

立法會

Legislative Council

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Panel on Public Service

Meeting on 19 May 2014

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 Administration, 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 Administration¹, the use of agency workers by B/Ds could be broadly grouped into the following three main areas –

- (a) information technology ("IT") service²;

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

² Some of the IT manpower required by B/Ds is secured through technical service providers engaged under a term contract centrally 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 staff.

- (b) public library service³; and
- (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.

Employment situation of agency workers

4. As at 30 September 2012, there were 1 173 agency workers⁴ working in B/Ds, representing a reduction of 30% compared with the position in September 2011⁵. A breakdown of the 1 173 agency workers by the reasons for their engagement is follows –

- (a) 48% (or 561) of the agency workers were sourced to meet urgent or unforeseen service needs or unexpected surge in service demands for the short term;
- (b) 16% (or 193) were deployed to fill short-term manpower gap, mainly arising from the time required to recruit civil servants and/or non-civil service contract ("NCSC") staff;
- (c) 22% (or 252) were procured to deliver services the mode of which would likely be changed shortly; and

³ 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.

⁴ Excluding the T-contract and service bureau staff

⁵ A table showing the number of agency workers procured by individual B/Ds from 2009 to 2012 is in **Appendix I**.

- (d) 14% (or 167) 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.

5. The service of the above stated agency workers were procured under 334 contracts, of which around 67% were limited to the provision of one to three workers on a per contract basis. In terms of the duration of service contracts, -

- (a) 56% (or 659) of the agency workers were sourced from service contracts lasting nine months or less;
- (b) 35% (or 409) were sourced from service contracts lasting more than nine months but not exceeding 15 months; and
- (c) the remaining 9% (or 105) were mostly sourced from "term contracts" under which agency workers would be supplied only as and when needed by the procuring B/Ds.

Guidelines on the use of agency workers

6. In April 2010, the Civil Service Bureau ("CSB") issued a set of guidelines to B/Ds on the proper use of agency workers⁶, 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 implementation of the Statutory Minimum Wage ("SMW") in May 2011.⁷

Discussions at the Panel on Public Service

7. The Panel discussed the use of agency workers on 18 January 2010, 20 December 2010, 16 April 2012 and 6 June 2013. At the meeting on 18 January 2010, the Panel received views from relevant staff

⁶ 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.

⁷ A gist of these guidelines was provided in paragraphs 3 to 9 of the Administration's paper LC Paper No. CB(4)661/13-14(03).

unions/associations. At the meeting on 6 June 2013, the Panel also reviewed the use of T-contract staff engaged under term contracts centrally administered by the Office of the Government Chief Information Officer ("OGCIO"). 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

8. Some members considered that while the employment terms for non-civil service contract ("NCSC") staff were not good, those offered to agency workers were even worse, as agency workers 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 convert those agency workers who had been providing services to B/Ds for a long time to government employees

9. 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

10. On members' concern about the wage levels of agency workers, the Administration advised that as a minimum, employment agencies were required to pay agency workers either the wages calculated at the prevailing Statutory Minimum Wage rate or the relevant average monthly wages as published in the Census & Statistics Quarterly Report of Wage and Payroll Statistics, whichever was the higher.

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.

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 among 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.

13. Some members were concerned about the employment protection for the service bureau staff who provided service in public libraries under service contracts. The Administration advised that the service bureau staff assisted the core workforce to deliver services during peak demand periods as and when needed. The number of service bureau staff working in public libraries varied from time to time, and they did not have uniform weekly or monthly working hours. At members' request, the Administration provided further information on the terms of employment of these staff⁸. In its reply, the Administration advised that the contractors were required to comply with the relevant employment ordinances of Hong Kong.

T-contract staff

14. Noting that as at 31 March 2013, there were some 1 970 T-contract staff working alongside a combined civil service and NCSC workforce of about 2 000 in different B/Ds, some members considered that the engagement of T-contract staff gave rise to issues of unequal pay for the same work, unfair terms of employment and middle-man exploitation, as well as IT security problems. They urged the Administration to conduct a comprehensive review of the T-contract arrangement and formulate a plan to convert those T-contract staff who had been providing services continuously to B/Ds for a long time to government employees.

15. The Administration advised that the T-contract staff could complement the service provided by the IT staff directly employed by the Government to meet short-term or project-based service needs. This arrangement allowed B/Ds to tap the latest expertise in the market for developing IT systems and fostered technology exchange between IT personnel in the civil service and the private sector. The flourishing IT

⁸ LC Paper No. CB(4)929/12-13(01)

market and the high mobility of IT personnel had helped maintain the service rates of T-contract staff at a buoyant level. T-contract staff were required to sign confidentiality undertakings on non-disclosure of confidential information. At members' request, the Administration provided information on the length of continuous employment of T-contract staff by T-contractors to provide service in the same B/Ds (**Appendix II**)⁹.

Term contracts

16. Noting that about 9% (or 105) agency workers were sourced from service contracts exceeding 15 months as at 30 September 2012, members enquired about the job nature of these agency workers and the services involved. The Administration advised that under the "term contracts", employment agencies would supply agency workers as and when needed by B/Ds. This kind of contracts might have a longer duration to cater for unexpected surge in service demands. The workers provided by the employment agencies might not be the same group of persons every time. At members' request, the Administration provided supplementary information in respect of "term contracts"¹⁰.

Recent development

17. The Administration will update the Panel on the use of agency workers at the Panel meeting on 19 May 2014.

Relevant papers

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

Council Business Division 4
Legislative Council Secretariat
15 May 2014

⁹ LC Paper No. CB(4)929/12-13(02)

¹⁰ LC Paper No. CB(4)929/12-13(01)

Appendix I

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), CB(1)1498/11-12(05), CB(1)625/12-13(03) and CB(4)625/12-13(03))

Bureau/Department	Number of agency workers* as at			
	30 September 2009	30 September 2010	30 September 2011	30 September 2012
Agriculture, Fisheries and Conservation Department	11	43	21	7
Auxiliary Medical Service	2	-	-	-
Buildings Department	160	194	125	40
Census and Statistics Department	39	5	-	-
Chief Secretary and Financial Secretary's Office	20	15	20	22
Civil Aid Service	4	5	1	-
Civil Aviation Department	4	2	2	1
Civil Engineering and Development Department	53	55	4	-
Civil Service Bureau	13	9	2	2
Commerce and Economic Development Bureau	13	15	11	9
Constitutional and Mainland Affairs Bureau	11	10	5	-
Correctional Services Department	52	64	33	22
Customs and Excise Department	45	11	11	-
Department of Health	323	317	294	288
Department of Justice	5	13	16	6
Development Bureau	17	23	12	20
Drainage Services Department	20	20	18	7
Education Bureau	285	269	150	90
Electrical and Mechanical Services Department	109	77	15	16
Environment Bureau	-	4	4	5
Environmental Protection Department	31	25	27	32
Financial Services and the Treasury Bureau	19	11	6	-
Fire Services Department	61	70	24	14
Food and Environmental Hygiene Department	188	73	37	27
Food and Health Bureau	19	16	12	5
Government Flying Service	4	2	1	1
Government Laboratory	4	8	9	2

Bureau/Department	Number of agency workers* as at			
	30 September 2009	30 September 2010	30 September 2011	30 September 2012
Government Logistics Department	14	14	1	4
Highways Department	3	1	-	-
Home Affairs Bureau	9	4	24	10
Home Affairs Department	2	2	-	-
Hong Kong Police Force	33	72	11	-
Hongkong Post	3	-	-	-
Immigration Department	8	8	88	45
Information Services Department	20	28	21	20
Inland Revenue Department	1	-	-	-
Innovation and Technology Commission	5	1	2	2
Invest Hong Kong	1	1	1	1
Labour and Welfare Bureau	3	-	-	5
Labour Department	31	42	40	42
Lands Department	90	80	65	71
Leisure and Cultural Services Department	299	314	188	84
Marine Department	22	21	8	19
Office of the Government Chief Information Officer	5	5	-	-
Official Receiver's Office	15	12	12	16
Planning Department	-	-	9	5
Radio Television Hong Kong	5	-	-	-
Rating and Valuation Department	52	51	54	48
Registration and Electoral Office	-	-	107	7
Security Bureau	6	6	7	6
Student Financial Assistance Agency	35	35	22	39
Television and Entertainment Licensing Authority	1	-	-	-
Trade and Industry Department	1	9	-	-
Transport and Housing Bureau	15	14	5	4
Transport Department	41	56	60	59
University Grants Committee Secretariat	1	-	-	1
Water Supplies Department	165	128	102	69
Total	2 398	2 260	1 687	1 173

* Excluding the T-contract and service bureau staff

**Engagement of T-contract Staff
(Position as at 31.3.2013)**

Length of Continuous Service

Length of continuous service	No. of T-contract Staff (and percentage to total)	
Less than 1 year	432	(21.9%)
1 year to less than 3 years	624	(31.7%)
3 years to less than 5 years	269	(13.6%)
5 years or more	646	(32.8%)
Total	1971	(100%)

(Note: length of continuous service refers to continuous employment of T-contract staff by T-contractors to provide service in the same bureau/department)

List of relevant papers

Meeting	Date of meeting	Paper
Panel on Public Service	18 January 2010 (item IV)	<u>Agenda</u> <u>Administration's paper</u> <u>Minutes</u>
Panel on Public Service	20 December 2010 (item V)	<u>Agenda</u> <u>Administration's paper</u> <u>Minutes</u>
Council meeting	2 March 2011	<u>Question raised by Dr Hon PAN Pey-chyou on "Use of agency workers in Government"</u>
Panel on Public Service	16 April 2012 (item IV)	<u>Agenda</u> <u>Administration's paper</u> <u>Minutes</u> <u>Administration's follow-up paper</u>
Panel on Public Service	3 June 2013 (item IV)	<u>Agenda</u> <u>Administration's paper on use of agency workers</u> <u>Administration's paper on use of T-contract services</u> <u>Updated background brief</u> <u>Minutes</u> <u>Administration's follow-up paper on use of agency workers</u> <u>Administration's follow-up paper on use of T-contract staff</u>