled for 20 May 2013.

Relevant papers

18. A list of relevant papers and hyperlinks is shown in **Appendix III**.

Council Business Division 4
Legislative Council Secretariat
21 May 2013

⁷ LC Paper No. [CB\(1\)2292/11-12\(01\)](#)

Examination of Estimates of Expenditure 2013-14

**CONTROLLING OFFICER'S REPLY TO
INITIAL WRITTEN QUESTION**

Reply Serial No.

CEDB(CT)104

Question Serial No

2672

Head: 47 – Government Secretariat : Subhead (No. & title):
Office of the Government Chief
Information Officer

Programme:

Controlling Officer: Government Chief Information Officer

Director of Bureau: Secretary for Commerce and Economic Development

Question: For years, the Government had ceased employing information technology (IT) staff on civil service establishment. However, in the meantime, the Government continued its efforts to operate through electronic means and its demand for IT was still on the rise. Therefore, the Government has employed a substantial number of contract IT staff through employment agencies, resulting in serious issues of unequal pay for the same work and unfair conditions of appointment (e.g. no paid sick leave, no medical insurance, no payment for duties undertaken during typhoon signal or black rainstorm signal is hoisted). Moreover, the employment agencies charge a high percentage of service fees from the tender price offered by the Government. It is extremely unfair to the contract staff, and a serious succession gap in government IT-related grade has emerged, bringing additional risk to the operation of the government IT systems.

- (a) How many such temporary and short-term contract IT staff has been employed in various government departments at present? What is the percentage of such staff against the number of other government IT staff (including civil service staff and non-civil service contract staff) in various government departments? What is the change in number of such staff in the past 5 years? What is the duration of service of these T-contract staff?
- (b) Does the Government have any plan to convert these temporary and short-term contract staff who have been providing service for long time to non-civil service contract staff or civil service staff? If so, what are the details? If not, will the Administration consult the affected staff on this matter? If there is no plan for consultation, what are the reasons?

Asked by: Hon. MOK, Charles Peter

Reply: (a) In the past 5 years, the changes in the number of contract staff engaged through employment agencies (hereafter generally referred to as “T-contract staff”) and information technology (IT) staff directly employed by the Government in all bureaux/departments (B/Ds) are shown below:

	Number of IT staff directly employed by the Government (See Note)	Number of T-contract staff	Total
As at 31 December 2008	1929	1276	3205
As at 31 December 2009	1988	1482	3470
As at 31 December 2010	2022	1626	3648
As at 31 December 2011	1999	1815	3814
As at 31 December 2012	2005	2074	4079

Note: Including civil servants of Analyst/Programmer Grade, Computer Operator Grade and Data Processor Grade as well as non-civil service contract staff

With the continuing development of e-government services and implementation of various infrastructure and initiatives under the Digital 21 Strategy, the number of IT staff required by the Government has kept growing over the past few years. The T-contract staff engaged through T-contract arrangement can complement the service provided by the IT staff directly employed by the Government. This arrangement allows B/Ds to tap the latest expertise in the market for developing and supporting IT systems and applications, and to better meet their fluctuating IT manpower demand. Moreover, the arrangement can foster technology exchange between IT personnel in the civil service and IT professionals in the private sector. It is generally welcomed and supported by the IT industry.

As regards the duration of service of T-contract staff, the T-contracts between the Government and the contractors normally last for 3 years, whereas the length of contract for individual staff is not uniform. The duration of service of these staff may vary from a few months to 3 years, depending mainly on the actual manpower need of the B/D concerned as well as the financial and administrative considerations.

- (b) T-contract staff are not government employees. At present, there is neither a mechanism nor a plan to directly convert these staff who are employed by employment agencies to civil service staff or non-civil service contract staff. Individual T-contract staff may apply for any related civil service posts or non-civil service contract staff positions they are interested in. For example, the Government has resumed open recruitment of Analyst/Programmer II since 2009. Every year there are cases of successful application for civil service post by T-contract staff through open recruitment exercise.

In order to ensure the T-contract staff will be given due employment protection and fair treatment by their employers, it is stipulated in the T-contracts that the contractors shall comply with the employment laws in Hong Kong, shall act as responsible employers and shall not include unreasonable terms in the employment contracts. Although there is no employer-employee relationship between the Government and the contract staff, any non-compliance by a contractor, if substantiated, can be treated as breach of contract which may lead to termination of the service contract by the Government.

Name in block letters: Daniel LAI

Post Title: Government Chief Information Officer

Date: 8.4.2013

Appendix II

A breakdown of the number of agency workers by B/Ds

(sources: Annexes to LC Papers Nos. CB(1)860/09-10(03),
CB(1)783/10-11(05) and CB(1)1498/11-12(05))

Bureau/Department	Number of agency workers* as at		
	30 September 2009	30 September 2010	30 September 2011
Agriculture, Fisheries and Conservation Department	11	43	21
Auxiliary Medical Service	2	-	-
Buildings Department	160	194	125
Census and Statistics Department	39	5	-
Chief Secretary and Financial Secretary's Office	20	15	20
Civil Aid Service	4	5	1
Civil Aviation Department	4	2	2
Civil Engineering and Development Department	53	55	4
Civil Service Bureau	13	9	2
Commerce and Economic Development Bureau	13	15	11
Constitutional and Mainland Affairs Bureau	11	10	5
Correctional Services Department	52	64	33
Customs and Excise Department	45	11	11
Department of Health	323	317	294
Department of Justice	5	13	16
Development Bureau	17	23	12
Drainage Services Department	20	20	18
Education Bureau	285	269	150
Electrical and Mechanical Services Department	109	77	15
Environment Bureau	-	4	4
Environmental Protection Department	31	25	27
Financial Services and the Treasury Bureau	19	11	6
Fire Services Department	61	70	24
Food and Environmental Hygiene Department	188	73	37
Food and Health Bureau	19	16	12
Government Flying Service	4	2	1
Government Laboratory	4	8	9

Bureau/Department	Number of agency workers* as at		
	30 September 2009	30 September 2010	30 September 2011
Government Logistics Department	14	14	1
Highways Department	3	1	-
Home Affairs Bureau	9	4	24
Home Affairs Department	2	2	-
Hong Kong Police Force	33	72	11
Hongkong Post	3	-	-
Immigration Department	8	8	88
Information Services Department	20	28	21
Inland Revenue Department	1	-	-
Innovation and Technology Commission	5	1	2
Invest Hong Kong	1	1	1
Labour and Welfare Bureau	3	-	-
Labour Department	31	42	40
Lands Department	90	80	65
Leisure and Cultural Services Department	299	314	188
Marine Department	22	21	8
Office of the Government Chief Information Officer	5	5	-
Official Receiver's Office	15	12	12
Planning Department	-	-	9
Radio Television Hong Kong	5	-	-
Rating and Valuation Department	52	51	54
Registration and Electoral Office	-	-	107
Security Bureau	6	6	7
Student Financial Assistance Agency	35	35	22
Television and Entertainment Licensing Authority	1	-	-
Trade and Industry Department	1	9	-
Transport and Housing Bureau	15	14	5
Transport Department	41	56	60
University Grants Committee Secretariat	1	-	-
Water Supplies Department	165	128	102
Total	2 398	2 260	1 687

* Excluding the T-contract and service bureau staff

List of relevant papers

Date	Meeting/Event	References
18.1.2010	Panel on Public Service	Administration paper on "Use of Agency Workers" LC Paper No. CB(1)860/09-10(03) Minutes of meeting LC Paper No. CB(1)1383/09-10
20.12.2010	Panel on Public Service	Administration paper on "Use of Agency Workers" LC Paper No. CB(1)783/10-11(05) Minutes of meeting LC Paper No. CB(1)1111/10-11
2.3.2011	Council Meeting	Question raised by Dr Hon PAN Pey-chyou on "Use of agency workers in Government" http://www.info.gov.hk/gia/general/201103/02/P201103020174.htm
16.4.2012	Panel on Public Service	Administration paper on "Use of Agency Workers" LC Paper No. CB(1)1498/11-12(05) Background brief on "Use of Agency Workers" LC Paper No. CB(1)1498/11-12(06) Minutes of meeting LC Paper No. CB(1)2241/11-12 Administration's follow-up paper LC Paper No. CB(1)2292/11-12(01)
10.4.2013	Special Finance Committee meeting to examine the Estimates of Expenditure 2013-2014	Controlling Officer's reply to initial written question – Reply Serial No. CEDB(CT)104