

# CLEANING UP:

## An Assessment of Responsible Contracting and Procurement in Canada's Commercial Real Estate Sector

**An assessment of progress by commercial  
real estate companies and commercial  
property tenants in implementing  
responsible contracting and procurement  
policies in the area of property services**



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June 2011



The Shareholder Association for Research and Education (SHARE) coordinates and implements responsible investment practices on behalf of institutional investors. Since its creation in 2000, SHARE has carried out this mandate by providing responsible investment services, including proxy voting and engagement services, as well as education, policy advocacy, and practical research on emerging responsible investment issues.

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This report was written by SHARE on behalf of the Atkinson Charitable Foundation in support of the Foundation's mission based investment strategy. SHARE would like to acknowledge Atkinson's support of this report and recognize the Foundation for its on-going efforts to engage with companies and facilitate multi-stakeholder processes in order to raise awareness around precarious employment and to help identify practical solutions for the commercial real estate sector in Canada.

Any errors or omissions are solely the responsibility of the author.



## INTRODUCTION

## 2. INTRODUCTION

The following report provides an overview of the progress of commercial real estate companies and major office property tenants in incorporating labour considerations into the procurement of property services, including janitorial, maintenance, and security services. It provides an assessment and comparison of nine commercial real estate companies and five major office property tenants based on their efforts to develop responsible contracting and procurement policies<sup>1</sup> applicable throughout their property service supply chains.

The analysis uses the administrative requirements and principles contained in the Responsible Property Services Code (the "Code") as the primary benchmarks for evaluation. The Code was developed in 2009 by SHARE in partnership with the Atkinson Charitable Foundation through a multi stakeholder process with participation from industry, investors, government and civil society representatives. A copy of the Code is contained in Appendix 1.

Companies are assessed on the following three criteria:

- The presence, quality and scope of company policies and procedures<sup>2</sup> for addressing labour standards within the property service supply chain;
- The degree to which these policies and procedures are disclosed publicly; and
- The degree to which companies have incorporated monitoring and enforcement provisions into their policies and procedures to ensure service provider compliance with policies.

The report relies exclusively on materials that have been disclosed publicly by the companies being evaluated or that were provided to us for inclusion in this public report. The assessments do not evaluate actual labour practices by commercial real estate companies, major office tenants or those service providers that are contracted to provide property services to them. The focus of this report is exclusively on company efforts to incorporate labour considerations into contracting and procurement policies. In circumstances where companies did not have a policy in place, the assessment considered the degree to which labour considerations were incorporated into other mechanisms such as standard service agreements and contracts.

Our goal in producing this report is three-fold:

1. To assess and compare the policies of Canadian commercial real estate companies and major office property tenants in the area of responsible contracting and procurement with regards to labour considerations;
2. To encourage companies to improve disclosure of their contracting and procurement policies and procedures; and

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<sup>1</sup> Reference throughout this paper to "policies" implies any policies relevant to the procurement or contracting of property services. For those companies that did not have in place relevant policies we considered other mechanisms such as standard service agreements and contracts.

<sup>2</sup> By "procedures" we are referring to tendering procedures.

3. To determine and highlight the areas in which companies are improving and/or leading as well as identify areas that require further improvement.

With support from SHARE, the Atkinson Charitable Foundation has been engaging with companies on issues of precarious employment in the commercial real estate sector since 2007. Promoting decent work and supporting organizations that advocate for fair labour practices has been an important feature of the Foundation's charitable activities since its inception. As an investor, the Foundation also recognizes that sound labour practices are an important element of business performance for the companies that it invests in. With its mission based investment policy in place since 2002, the Foundation wanted to use the opportunity it had as a shareholder to engage with companies that own and/or operate commercial real estate in order to identify opportunities to improve working conditions for property service workers in Canada.

Since the initial conversations that took place at the outset of the Foundation's engagement efforts, awareness around precarious employment and other labour challenges in the property service supply chain has grown significantly within the industry, with many companies subsequently taking important steps to deal with these issues. However, it is important to note that confronting precarious employment practices ultimately depends on strong government regulation coupled with the presence of monitoring and enforcement mechanisms such as labour inspections. The role of voluntary codes of conduct such as the Responsible Property Services Code is to complement government regulation and enforcement.

The proceeding report provides a detailed look at the degree to which commercial real estate companies and major office property tenants are incorporating labour considerations into contracting and procurement policies; in so doing it acknowledges the progress and efforts that some companies have made in incorporating the principles of responsible contracting into their policies and procedures while also shedding light on where more effort is needed.



**BACKGROUND**



### 3. BACKGROUND

This section provides the context for this report and outlines the labour challenges that can emerge within commercial property service supply chains.<sup>3</sup> It also highlights the role that responsible contractor and sustainable procurement policies can play to address the potential risks posed by precarious working conditions.

Throughout this report, “precarious employment” refers to forms of work involving atypical employment contracts, limited social benefits and statutory entitlements, job insecurity, low job tenure, low wages and high risks of ill health.<sup>4</sup> Precarious employment is characterized by employers’ use of subcontracting and other unduly complex employment strategies such as consecutive fixed-term contracts and labour-only contracting that serve the sole purpose of minimizing labour costs.

#### 3.1 PRECARIOUS EMPLOYMENT AND PROPERTY SERVICES

The commercial real estate sector is susceptible to precarious employment practices due to the high level of outsourcing that takes place in property management throughout the property service supply chain. An increasingly fierce competitive environment compounds this propensity with property service firms facing additional pressure to meet ever-lower price obligations in order to win contracts.

Complex supply chains in the property service sector can serve to obscure poor, and potentially illegal, labour practices from the people responsible for overall property management and from those with responsibility for ensuring legal compliance throughout buildings’ operations. This is an important incentive for property owners and managers, as well as property tenants to implement robust policies and practices so as to ensure that labour standards are upheld throughout the property service supply chain.

In the context of commercial property management, precarious employment practices can have a significant impact on employee retention, tenant satisfaction and property value. Companies are increasingly recognizing that property service workers, such as janitorial, maintenance, and security staff are important members of the service supply chain and contribute to property value by ensuring buildings are clean, safe and well-maintained and that they meet tenant and investor expectations. As a result, many companies are taking a more active role in ensuring that their outsourced operations meet certain standards, including in the area of labour standards and human resources management.

#### 3.2 RESPONSIBLE CONTRACTING AND PROCUREMENT

Some real estate investors, property managers and major commercial property tenants in Canada and the United States have incorporated labour and human capital considerations into their investment, contracting and procurement policies. Investors and companies addressing the issue in a formal way have done so by adopting fair wage standards, establishing responsible contractor policies, sustainable procurement policies, or requiring union-only contracting.

<sup>3</sup> For further background information on precarious employment in Canada’s commercial real estate sector see T. Hebb, A. Hamilton, D. Wood, January 2009, Responsible Property Investing and Property Management: Exploring the Impact of Good Labour Practices on Property Performance. Available from: [http://share.ca/files/2009\\_Responsible\\_Property\\_Investing\\_FINAL.pdf](http://share.ca/files/2009_Responsible_Property_Investing_FINAL.pdf).

<sup>4</sup> Leah F. Vosko, 2003, “Precarious Employment in Canada: Taking Stock, Taking Action,” Just Labour, vol. 3. Available at: <http://www.justlabour.yorku.ca/volume3/pdfs/vosko.pdf>.

Responsible contractor policies (RCPs) have emerged as an institutional mechanism to address the potential risks posed by precarious work in the property service supply chain. RCPs are formal policies originally developed by public pension funds in the United States to accomplish two goals:

1. Ensure that bidding processes are open to contractors who pay fair wages and benefits; and
2. All other things being equal institutionalize a preference for contractors who pay fair wages and benefits.<sup>5</sup>

Similarly, major commercial property tenants have begun to incorporate social considerations into their procurement processes including in their procurement of property services such as property management, janitorial, maintenance and security services. Through the development of sustainable procurement policies, companies are moving beyond simply price and quality to include environmental and social criteria when purchasing products and services.

### **3.3 CANADA'S RESPONSIBLE PROPERTY SERVICES CODE**

Between 2007 and 2009 SHARE and the Atkinson Charitable Foundation worked with a multi-stakeholder group including Canadian investors, property managers, government, trade unions and civil society organizations to develop a labour code of conduct for the commercial real estate sector. The draft Code<sup>6</sup> was released in January 2009 with the purpose of establishing standards for property owners and managers when hiring building service contractors, including maintenance, security and cleaning staff. The standards contained within the code relate to:

- Responsible employment practices
- Fair wages and benefits
- Working hours
- Working conditions
- Discrimination and harassment
- Freedom of association
- Forced labour
- Child labour

The Code also outlines administrative requirements for signatories related to monitoring of contractor practices and enforcement in instances of non-compliance.

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<sup>5</sup> T. Hebb, A. Hamilton, D. Wood, January 2009, Responsible Property Investing and Property Management: Exploring the Impact of Good Labour Practices on Property Performance. Available from: [http://share.ca/files/2009\\_Responsible\\_Property\\_Investing\\_FINAL.pdf](http://share.ca/files/2009_Responsible_Property_Investing_FINAL.pdf).

<sup>6</sup> Copy of the Code can be found in Appendix 1.



## METHODOLOGY



## 4. METHODOLOGY

Nine Canadian commercial real estate companies and five major commercial property tenants were selected for inclusion in this year’s report (Table 1). Companies were selected based on their prominence in the Canadian market as well as their inclusion in the Atkinson Charitable Foundation’s engagement process over the past four years. We decided to include both commercial property managers and commercial property tenants in our analysis since both types of companies can have an important impact on employment practices through their role as purchasers of property services either as a major tenant or as a property manager responsible for meeting the property service needs of commercial buildings.

It is important to note, however, that while both types of companies can play a role in incentivising improved labour practices in the property service supply chain, property managers often have a more direct relationship with property service firms rendering their policies more likely to have a greater impact. At the same time, property managers bear more responsibility for ensuring that contracted service providers are in compliance with the law and thus face greater risks of legal liability in cases where labour standards are not being upheld by contractors.

**TABLE 1: COMPANIES ASSESSED**

COMPANY NAME	OWNERSHIP	TENANT/MANAGER
Bank of Montreal	Publicly traded	Tenant
Bank of Nova Scotia	Publicly traded	Tenant
Bentall Kennedy	Private	Commercial Property Manager
Brookfield Properties Corporation	Publicly traded	Commercial Property Manager
Cadillac Fairview	Private	Commercial Property Manager
Canadian Imperial Bank of Commerce	Publicly traded	Tenant
GWL Realty Advisors Inc.	Private	Commercial Property Manager
Ivanhoe Cambridge	Private	Commercial Property Manager
Morguard Corporation	Publicly traded	Commercial Property Manager
Oxford Properties Group	Private	Commercial Property Manager
Redcliff Realty Advisors	Publicly traded	Commercial Property Manager
Royal Bank of Canada	Publicly traded	Tenant
SITQ	Private	Commercial Property Manager
Toronto Dominion Bank	Publicly traded	Tenant

All available public documents were gathered for each company, including annual reports, SEDAR filings, corporate social responsibility reports, news releases, and web pages. We also asked each company to provide us with relevant information about their policies and procedures for inclusion in the public report. We then sifted through the data for each company looking for relevant information and evaluated each company in six rating categories.

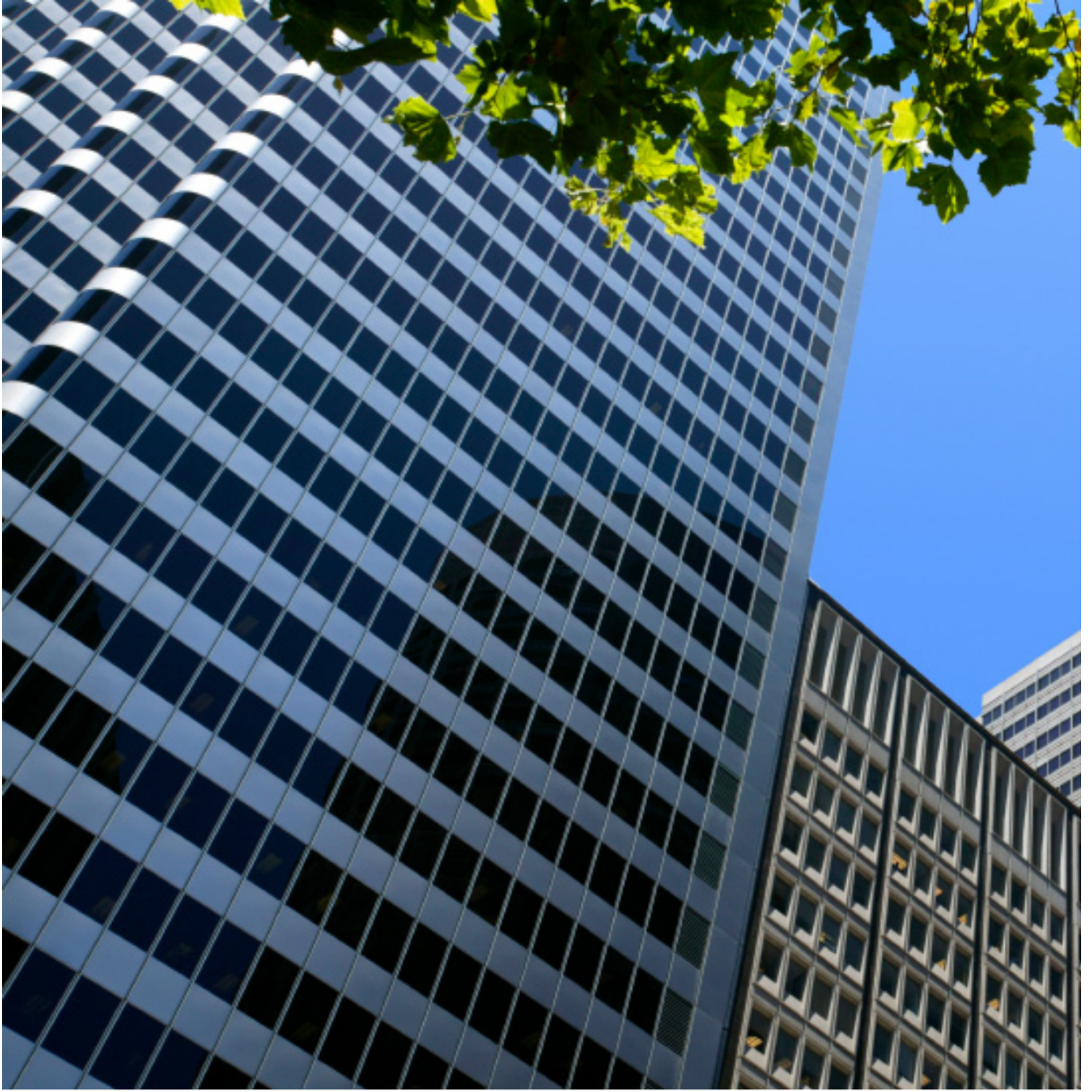
Once we had established a score for each company, we provided the companies with their individual scores in each rating category as well as their overall score. The companies were provided with an opportunity to respond to the initial findings and supply us with any additional information that they wished to disclose related to the indicators being assessed.

## 4.1 RATING CATEGORIES

The rating categories developed for this report were drawn directly from the administrative requirements and principles contained in the Code. They include:

1. **PRESENCE, QUALITY AND SCOPE OF POLICY:** Does a policy exist and, if so, to what extent does it incorporate expectations of property service suppliers regarding labour standards, employment conditions and human capital management? If a policy does not exist, is there an alternative mechanism in place to communicate expectations to contractors and service providers that includes reference to labour standards? Examples may include a standard service agreement or standard contract.
2. **DISCLOSURE OF POLICY:** To what degree is the policy disclosed publicly?
3. **APPLICATION OF POLICY:** Does the policy apply to all contractors and contract types and, in the case of exclusions, are reasonable attempts made to ensure that the policy is communicated to all service providers regardless of eligibility and are good faith efforts made to abide by the spirit of the policy?
4. **PROCESS FOR TENDERING PROPOSALS:** To what degree does the company incorporate expectations of potential service providers with regards to labour standards into the contract tendering or procurement process?
5. **MONITORING PROVISIONS:** Does the company policy include provisions relating to how property service suppliers will be monitored to ensure compliance with policy and legal requirements?
6. **ENFORCEMENT PROVISIONS:** Does the company policy include enforcement provisions in instances where property service providers are not in compliance with policy and legal requirements?

See Appendix 2 of this report for an in-depth description of each category, as well as the scoring and weighting used.



## RESULTS



## 5. RESULTS

**TABLE 2: OVERALL RATINGS**

COMPANY	Quality and Scope of Policy	Disclosure of Policy	Application of Policy	Process for Tendering Proposals	Monitoring	Enforcement	OVERALL SCORE	RANKING
MORGUARD CORPORATION	75	75	100	110	60	50	83.3	1
BENTALL KENNEDY	50	100	100	110	50	50	77.5	2
GWL REALTY ADVISORS	50	75	100	110	50	50	73.8	3
ROYAL BANK OF CANADA	50	75	100	110	50	0	70.0	4
IVANHOE CAMBRIDGE	25	75	100	110	50	50	65.0	5
CADILLAC FAIRVIEW	25	75	100	110	50	50	65.0	5
SITQ	25	75	100	100	50	50	62.5	6
BANK OF MONTREAL	25	100	100	110	0	0	61.3	7
BANK OF NOVA SCOTIA	25	75	100	100	50	0	58.8	8
OXFORD PROPERTIES	60	75	100	50	50	0	58.5	9
TORONTO DOMINION BANK	25	75	50	110	50	0	56.3	10
REDCLIFF REALTY ADVISORS	35	75	100	60	50	50	56.0	11
BROOKFIELD PROPERTIES	35	75	100	50	60	50	54.3	12
CIBC	0	0	0	0	0	0	0.0	13

Table 2 provides the overall ratings of commercial real estate companies and major commercial tenants based on the degree to which they have incorporated labour considerations into procurement and contracting policies. Since this assessment was based exclusively on publicly available information, it is possible that some of these companies have more extensive policies and procedures in place than they are reporting to the public.

The average overall score across the 14 companies was 60 out of a possible 100 (See Table 3 for average scores in each rating category). The scores varied between the different rating categories and were particularly low in the first category assessing the quality and scope of company policies with regards to labour standards.

**TABLE 3: AVERAGE SCORES**

RATING CATEGORY	AVERAGE SCORE	POTENTIAL SCORE
Quality and Scope of Policy	36	100
Disclosure of Policy	73	100
Application of Policy	89	100
Tendering Process	89	100
Monitoring	44	50
Enforcement	29	50

## 5.1 PRESENCE, QUALITY AND SCOPE OF POLICY

### Sub-Contracting and Precarious Employment.

One of the ways that precarious employment has manifested in the property service sector is through the use of sub-contracting arrangements that serve the purpose of lowering firms labour costs while denying workers statutory benefits such as employment insurance, sick leave or vacation pay. In order to manage the risks associated with this practice, several companies have incorporated provisions within their policies that require service providers to obtain prior approval to subcontract.

A score of 100 was not awarded to any of the companies in the first rating category assessing the presence, quality and scope of company policies due to the fact that none of the companies policies covered all of the principles contained in the Code. Three companies, Bentall Capital, GWL Realty Advisors and Morguard Corporation, made reference to responsible contracting or responsible employment practices in their respective policies. As outlined in the Code, the principle of responsible contracting aims to protect property service workers from precarious employment arrangements such as the use of consecutive fixed-term contracts and labour-only contracting. Additionally, it seeks to ensure that workers have access to basic protections covered in the Employment Standards Act such as workers compensation coverage, Employment Insurance, vacation time and Canada Pension Plan contributions. Responsible contracting is an integral principle of the Code and, we believe, to any contracting or procurement policy.

The most common principle missing from assessed policies was the principle of freedom of association. As it is defined in the Code, freedom of association implies that a company will

“take a position of neutrality in the event that there is a legitimate attempt by a labour organization to organize workers employed in the maintenance, operation and/or services of a relevant property.”<sup>7</sup> Only one company, the Bank of Montreal, has reference to freedom of association and the right to collective bargaining as part of its sustainable procurement questionnaire, which is used for all competitive bidding processes for the procurement of products and services.<sup>8</sup>

<sup>7</sup> As a result of feedback we received from companies regarding the lack of clarity of what specifically was expected of them in relation to neutrality, SHARE and the Atkinson Foundation worked with a Canadian law firm to outline in more detail the legal meaning of freedom of association and what was expected of companies in terms of neutrality. Please contact SHARE for a copy of this legal opinion.

<sup>8</sup> The Bank of Montreal's Sustainable Procurement Questionnaire is available on-line at: [http://www2.bmo.com/bmo/files/images/7/1/BMO\\_Sustainable\\_Procurement\\_Questionnaire.doc](http://www2.bmo.com/bmo/files/images/7/1/BMO_Sustainable_Procurement_Questionnaire.doc)



Other important highlights from our findings in this rating category include:

- The Bank of Montreal, Bentall Kennedy, Cadillac Fairview, GWL Realty Advisors, Morguard Corporation and Oxford Properties all made specific reference in their policies to a fair or prevailing wage standard<sup>9</sup>;
- Two companies, the Bank of Montreal and Morguard Corporation included references to reasonable working hours in their policies beyond simply citing adherence to the law;
- Ten of the fourteen companies had incorporated standards related to working conditions and occupational health and safety;
- Less than 50% of companies made any reference to the principle of discrimination and harassment in their policy;
- The majority of companies did not make explicit references to either forced or child labour in their policies, but they did cite the expectation of contractors and service providers to abide by applicable laws and standards, whereby both of these principles would be covered.

**TABLE 4: SCOPE OF COMPANY POLICIES REGARDING LABOUR STANDARDS**

▲ Included in Policy    ▶ Referenceto Relevant Laws    ▼ Not Included in Policy    ■ No Policy

	Responsible Contracting Practices	Fair or Prevailing Wages	Working Hours	Freedom of Association	Discrimination and Harassment	OHS / Working Conditions	Child / Forced Labour
BANK OF MONTREAL	▼	▲	▲	▲	▲	▲	▲
BANK OF NOVA SCOTIA	▼	▼	▼	▼	▶	▶	▶
BENTALL KENNEDY	▲	▲	▼	▼	▶	▲	▶
BROOKFIELD PROPERTIES	▼	▼	▼	▼	▶	▶	▶
CADILLAC FAIRVIEW	▼	▲	▶	▼	▶	▶	▶
CIBC	■	■	■	■	■	■	■
GWL REALTY ADVISORS	▲	▲	▼	▼	▶	▲	▶
IVANHOE CAMBRIDGE	▼	▼	▼	▼	▶	▶	▶
MORGUARD CORPORATION	▲	▲	▲	▼	▲	▲	▲
OXFORD	▼	▲	▼	▼	▶	▲	▶
REDCLIFF REALTY ADVISORS	▼	▼	▼	▼	▶	▲	▶
ROYAL BANK OF CANADA	▼	▼	▼	▼	▶	▲	▶
SITQ	▼	▼	▼	▼	▶	▶	▶
TORONTO DOMINION BANK	▼	▼	▼	▼	▲	▶	▶

<sup>9</sup> A prevailing wage is the median wage paid to workers in a specified locality taking into consideration the type of property, comparable job or trade classifications, relevant collective bargaining agreements and the scope and complexity of work provided. In cities that have living wage policies or where collective agreements cover most workers, the prevailing wage would be higher.

## 5.2 DISCLOSURE OF POLICIES

Public disclosure of companies' contracting and procurement policies is important as it allows consumers and investors to make informed choices and ascertain the degree to which companies are managing the risks and opportunities related to service provider performance, of which employment practices and labour relations are an important component. In addition, public disclosure of contracting and procurement policies can have an impact on the overall property service sector by incentivising property service firms to improve their practices in order to meet the expectations of property owners, managers and tenants.

Only two companies, the Bank of Montreal and Bentall Kennedy, have fully disclosed their policies, which are freely available on their respective websites. Eleven of the fourteen companies included in this assessment, or 79%, disclosed parts of their contracting or procurement policies either on their website or in the company's CSR report or the company made parts of the policy available for the purposes of this report. Only one company, the Canadian Imperial Bank of Commerce, was given a score of 'O' in this section because of its failure to disclose or provide any reference to a policy or alternative mechanism that addresses labour considerations in the procurement of property services.

## 5.3 APPLICATION OF POLICIES

There are two dimensions contained in the Code that relate to how the Code principles are *applied*:

- First, it requires service providers to apply the principles of the Code across all of its operations, not just the operations contained in the service contract with the signatory;
- Second, in cases where any exclusions are made based on, for example, project type, size and control, the Code recommends that signatories and their contractors and service providers still make good faith efforts to comply with the spirit of the Code.

In this assessment of company policies, we only evaluated companies based on their performance on the second dimension. The reason for this is that it was very difficult to determine, based on policy or other publicly available documents, whether or not companies expected contractors and service providers to apply standards across their operations. We foresee the opportunity to include this dimension of policy application in forthcoming reports through the inclusion of a survey aspect in order to ascertain this kind of detail from companies.

Approximately 86% of the company policies that we considered applied the policy to the entire property service supply chain, to all contract sizes and for all levels of control. In cases of reasonable exclusions, efforts are made to ensure service providers are aware of the policy and that good faith efforts are made to abide by the spirit of the policy.

## 5.4 TENDERING PROCESSES

The process of tendering service proposals is an important mechanism for commercial real estate managers and tenants to communicate the criteria by which proposals will be considered and awarded. If contracts in the property service sector are consistently awarded based on price alone, a clear message is sent to competing firms that the only way to win contracts is to cut costs. For janitorial service providers, labour costs account for approximately 90% of cleaning service expenses.<sup>10</sup> As a result, price competition in the tendering process puts intense downward pressure on the cost of labour and can play a role in facilitating a race to the bottom in terms of wages and benefits for workers as well as work intensification.<sup>11</sup>

The majority of the companies that were evaluated do incorporate expectations of suppliers with regards to labour standards into their tendering processes, with 71% also requiring that competing service providers supply information regarding internal policies, proof of performance and any other documentation illustrating compliance with relevant legal requirements and policies. Although the assessment only evaluated companies on whether or not the tendering process included some reference to labour standards, it is important to note that the majority of companies only made reference to adherence to the law while very few went beyond regulatory requirements and included standards related to prevailing wages, fair benefits and responsible contracting and employment practices.

### Screening and Prequalification Practices

Nine of the companies included in this report, the Bank of Montreal, Bentall Kennedy, Cadillac Fairview, GWL Realty Advisors, Ivanhoe Cambridge, Morguard Corporation, Redcliff Realty Advisors, Royal Bank of Canada and Toronto Dominion Bank, have implemented screening processes according to a set of criteria which include reference to labour considerations. For example, the Bank of Montreal's sustainable procurement process requires that prospective suppliers complete the company's sustainable procurement questionnaire. The questionnaire is quite extensive in the area of labour standards and includes questions related to anti-discrimination, working hours, fair compensation and benefits and freedom of association and the right to collective bargaining among others.

## 5.5 MONITORING PROVISIONS

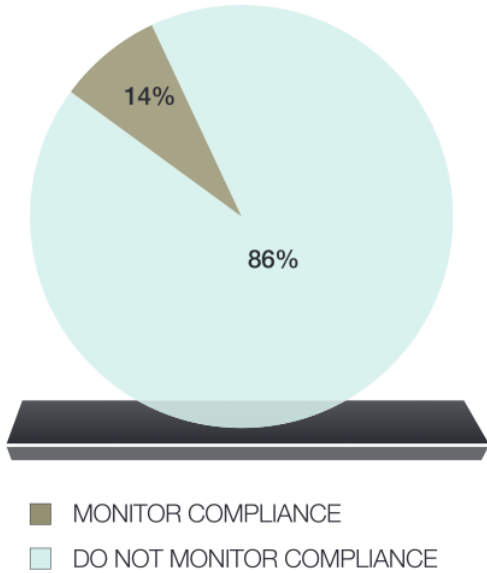
The monitoring dimension of our analysis considered whether or not companies had included monitoring provisions to ensure property service suppliers comply with policy and legal requirements. The assessment did not evaluate the effectiveness of the different mechanisms that companies had employed or the degree to which the mechanisms were actually used. For example, several companies included in this report reserved the right to audit their service providers for compliance with relevant policies and contract obligations but it is not clear whether or not companies actually employ this right to audit on a regular basis.

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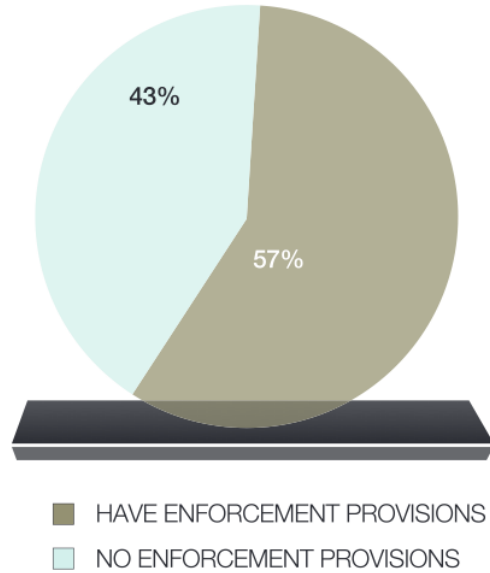
<sup>10</sup> Jane Lin, "Trends in Employment and Wages, 2002 to 2007," in *Perspectives on Labour and Income*, edited by Statistics Canada, 2008

<sup>11</sup> For a more thorough discussion of the property service sector in Canada and the implications of precarious employment see, T. Hebb, A. Hamilton, D. Wood, January 2009, *Responsible Property Investing and Property Management: Exploring the Impact of Good Labour Practices on Property Performance*. Available from: [http://share.ca/files/2009\\_Responsible\\_Property\\_Investing\\_FINAL.pdf](http://share.ca/files/2009_Responsible_Property_Investing_FINAL.pdf).

**FIGURE 1: MONITORING PROVISIONS**



**FIGURE 2: ENFORCEMENT PROVISIONS**



## 5.6 ENFORCEMENT PROVISIONS

Having enforcement provisions to deal with instances of non-compliance is also an important element of a strong policy. Our analysis considered whether or not companies had outlined enforcement mechanisms in their policies in instances where property service providers were not in compliance with policy and legal requirements. This assessment did not evaluate the relative utility of the enforcement provisions described nor the degree to which they had been put to use but only whether or not the provision existed. Only 43% of the companies evaluated had incorporated enforcement mechanisms into their policies or service contracts. Examples of enforcement mechanisms described include: placing non-complying parties on a probation list, terminating a contract or establishing a disqualification period that restricts a contractor from bidding on future contracts.



**CONCLUSIONS AND  
RECOMEMMENDATIONS**



## 6. CONCLUSIONS AND RECOMMENDATIONS

### 6.1 RECOMMENDATIONS TO COMMERCIAL REAL ESTATE COMPANIES

- Improve disclosure of contracting and procurement policies. Overall, sustainability reporting by commercial real estate companies is relatively weak in Canada when compared to leading commercial real estate companies internationally.<sup>12</sup>
- Incorporate the principles contained in the Responsible Property Services Code into current policies and procedures.
- Pay particular attention to incorporating the principles of responsible contacting and employment practices into company policies, service contracts and agreements as well as in requests for proposals.
- Go beyond compliance with the law and establish explicit expectations of contractors and service providers in the areas of prevailing wages, working hours, working conditions, freedom of association, discrimination and harassment, freely chosen employment and child labour.
- Establish effective monitoring procedures to ensure contractor and service provider compliance with policies and standards.
- Establish effective enforcement mechanisms in instances that contractors and service providers fail to comply with policies and standards.
- Assign overall responsibility for labour standards compliance in the property service supply chain to senior-level staff.

### 6.2 RECOMMENDATIONS TO COMMERCIAL PROPERTY TENANTS

- Improve disclosure of procurement policies by publishing policies and other relevant documents such as procurement questionnaires on the company website and in company sustainability reports.
- Incorporate the principles contained in the Responsible Property Services Code into current policies and practices.
- Pay particular attention to incorporating the principles of responsible contacting and employment practices into company policies, service contracts and agreements as well as in requests for proposals.
- Go beyond compliance with the law and establish explicit expectations of service providers in the areas of prevailing wages, working hours, working conditions, freedom of association, discrimination and harassment, freely chosen employment and child labour.
- Establish effective monitoring procedures to ensure contractor and service provider compliance with policies and standards.

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<sup>12</sup> RealPac and Jantzi-Sustainalytics, 2010, Commercial Real Estate Sustainability Performance Report, available on-line at: [http://www.realpac.ca/assets/Uploads/Research/Industry-Sustainability/Jantzi\\_REALpacCdn\\_Comm\\_RE\\_Sustainability\\_Performance\\_Report17Feb10.pdf](http://www.realpac.ca/assets/Uploads/Research/Industry-Sustainability/Jantzi_REALpacCdn_Comm_RE_Sustainability_Performance_Report17Feb10.pdf).

- Establish effective enforcement mechanisms in instances that contractors and service providers fail to comply with policies and standards.

### **6.3 RECOMMENDATIONS TO INSTITUTIONAL INVESTORS**

- Develop a responsible contractor policy or incorporate elements of the Responsible Property Services Code into relevant investment policies that apply to real estate investments.
- Use the principles contained in the Code as criteria for monitoring and selecting real estate assets.
- Engage with commercial real estate companies on the issue of property service supply chain management, precarious employment and responsible contracting practices.
- Engage with other companies that are major office property tenants on the incorporation of labour standards into procurement policies and practices.
- Ask your fund managers whether or not they consider human capital management strategies and supply chain management strategies in their asset selection and management processes.

# APPENDIX





## APPENDIX 1: RESPONSIBLE PROPERTY SERVICES CODE THE RESPONSIBLE PROPERTY SERVICES CODE

### INTRODUCTION

Signatories to the Responsible Property Services Code (the "Code") recognize their fiduciary duties of prudence, loyalty and the pursuit of competitive rates of return with respect to all of their investment activities, including in commercial real estate properties. Signatories to the Code are invested in, own and / or operate commercial real estate properties. In order to ensure a competitive return on their real estate investments, signatories seek to invest in properties that are well-built and maintained and where tenants receive high quality services.

Proper maintenance and superior services require that building management and service contractors hire well-trained and dedicated staff to maintain, operate and service buildings. Assuring the availability of qualified staff and avoiding labour disruption and costly employee turnover requires employers to pay fair wages and benefits, to treat workers fairly and with respect and to abide by applicable labour laws.

Signatories to this Code support and encourage contractors to abide by the principles outlined below in order to promote appropriate working conditions, fair wages, and benefits for workers and contractors hired to provide services in the maintenance and management of commercial properties. At a very minimum, all employers and contractors shall observe all applicable local, provincial or state and federal employment regulations or laws.

### ADMINISTRATION

1. Contractors and service providers for property management services shall be selected through a competitive bidding and selection process to ensure fair competition.
2. All requests for proposals, invitations to bid, service agreements and renewal agreements shall include a copy of the Responsible Property Services Code (the Code).
3. All contractors and service providers shall complete a prequalification form that acknowledges their adherence to the Code prior to being invited to bid on contracts and contractors shall provide evidence that they have communicated the requirements of the Code to all employees and subcontractors.
4. Signatories are responsible for establishing and maintaining appropriate procedures to evaluate and select contractors and service providers based on their ability to meet the requirements of this Code.

### MONITORING AND ENFORCEMENT

1. Signatories shall establish procedures and mechanisms to encourage compliance with the Code and shall inform all contractors or service providers of the consequences of non-compliance with the Code.
2. Signatories shall establish monitoring procedures and mechanisms to investigate complaints, as well as auditing procedures to ensure compliance by contractors and service providers with the Code.
3. Signatories to the Code shall also establish appropriate enforcement mechanisms, which may include, but are not limited to, placing non-complying parties on a probation 'watch list', terminating a contract, or establishing a disqualification period that restricts a contractor from bidding on future contracts for a set period of time

## **APPLICATION OF CODE**

1. Signatories shall hire responsible contractors and service providers who agree to adopt the principles of the Code across all operations.
2. Signatories shall determine the applicability of this Code based on project type, size and control, in consultation with stakeholders. In cases where projects do not fall within the application terms established by signatories, it is recommended that the signatories and their contractors & service providers make good faith efforts to comply with the spirit of the code.

## **THE PRINCIPLES**

Signatories to this Code support responsible property services and contracting practices, and require contractors, subcontractors and service providers to:

### **1. RESPONSIBLE EMPLOYMENT PRACTICES**

- 1.1 Honour the letter and spirit of Canadian federal and provincial Employment Standards Acts (ESA) and labour laws.
- 1.2 Ensure that all contractors, sub-contractors and service providers correctly classify workers for the purpose of receiving benefits under the jurisdictional ESA.
- 1.3 Avoid employment relationships that are unduly complex, including the use of consecutive fixed-term contracts, labour-only contracting, sub-contracting or apprenticeship schemes where there is no intent to impart skills or provide regular employment.

### **2. FAIR WAGES AND BENEFITS**

- 2.1 Pay workers fair wages and benefits, based on prevailing wage standards, as determined by the type of property, comparable job or trade classifications, applicable collective bargaining agreements, and the scope and complexity of services provided in comparable properties, as evidenced by payroll and employee records.
- 2.2 Comply with all jurisdictional labour laws governing minimum wage requirements.

### **3. WORKING HOURS**

- 3.1 Comply with applicable laws and industry standards regarding working hours, overtime, and hours free from work, and ensure that employees do not work excessive hours or hours detrimental to the worker's health or safety.

### **4. WORKING CONDITIONS**

- 4.1 Provide a safe and hygienic working environment, recognizing the specific hazards relevant to commercial property maintenance and operations, and take adequate steps to prevent accidents and injury to health.
- 4.2 Ensure working conditions in commercial properties conform to the standards set in relevant health and safety regulations including the Canada Occupational Health and Safety Regulations or its equivalent in other jurisdictions.

### **5. DISCRIMINATION AND HARASSMENT**

- 5.1 Treat workers with respect and dignity in the workplace and prohibit physical abuse or discipline, the threat of physical abuse, sexual or other harassment, verbal abuse, or other forms of intimidation.
- 5.2 Prohibit harassment or discrimination on the basis of race, gender, sexual orientation, colour, national or ethnic origin, religion, marital status, family status, citizenship status, veteran status, age or disability.

**5.3** Provide workers with a confidential and secure means of raising grievances, complaints or work place issues with the employer, and ensure that workers are not punished or prejudiced for using confidential grievance procedures.

**5.4** Inform all workers and contractors of harassment procedures and provide information for confidential reporting channels.

## **6. FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING**

**6.1** Support a position of neutrality in the event there is a legitimate attempt by a labour organization to organize workers employed in the maintenance, operation and/or services of a relevant property.

## **7. FREELY-CHOSEN EMPLOYMENT**

**7.1** Prohibit forced labour, which is understood to include work or service exacted under the threat of penalty or for which the person concerned has not offered himself or herself voluntarily, including prison or bonded labour.

**7.2** Allow workers to terminate their employment without fear of penalty, financial or otherwise, after reasonable notice, and ensure that workers are not required to lodge 'deposits' or identity papers with their employer.

## **8. CHILD LABOUR**

**8.1** Prohibit employment of persons under the age of 15 or under the age for completion of compulsory education, whichever is higher.

**8.2** Ensure that young workers under the age of 18 are provided a healthy workplace, free of hazards and conditions that may jeopardize their health and safety, including night work.

This Code was developed through a multi-stakeholder process initiated by the Atkinson Charitable Foundation and SHARE. For more information contact SHARE at +1 (604) 408-2456 or [www.share.ca/property](http://www.share.ca/property).

**APPENDIX 2: RATING CATEGORIES AND INDICATORS**

**CATEGORY 1: PRESENCE, QUALITY AND SCOPE OF POLICY**

This category evaluates the presence, quality and scope of company policies related to the expectations of property service suppliers with regards to labour standards, employment conditions or human capital management. In cases where companies did not have explicit policies, we looked at alternative mechanisms that are in place to communicate expectations to contractors such as standard service agreements and contracts, for example.

The presence of a company policy sends a strong message to potential contractors and service providers regarding company expectations in the area of responsible contracting, labour standards and employment practices in general. Additionally, a clear policy provides an important framework for other mechanisms, such as standard service agreements, legal contracts and RFP's. Having a public policy also provides an opportunity for the company to communicate to other stakeholders its approach to labour standards and supply chain management as part of its overall commitment to corporate social responsibility and sustainability. For these reasons, the presence of a clear policy dealing with labour standards in the property service supply chain was afforded a higher score than a standard contract or service agreement which may also incorporate labour standards.

WEIGHT	SCORE	
35%	100	A policy exists that covers all principles contained in the Responsible Property Services Code without qualification or limitation
	75	A policy exists that covers all of the principles contained in the Code including specific reference to responsible contracting and employment practices but limits or qualifies the company's commitment to one of the principles
	50	A policy exists that covers some but not all of the principles contained in the Code or the policy limits or qualifies the company's commitment to more than one of the principles
	25	No policy exists but an alternative mechanism is in place to communicate expectations to contractors that includes some of the principles contained in the code (i.e. standard service agreement)
	0	No policy exists or was made available to us that addresses labour standards/responsible contracting/responsible procurement in relation to property services
		* 10 points given to companies that have committed to developing a policy in 2011

**CATEGORY 2: DISCLOSURE OF POLICY**

The purpose of this category is to address the public accessibility of company policies related to contracting and procurement practices. act or service agreement which may also incorporate labour standards.

WEIGHT	SCORE	
15%	100	The policy is available and easily accessible to the public, shareholders, contractors and employees (i.e. on website)
	75	Parts of the policy are available to the public (i.e. on website, in CSR report) or were made available for the purposes of this report
	25	The policy is referenced in publicly available information (i.e. CSR report, website)
	0	The policy is not available nor publicly referenced

**CATEGORY 3: APPLICATION OF POLICY**

There are two dimensions that are contained in the Responsible Property Services Code related to how the Code principles are applied to contracting and procurement practices. The first dimension relates to requiring service providers to apply the code principles across all of their operations as opposed to just the operations contained in the service contract with the signatory. The purpose of this principle is to ensure that Code signatories support property service providers that conduct operations responsibly across the board and not simply those that make concessions and adjustments simply to win a major contract.

The second dimension contained in the Code with regards to its application relates to any exclusions that are made based on, for example, project type, size and control. For example, a Code signatory may determine that the Code will apply only to contracts that are valued at more than \$50,000 or only to projects where the signatory has a majority ownership stake. In cases where exclusions are made, the Code recommends that signatories and their contractors and service providers still make good faith efforts to comply with the spirit of the Code.

In this assessment of company policies, we only evaluated companies on the second dimension. The reason for this is that it was very difficult to determine, based on policy or other publicly available documents, whether or not companies expected contractors and service providers to apply standards across their operations. We foresee including this dimension of policy application in forthcoming reports through the inclusion of a survey aspect in order to ascertain this kind of detail from companies.

WEIGHT	SCORE	
10%	100	The policy applies to the entire property service supply chain and to all contract sizes and for all levels of control or in cases of reasonable exclusions, efforts are made to ensure service providers are aware of the policy and that good faith efforts are made to abide by the spirit of the policy
	50	The policy is limited in its application and only applies for example to certain service providers and contractors or only to certain contract sizes and it is not clear that the expectations contained in the policy are communicated to service providers who do not meet the applicability requirements
	0	It is unclear how much of the property service supply chain the policy covers or there is no relevant policy

**CATEGORY 4: PROCESS FOR TENDERING PROPOSALS**

This category considers the degree to which companies have incorporated expectations of potential service providers with regards to labour standards into the contract tendering or procurement process. In our assessment we looked at whether or not tenders included labour standard provisions and whether bidders were required to provide information regarding internal policies and/or proof of performance related to human capital management and employment practices (i.e. employee records, proof of relevant training, health and safety records).

WEIGHT	SCORE	
15%	100	RFP's include expectations of suppliers with regards to labour standards and require that bidders provide information regarding internal policies, proof of performance and agreement to comply with relevant policies
	50	RFP's include expectations of suppliers to abide by relevant laws and regulations but without proof of performance or proof of relevant internal policies
	0	RFP's do not include expectations of suppliers with regard to labour standards or compliance with relevant policy or no information available on process for tendering proposals
		*10 points if tendering process includes screening of potential contractors including reference to labour standards and performance (i.e. prequalification)

## CATEGORY 5: MONITORING PROVISIONS

The monitoring dimension of our analysis considered whether or not companies had included in their policies monitoring provisions to ensure property service suppliers comply with policy and legal requirements. This category recognizes the importance, not only of establishing policies and standards, but also ensuring that those policies and standards are upheld. Examples of monitoring provisions that companies may have incorporated into their policies include:

- Regular or occasional auditing of contractors and service providers;
- Periodic reporting by contractors or service providers on various aspects of their service provision;
- The presence of customer service representatives on-site whose responsibility it is to identify and resolve tenant and worker concerns;
- Avenues provided to workers to confidentially raise grievances or complaints with employer such as a toll-free hotline.

It is important to note that the mechanisms outlined above vary significantly in terms of their efficacy and whether or not the systems in place are actually utilized. For example, are audits actually conducted? Do property service workers know that they have access to a confidential grievance procedure and is it actually utilized? While we recognize the difference in the effectiveness of various monitoring procedures, the assessment only evaluated whether or not some sort of monitoring procedure was in place and did not consider the relative efficacy of these mechanisms.

WEIGHT	SCORE	
15%	50	Provisions present in policy to monitor compliance of property service suppliers with policy and legal requirements
	0	No provisions in policy to monitor compliance of property service suppliers with policy and legal requirements
		*10 points for companies that have established or require contractors to have a confidential and secure means of raising grievances with employers

## CATEGORY 6: ENFORCEMENT PROVISIONS

Having enforcement provisions to deal with instances of non-compliance is also an important element of a strong policy. Our analysis considered whether or not companies had incorporated enforcement provisions in their policies to address instances where property service providers were not in compliance with policy and legal requirements. Examples of enforcement provisions may include, placing non-complying parties on a probation list, terminating a contract or establishing a disqualification period that restricts a contractor from bidding on future contracts. Like the assessment of companies' monitoring procedures, our assessment of enforcement measures did not evaluate the relative utility of the enforcement mechanisms established but only whether or not one existed.

WEIGHT	SCORE	
7.5%	50	Provisions present in policy to address incidences of noncompliance with policy and legal requirements
	0	No provisions in policy to address incidences of noncompliance and/or no mechanisms in place to ascertain incidences of noncompliance

