POLICY

FOR UTILIZATION OF

LABOUR BROKERS

Adopted by Mayoral Committee
20 October 2004 : MC 56/10/04

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Policy for the utilization of labour brokers (LB)

GLOSSARY OF TERMS

LB	-	Labour Broker
HR	-	Human Resources
TSS	-	Temporary Staffing Solutions
PO	-	Purchase Order
GRN	-	Goods Received Note
R & S	-	Recruitment & Selection
SARS	-	South African Revenue Services
IAS	-	Internal Audit Services
PAYE	-	Pay As You Earn
RSC	-	Regional Services Council

DEFINITIONS

TEMPORARY STAFF

Any staff, other than permanent staff, that are being referred to as temporary staff indicating the collective of all categories other than permanent.

LABOUR BROKER

Any person or company who for reward:

- Provides a client with persons to render a service or perform work for the client; or
- Procures persons for a client, and remunerates the persons for their services to or work done for the client

Either the labour broker makes available his own employees to perform work for a client, or he obtains workers for a client. Labour broker employees work at the premises of the client, utilize the client's equipment, work according to the client's hours of work and are supervised by the employees of the client. Joint and several liability exists between the LB and the client for the LB employees should the client not adhere to labour and tax legislation

INDEPENDENT CONTRACTORS

The independent contractor usually does not work at the premises of the client, utilize the client's equipment, work according to the client's hours of work and is generally not supervised by the employees of the client eg auditors, lawyers, advocates, agents, doctors or contractors. The emphasis is on the rendering of a specific service or the production of specific results usually within a specified period and utilization is motivated i.t.o. cost effectiveness and efficiency. It is a contract of service and not a contract of employment.

FIXED TERM CONTRACT WORKERS

Persons appointed by the City of Cape Town on a fixed term contract of employment to render services of a non-permanent nature for a specified duration. This includes:

- A contract where the job or project is of a temporary and short term nature; short term to be regarded as a period of 24 months or less.
- A special contract where the job or project is of a medium to long term nature; medium to long term to be regarded as 25 to 60 months; typically utilised for the specific purpose of a project.

Policy for the utilization of labour brokers (LB)

1. AIM OF THE POLICY

This policy aims to provide clear guidelines, conditions and processes.

2. PRINCIPLES/ PHILOSOPHY

The principles/philosophy that this policy is based on emanates from findings published in various reports on this issue including the Audit Report of 2003. The utilization of LB's therefore will be based on;

- Efficiency and control of the labour brokers hiring process
- Compliance with administrative process and policy
- Compliance with relevant legislation and City Policy.
- Sustainable financial management - curtailing excessive expenditure on utilisation of LB's.
- Optimised resource allocation in terms of appropriate staffing solutions available in the City of Cape Town
- Continuous service delivery

3. GUIDELINES

The utilization of Labour Brokers will only be permitted where other staffing options eg. redeployment, Council contracts etc are not appropriate or available.

When considering utilizing LB's, the following criteria need to be considered:

3.1. Planned requests for LB staff

3.1.1. To be utilized for a period of no more than six months

3.1.2. To be utilized when a person will be on leave (up to 6 months max, including maternity leave)

3.1.3. To be utilized when the line manager is in the process of filling a post and requires someone to perform the function, for the interim.

3.1.4. To be utilized when seasonal work is required and Council could not secure staff via non-permanent contracts of employment

3.1.5. Bulk supply; for period longer than 6 months and no longer than 1 year, to be approved by the relevant Executive Director (in consultation with TMT) and Director Procurement

3.1.6. To be utilized for a specific project where there is a defined end date or at project completion

3.2. Unplanned requests for LB staff

3.2.1. To assist with requests in an emergency situation where staff is required for service delivery purposes and need to start within 5 to 24 hours

3.2.2. Placement required for short period of 1-2 weeks; typically to replace someone that went off sick unexpectedly and for an emergency situation

3.2.3. Could be extended for longer period depending on circumstances of the situation - in this case the extension follows the process of a planned request for LB staff where different staffing options must be considered.

3.3. Utilization of LB's

The LB's listed as preferred suppliers in terms of the LB tender, having given due consideration to the Preferential Procurement Act & the Broad-Based Black Economic Empowerment Act, will be the only organizations utilized for the duration of the tender (as specified in the tender specification document).

Human Resources will provide the linking function between line management and the Labour Broker.

The application of specific conditions of tender is detailed in the tender document and will be applied as stated.

The detailed process for the management of Labour Brokers is attached as a flow chart **(Annexure 1)** and a detailed description of the process is attached as **Annexure 2**.

4. ROLE CLARIFICATION IN THE LB PROCESS

6.1. <u>Procurement</u>

6.1.1. To ensure that service providers adhere to the specifications of the tender, including service providers' registration for RSC levies.

6.1.2. Monitor service provider performance against the tender and address matters of default

6.1.3. Ensure that service providers comply with statutory requirements e.g. payment of taxes i.e. follow-up with Service Providers regarding IRP 30 Certificates.

6.1.4. Issue official purchase orders and communicate purchase order numbers

Procurement will ensure that documentation that was required from service providers as part of the tender process, remain current eg. Tax certificates. Should a document be subject to expiry - Procurement must enter into Communication with the LB Service Providers, requesting an update on the certificate by a given date. If the document lapses during the tender period and no response to the City's communication has been received procurement will inform payroll immediately for arrangements to be made for deduction purposes eg. Tax deductions. If the service provider does not comply with the tender regulations within a fixed period thereafter, their services will be terminated.

This control measure is important to ensure that the City of Cape Town is protected from liability for taxes not paid by a service provider.

6.2. Expenditure

- 6.2.1. Ensures the payment of invoices submitted by LB's for services rendered, where a 3-way match exists.
- 6.2.2. Match invoices with timesheets (GRN) and order number on the SAP system
- 6.2.3. Creates a LB vendor classification grouping
- 6.2.4. Monitors the expenditure for the financial year
- 6.2.5. Provides exception reporting & identify irregular expenditure, for the attention of TSS.

6.3. Line management/ Staff requesting utilization of LB's

- 6.3.1. Completes all required documentation and follow correct procedure/process as outlined in Annexure to this policy
- 6.3.2. Monitor expenditure on LB's staff & expenditure for cost centre.
- 6.3.3. Liaises directly with HR in regard to the acquisition of staff via LB's
- 6.3.4. Ensures all electronic processes are completed for procurement and expenditure SAP interface
- 6.3.5 Supervises and control LB staff including:
  - 6.3.5.1 Ensuring LB staff are adequately equipped in order to enable them to perform their functions
  - 6.3.5.2 Managing/supervising work completed by the LB staff and ensure work allocation
  - 6.3.5.3 Monitoring the attendance of the LB staff and sign timesheets to verify work completed
  - 6.3.5.4 Addressing any grievance or disciplinary issues that may arise during the period of appointment (in collaboration with HR)
  - 6.3.5.5 Monitoring the performance of the staff and report any problems that may occur to HR

6.4. Human Resources

6.4.1. Coordinates requests for the filling of vacant positions (coordinated by HR with dedicated staff, office, equipment, contact details, etc)

6.4.2. Identifies the appropriate staffing solution for each request (e.g. Relocation of existing staff (secondments), appointment on Council contract, alternative placements)

6.4.3. Only if the above is exhausted, will placement via a LB be considered

6.4.4. Manages the interface between line management and the LB's

6.4.5. Liaises with procurement, expenditure, IAS re LB's utilization and tender compliance

6.4.6. Ensures that all preferred service providers identified through the tender adjudication, be provided with equal opportunity for the provision of staff. The utilization of service providers will be on a rotational basis to ensure that expenditure on LB staff is distributed equally.

6.4.7. Keeps record of all registrations, certificates submitted by LB's

6.4.8. Keeps a database of the contact details of all successful LB tenderers, including the Western Cape Supplier Database registration/ reference number

6.4.9. Ensures continuous training of existing cost centre owners and line management regarding the management of LB's and policy & procedure amendments.

6.4.10. Ensures communication to the organization, line management and service providers regarding management and utilization of LB's

6.4.11. Ensures the management of performance of Labour Brokers.

6.5. Payroll

6.5.1. Arranging of Tax deductions relating to SARS, if required

6.6. <u>Audit</u>

6.6.1. Providing consultation on LB policy and procedure
6.6.2. Audit reviews of LB process

7. NON-ADHERENCE TO LABOUR BROKER POLICY

Any staff member not adhering to this policy will be disciplined in terms of Council's disciplinary procedure.