

For discussion
on 20 April 2015

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. The Civil Service Bureau (CSB) issued a set of guidelines on the proper use of agency workers¹ in April 2010, covering the 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

¹ 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.

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 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 –

- (i) the prevailing SMW² plus one paid rest day for every period of seven days; or
- (ii) 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 workers³ 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

² The prevailing SMW rate is \$30 per hour. The Legislative Council has approved the subsidiary legislation relating to SMW. The revised SMW rate of \$32.5 per hour will come into force on 1 May 2015.

³ 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.

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

Position of Agency Workers as at 30 September 2014

10. As at 30 September 2014, there were 965 agency workers working in B/Ds. This represented a reduction of 1% compared with the position in September 2013. 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, undertaking project co-ordination work and delivering customer services. Around 61% (or 590) were sourced to meet urgent or unforeseen service needs or unexpected surge in service demands for the short-term. Another 19% (or 187) were deployed to fill short-term manpower gap, mainly arising from the time required to recruit civil servants and/or Non-civil Service Contract staff. Another 19% (or 180) 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. The remaining 1% (or eight) were procured to deliver services the mode of which would likely change shortly.

11. As at 30 September 2014, 317 agency workers contracts were in force, of which around 76% were limited to the provision of one to three workers on a per contract basis. Most of the agency workers (60% or 581) were sourced from service contracts lasting nine months or less. Another 28% (or 272) were sourced from service contracts lasting more than nine months but not exceeding 15 months. The remainder (12% or 112) 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.

Civil Service Bureau

April 2015

**A breakdown of the number of agency workers by bureaux/departments
(position as at 30 September 2014)**

Bureau/Department	Number of agency workers *
Agriculture, Fisheries and Conservation Department	8
Buildings Department	37
Chief Secretary and Financial Secretary's Offices	17
Civil Aid Service	2
Civil Engineering and Development Department	2
Commerce and Economic Development Bureau	8
Correctional Services Department	27
Department of Health	50
Department of Justice	14
Development Bureau	17
Drainage Services Department	22
Education Bureau	94
Electrical and Mechanical Services Department	15
Environment Bureau	9
Environmental Protection Department	53
Financial Services and the Treasury Bureau	2
Fire Services Department	17
Food and Environmental Hygiene Department	8
Food and Health Bureau	1
Government Flying Service	1
Government Logistics Department	13
Home Affairs Bureau	2
Immigration Department	33
Information Services Department	30
Innovation and Technology Commission	6
Labour and Welfare Bureau	6
Labour Department	41
Lands Department	59
Leisure and Cultural Services Department	68
Marine Department	21
Official Receiver's Office	13
Planning Department	28
Rating and Valuation Department	42
Security Bureau	4
Student Financial Assistance Agency	58
Trade and Industry Department	3
Transport and Housing Bureau	6
Transport Department	41
University Grants Committee Secretariat	7
Water Supplies Department	80
Total	965

* Excluding the T-contract and service bureau staff.