

立法會
Legislative Council

LC Paper No. CB(1)1498/11-12(06)

Ref: CB1/PL/PS

**Panel on Public Service
Meeting on 16 April 2012**

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

Meaning of agency workers

2. The Administration refers to the manpower supplied by employment agencies under service contracts and work under direct supervision of the procuring B/Ds as "agency workers"¹. These workers do not have a contractual employment relationship with the B/Ds concerned.

Guidelines on the use of agency workers

3. After consulting the Panel at its meeting on 18 January 2010 and B/Ds, the Civil Service Bureau ("CSB") issued a set of guidelines on the proper use of agency workers in April 2010. The CSB guidelines apply to all service contracts for the supply of agency workers for which quotations or tenders are invited after the issue of the guidelines. The guidelines covered three areas, namely scope of using agency workers, approval authority and wage requirement. Under the guidelines, B/Ds may use

¹ See LC Paper No. CB(1)860/09-10(03) provided by the Administration for the Panel meeting on 18 January 2010.

agency workers only under one or more of the following circumstances –

- (a) to meet urgent or unforeseen service needs or unexpected surge in service demands for the short-term;
- (b) to fill short-term manpower gap;
- (c) to provide short-term cover for manpower to deliver service the mode of which would be changed shortly; or
- (d) to meet service needs which entailed irregular work pattern or where the nature of the work involved rendered it difficult to recruit and retain staff.

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

4. To address concerns about the usages of agency workers, bids quoting wages below the average monthly salary of miscellaneous non-production workers in all selected industries published in latest Census and Statistics Department's Quarterly Report on Wages and Payroll Statistics at the time when the bids are invited should not be considered by B/Ds. B/Ds are required to specify in the service contract that the wages of the agency workers assigned to work in them may not be less than the quoted wages in the bids and the mechanism to monitor compliance with wage requirement as well as sanctions to be imposed in the event of non-compliance.

Statistics on the number of agency workers

5. Prior to 2010, the Administration did not centrally maintain information on the use of agency workers by B/Ds. On members' request, CSB provided snapshots of the situation as at 30 September 2009 and 30 September 2010 to the Panel for its meetings on 18 January 2010 and 20 December 2010 respectively. The total number of agency workers dropped slightly from 2,398 on 30 September 2009 to 2,260 on 30 September 2010. A breakdown of the number of agency workers by B/Ds as at the two said dates is in **Appendix I**.

6. Among the 579 agency workers who were engaged as at

30 September 2010 under service contracts subject to the CSB guidelines, 32% (or 188), 30% (or 169), 25% (or 147) and 13% (or 75) were sourced respectively under the circumstances in paragraph 3(a), (b), (c) and (d) above. About three quarters (or 446) of the agency workers were sourced from service contracts lasting for nine months or less. The remaining 23% (or 133) of the agency workers were mostly sourced from "term contracts" lasting for 12 months under which agency workers would be supplied as and when needed by the procuring B/Ds. For service contracts entered into before the issue of guidelines, the guidelines would apply when they are renewed or extended. According to the Administration's paper for the Panel meeting on 20 December 2010, only 5% (or 111) of the agency workers as at 30 September 2010 were engaged under such contracts which would expire between July 2011 and July 2012.

Major concerns of Panel members

7. The Administration briefed the Panel on use of agency workers on 18 January 2010 and 20 December 2010. Major views and concerns expressed by members are summarized in the following paragraphs.

Call to reduce or discontinue the use of agency workers

8. At the Panel meeting on 18 January 2010, some members expressed concern about the engagement of a large number of agency workers by B/Ds, which in their opinion was caused by the control imposed on civil service establishment and cost considerations. They considered it regretful that while the employment terms for Non-Civil Service Contract ("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 also have the effect of suppressing the general wage level of employees. In their view, the use of agency workers should be minimized or even discontinued as it gave rise to social conflicts because of middle-man exploitation and "different pay for the same job".

9. The Administration responded that under the proposed CSB guidelines, B/Ds would be advised to use agency workers in meeting service needs which lasted for a short period of 12 months² or less, or which required staff to work odd hours of the day. The Administration had also adopted a number of improvement measures to protect agency

² The period was reduced to "no more than nine months" in the CSB guidelines issued.

workers from middle-man exploitation. To ensure efficient use of public resources, B/Ds were reminded to constantly review existing service needs and to re-prioritize or redeploy resources as appropriate to meet new service needs.

Wage level of agency workers

10. At the Panel meeting on 18 January 2010, a member suggested that in order to demonstrate to the public that the Administration was not using agency workers as cheap labour to meet short-term service needs, the wages of agency workers should be set at a level equivalent to the entry pay points of their civil service counterparts. In his view, by stipulating this in the service contracts, the problem of middle-man exploitation would be solved.

11. 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. Besides, contractors were already not allowed to pay agency workers assigned to work in B/Ds wages less than the quoted wages in the bids, which would not be less than the average monthly wages of miscellaneous non-production workers in all selected industries published in the latest Census and Statistics Department's Quarterly Report of Wage and Payroll Statistics at the time when tenders were invited.

Proposal for a central pool of non-skilled workers

12. At the Panel meeting on 20 December 2010, some members proposed that the Administration consider centralizing the recruitment and co-ordination of the supply of non-skilled workers so as to avoid middle-man exploitation.

13. Regarding this proposal, the Administration was of the view that since the duties required to be performed by agency workers varied substantially between B/Ds, and hence staff with different skills were required, it was neither desirable nor viable to centrally maintain a pool of staff to meet service needs as they arose. Besides, CSB had already drawn up a set of guidelines on the proper use of these workers to prevent abuse of agency workers. Through meeting with heads of B/Ds, CSB would keep itself abreast latest situation concerning NCSC staff and agency workers in the Government.

Council Question

14. Dr Hon PAN Pey-chyou raised a question on use of agency workers in the Government at the Council meeting on 2 March 2011. Hyperlink to the question and the Administration's reply is in **Appendix II**.

Latest development

15. The Administration will update the Panel on use of agency workers at the Panel meeting scheduled for 16 April 2012.

Relevant papers

16. A list of relevant papers and hyperlinks is shown in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
10 April 2012

Appendix I

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

Bureau/Department	Number of agency workers* as at	
	30 September 2009	30 September 2010
Agriculture, Fisheries and Conservation Department	11	43
Auxiliary Medical Service	2	-
Buildings Department	160	194
Census and Statistics Department	39	5
Chief Secretary and Financial Secretary's Office	20	15
Civil Aid Service	4	5
Civil Aviation Department	4	2
Civil Engineering and Development Department	53	55
Civil Service Bureau	13	9
Commerce and Economic Development Bureau	13	15
Constitutional and Mainland Affairs Bureau	11	10
Correctional Services Department	52	64
Customs and Excise Department	45	11
Department of Health	323	317
Department of Justice	5	13
Development Bureau	17	23
Drainage Services Department	20	20
Education Bureau	285	269
Electrical and Mechanical Services Department	109	77
Environment Bureau	-	4
Environmental Protection Department	31	25
Financial Services and the Treasury Bureau	19	11
Fire Services Department	61	70
Food and Environmental Hygiene Department	188	73
Food and Health Bureau	19	16
Government Flying Service	4	2
Government Laboratory	4	8
Government Logistics Department	14	14
Highways Department	3	1
Home Affairs Bureau	9	4

Bureau/Department	Number of agency workers* as at	
	30 September 2009	30 September 2010
Home Affairs Department	2	2
Hong Kong Police Force	33	72
Hongkong Post	3	-
Immigration Department	8	8
Information Services Department	20	28
Inland Revenue Department	1	-
Innovation and Technology Commission	5	1
Invest Hong Kong	1	1
Labour and Welfare Bureau	3	-
Labour Department	31	42
Lands Department	90	80
Leisure and Cultural Services Department	299	314
Marine Department	22	21
Office of the Government Chief Information Officer	5	5
Official Receiver's Office	15	12
Radio Television Hong Kong	5	-
Rating and Valuation Department	52	51
Security Bureau	6	6
Student Financial Assistance Agency	35	35
Television and Entertainment Licensing Authority	1	-
Trade and Industry Department	1	9
Transport and Housing Bureau	15	14
Transport Department	41	56
University Grants Committee Secretariat	1	-
Water Supplies Department	165	128
Total	2 398	2260

* Excluding the T-contract and service bureau staff

Appendix II

Use of agency workers in Government

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)) http://www.legco.gov.hk/yr09-10/english/panels/ps/papers/ps0118cb1-860-3-e.pdf Minutes of meeting (LC Paper No. CB(1)1383/09-10) http://www.legco.gov.hk/yr09-10/english/panels/ps/minutes/ps20100118.pdf
20.12.2010	Panel on Public Service	Administration paper on "Use of Agency Workers"(LC Paper No. CB(1)783/10-11(05)) http://www.legco.gov.hk/yr10-11/english/panels/ps/papers/ps1220cb1-783-5-e.pdf Minutes of meeting (LC Paper No. CB(1)1111/10-11) http://www.legco.gov.hk/yr10-11/english/panels/ps/minutes/ps20101220.pdf
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