

# Cleaning up:

*Second Annual Assessment of Responsible Contracting and Procurement in Canada's Commercial Real Estate Sector*

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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.



A person is silhouetted against a bright, golden sunset while standing on a scissor lift. The person is holding a long-handled tool, likely a squeegee, and is cleaning a large glass window. The window reflects the sunset and the surrounding environment, which includes palm trees and a paved area. The scene is captured in a warm, golden light, creating a high-contrast silhouette effect. A green banner with the word 'INTRODUCTION' is overlaid on the bottom right of the image.

# *INTRODUCTION*

# 1. INTRODUCTION

The following report provides an overview of the progress that commercial real estate companies and major commercial property tenants have made 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 commercial 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 commercial 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 commercial 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
3. To highlight areas in which companies are improving and/or leading as well as identify areas that require further improvement.

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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.

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 following 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 doing so, 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.



A photograph of a person in a blue shirt and white pants mopping a long, narrow hallway. The hallway has wooden doors on the left and a tiled floor. The lighting is warm and yellow. A large green semi-transparent banner is overlaid across the middle of the image, containing the word 'BACKGROUND' in white, italicized, uppercase letters.

*BACKGROUND*



## 2. 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.

### 2.1 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 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 also recognize 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.

### 2.2 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.

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<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 online at: [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 online 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.

## 2.3 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.

A photograph of a worker in a white t-shirt, blue jeans, and a tan cap, suspended by ropes on the exterior of a brick building. The worker is holding a cylindrical tool or device. The building has a grid of dark metal beams and red brickwork. A green, semi-transparent banner with a geometric pattern is overlaid on the lower right portion of the image.

*METHODOLOGY*



### 3. METHODOLOGY

This is the second report that SHARE has released assessing commercial real estate companies and major commercial real estate tenants on their efforts to develop responsible contracting and procurement policies for their property service supply chains <sup>7</sup>. The 2012 report evaluates nine Canadian commercial real estate companies and five major commercial property tenants (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.

**TABLE 1: COMPANIES ASSESSED <sup>8</sup>**

COMPANY NAME	OWNERSHIP	TENANT/MANAGER
Allied Properties REIT	Trust	Commercial Property 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
Dundee REIT	Trust	Commercial Property Manager
GWL Realty Advisors Inc.	Private	Commercial Property Manager
Ivanhoe Cambridge Group <sup>9</sup>	Private	Commercial Property Manager
Morguard Corporation	Publicly traded	Commercial Property Manager
Oxford Properties Group	Private	Commercial Property Manager
Royal Bank of Canada	Publicly traded	Tenant
Toronto Dominion Bank	Publicly traded	Tenant

Two new companies, Allied Properties Real Estate Investment Trust and Dundee Real Estate Investment Trust, are included in this year's assessment. Since both companies are new to this assessment and were not previously engaged by SHARE or the Atkinson Foundation, we evaluated them using a modified evaluation framework. The purpose of applying a different evaluation framework is to introduce the companies to the work we have been doing in the area of precarious employment in the property service supply chain while simultaneously determining whether current company policies incorporate labour standards and allowing the companies to express their commitment to improving current policies or develop new policies to reflect the responsible contracting principles contained in the Code.

As in last year's report, the 2012 report includes both commercial property managers and commercial property tenants in our analysis as 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.

<sup>7</sup> The first Cleaning Up report was released in July 2011 and can be accessed at [http://www.share.ca/files/Cleaning\\_Up\\_Report.pdf](http://www.share.ca/files/Cleaning_Up_Report.pdf).

<sup>8</sup> Redcliff Realty Management Inc. was not included in our 2012 report as a result of a merger between Redcliff and two other companies that will be finalized in June 2012 and will result in Redcliff no longer being an operating entity.

<sup>9</sup> The Ivanhoe Cambridge Group now includes the operations of the SITQ since the consolidation of the real estate subsidiaries of the Caisse de Dépôt et Placement du Québec in 2011.



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.


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 the evaluations were complete, we provided the companies with an individual company assessment with their 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.

### 3.1 RATING CATEGORIES

The rating categories used in this report are drawn directly from the administrative requirements and principles contained in the Code. For the 2012 report, adjustments were made to two of the rating categories: 1) Disclosure of Policy and 2) Monitoring Provisions. The changes aim to capture more detail in each of these areas in order to more effectively measure and benchmark company performance. See Appendix 2 for more detail of the changes that were applied to how these two rating categories were scored, as well as in-depth descriptions of each category and the scoring and weighting used. The six rating categories are:

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? Were these monitoring mechanisms employed in the 2011 calendar year?
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?

A low-angle, upward-looking photograph of several modern skyscrapers with glass and metal facades. The buildings are set against a clear blue sky. In the foreground, the green leaves of a tree are visible at the top and right edges. A semi-transparent green banner with a subtle grid pattern is positioned horizontally across the middle of the image, containing the word "RESULTS" in white, italicized, uppercase letters.

*RESULTS*

## 4. 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	2011 SCORE	2011 RANKING
<b>MORGUARD CORPORATION</b>	75	50	100	110	35	50	<b>77.6</b>	<b>83.3</b>	1
<b>OXFORD PROPERTIES</b>	50	100	100	110	50	50	<b>77.5</b>	<b>58.5</b>	9
<b>BENTALL KENNEDY</b>	50	100	100	110	25	50	<b>75.6</b>	<b>77.5</b>	2
<b>BROOKFIELD PROPERTIES</b>	75	50	100	100	35	50	<b>75.1</b>	<b>54.3</b>	12
<b>ROYAL BANK OF CANADA</b>	50	75	100	110	50	50	<b>73.8</b>	<b>70.0</b>	4
<b>GWL REALTY ADVISORS</b>	50	75	100	110	25	50	<b>71.9</b>	<b>73.8</b>	3
<b>CIBC</b>	50	75	100	100	35	50	<b>70.1</b>	<b>0.0</b>	13
<b>BANK OF NOVA SCOTIA</b>	50	50	100	100	50	0	<b>63.8</b>	<b>58.8</b>	8
<b>TORONTO DOMINION BANK</b>	50	50	50	110	25	50	<b>63.1</b>	<b>56.3</b>	10
<b>IVANHOE CAMBRIDGE</b>	25	50	100	110	25	50	<b>59.4</b>	<b>65.0</b>	5
<b>CADILLAC FAIRVIEW</b>	25	50	100	110	25	50	<b>59.4</b>	<b>65.0</b>	5
<b>BANK OF MONTREAL</b>	25	75	100	100	0	0	<b>55.0</b>	<b>61.3</b>	7

Table 2 provides the overall ratings of commercial real estate companies and major commercial tenants using our standard evaluation methodology, which uses six rating categories to determine the degree to which companies have incorporated labour considerations into procurement and contracting policies. Since this assessment is 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 or were willing to share with us for the purposes of this report.

The average overall score improved this year moving up from 60 in 2011 to 68 in 2012. Table 3 shows the average scores in each rating category in both 2011 and 2012. As in the 2011 report, the average score in the first rating category, assessing the quality and scope of company policies with regards to labour standards, remained low at 48 out of a possible 100, although it improved since 2011 from an average score of 36. Overall, company performance improved in all of the rating categories except in the area of company disclosure and monitoring provisions.



**TABLE 3: AVERAGE SCORES**

RATING CATEGORY	AVERAGE SCORE 2011	AVERAGE SCORE 2012	POTENTIAL SCORE
Quality and Scope of Policy	36	<b>48</b>	100
Disclosure of Policy*	73	<b>65</b>	100
Application of Policy	89	<b>96</b>	100
Tendering Process	89	<b>100</b>	100
Monitoring*	44	<b>32</b>	50
Enforcement	29	<b>42</b>	50

\*The drop in the average score in these two rating categories is entirely attributable to the changes made in how these categories were scored for the 2012 report.

The drop in the average scores in the disclosure and monitoring provision categories can be attributed to the changes made in how company performance in these categories was evaluated (see section 4.5 below). As a result of these changes, the average score on how companies disclosed their policies dropped from 73 in 2011 to 65 in 2012. Company performance in monitoring fell from 44 out of a possible 50 in 2011 to 32 in 2012. This rating category evaluates companies on the monitoring mechanisms that are in place to ensure that contractors and service providers are complying with company policies and minimum regulation requirements. This year, we also evaluated whether or not those monitoring mechanisms were actually employed in order to determine each company's score.

#### **4.1 PRESENCE, QUALITY AND SCOPE OF POLICY**

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. Only two companies, Brookfield Properties Corporation and Morguard Corporation, received a score of 75 in this rating category. In order to receive this score, company policies needed to cover all of the principles in the Code including specific reference to responsible contracting and/or responsible employment practices but could limit or qualify the company's commitment to one of the principles. Both Morguard and Brookfield's policies covered all of the principles in the Code except for freedom of association.

Although several company policies made general references to responsible contracting or fair employment, we only scored companies positively if the policies were explicit about the kinds of practices that the company was seeking to avoid such as misclassification of workers, consecutive fixed-term contracts and labour-only contracting. As outlined in the Code, the principle of responsible contracting aims to protect property service workers from precarious employment arrangements that have the sole aim of lowering labour costs. 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.



Only two companies made reference to freedom of association and the right to collective bargaining in their policies or standard service agreements. 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>10</sup>

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

- 64% of companies made specific reference in their policies to a fair or prevailing wage standard<sup>11</sup>;
- Three companies, the Bank of Montreal, Brookfield Properties Corporation and Morguard Corporation included references to reasonable working hours in their policies beyond simply citing adherence to the law;
- Eight of the eleven companies had incorporated specific expectations related to occupational health and safety including expecting contractors to conduct health and safety inspections, to have joint health and safety committees and to conduct regular occupational health and safety training;
- Two companies made specific reference in their policies to the processes that contractors are required to adhere to if they wish to sub-contract services that are covered in the standard service agreement and/or contract. The majority of these references indicated that any sub-contracting of services needed to have prior approval by the property manager.

## Sub-Contracting and Precarious Employment.

The commercial cleaning and janitorial service industry is a highly competitive industry, particularly in major Canadian markets where profit margins are relatively low. The variable costs associated with servicing properties (i.e. cleaning, security and maintenance) are subject to competitive bidding processes, which help property managers ensure they are receiving the lowest price bid for the specific services they require. Highly competitive bidding, however, can play a role in facilitating a race to the bottom in terms of wages and benefits for workers as well as intensification of work for cleaners. In some cases, cleaning service firms may subcontract janitorial work on a building to building or even, floor by floor basis, as a way to reduce labour costs and meet ever-lower price obligations. Such strategies may have an impact on the quality of property services being delivered since low wages and job insecurity are associated with high levels of absenteeism and employee turn over. Another strategy property service firms may employ to respond to slimmer margins and leaner contracts is to increase the amount of space cleaners are expected to clean without lengthening shifts. This increase in workload not only leads to greater work intensification and potential negative impacts on worker health but may also jeopardize the quality of cleaning services being delivered.

<sup>10</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>11</sup> As defined in the Responsible Property Services Code, 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. Some company policies only made reference to “fair” wages without clarity on whether those would be determined based on the prevailing wage standard. Because there is not a uniform definition of what constitutes a fair wage, company policies should be explicit in how such a standard would be assessed.

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

	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	▼	▲	▶	▼	▲	▲	▶
ROYAL BANK OF CANADA	▼	▼	▶	▼	▶	▲	▶
TORONTO DOMINION BANK	▼	▼	▶	▼	▲	▶	▶

▲ Included in Policy      ▶ Reference to Relevant Laws      ▼ Not Included in Policy

## 4.2 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, Bentall Kennedy and Oxford Properties Group, have fully disclosed their policies, which are freely available on their respective websites. The Bank of Montreal, CIBC, GWL Realty Advisors and Royal Bank of Canada made substantial disclosures about their policies (i.e. in-depth description of policies and procedures or disclosure of parts of relevant policies) either on the company website or in sustainability reports. The remaining seven companies agreed to provide information to SHARE for the purposes of this

report but do not otherwise disclose their policy information to the general public. In cases where companies do not publicly disclose any corporate policies, companies should communicate to stakeholders their commitment to fair labour practices throughout their supply chains, including property services, and outline their expectations of service suppliers and contractors in this regard.

### 4.3 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.

Approximately 89% of the company policies that we considered were applied to the entire property service supply chain, to all contract sizes and for all levels of control, which was the same average score in this rating category last year.

### 4.4 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>12</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>13</sup>

All of the companies that were evaluated do incorporate expectations of suppliers with regards to labour standards into their tendering processes, with 100% 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. Companies showed improvement in this area from last year when only 89% of companies reported that they required potential suppliers to provide proof of performance such as payroll records, for example.

<sup>12</sup> Jane Lin, "Trends in Employment and Wages, 2002 to 2007," in Perspectives on Labour and Income, edited by Statistics Canada, 2008

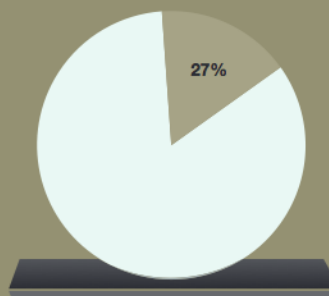
<sup>13</sup> See T. Hebb, A. Hamilton, D. Wood, January 2009.

## 4.5 MONITORING PROVISIONS

The drop in the average score in this rating category from 2011 to 2012 can be attributed to the adjustments we made in how we scored company performance in this area. In 2011, we simply looked at whether or not companies described monitoring mechanisms in their policies. For example, if a company policy stated that the company had the right to audit contractors for compliance with its policy, the company received a score of 50 out of a possible 50. If the policy did not describe a process around monitoring, the company would have received a score of 0. For the 2012 report, companies were awarded a score of 50 if the monitoring mechanism was actually employed within the 2011 calendar year. The purpose of this adjustment was to ascertain whether or not companies are proactively monitoring their property supply chains to ensure compliance with corporate policies and regulatory requirements as opposed to responding to issues when, and if, they are brought to the companies' attention.

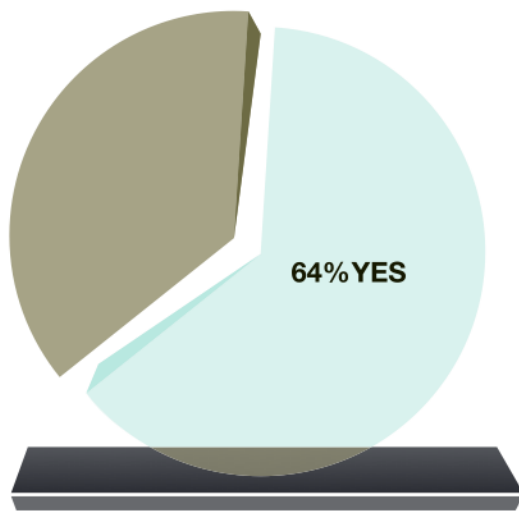
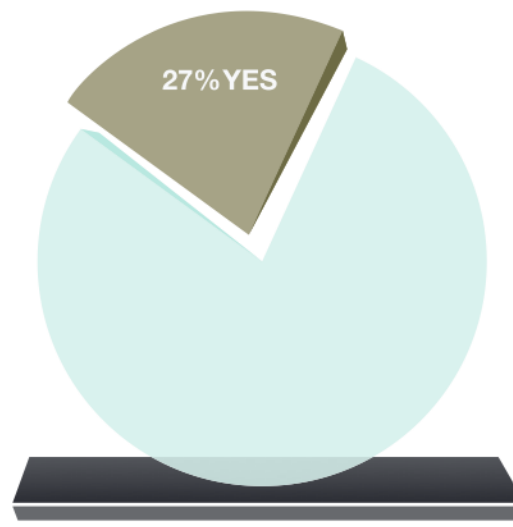
### BEST PRACTICE: Making Grievance Mechanisms Accessible to Property Service Workers

MONITORING PROVISIONS INCLUDE GRIEVANCE MECHANISM




As shown in the chart above, 27% of companies evaluated in this report provide confidential grievance mechanisms to contractors' employees with the majority providing access to reporting hotlines. The purpose of a reporting hotline is to provide property service workers (whether contractors' employees or subcontractors) with a confidential means to report any concerns regarding company practices, including violations of corporate policies, labour standards or workers' rights. In order for reporting hotlines to be effective, however, property service workers need to be aware that the mechanism exists; assured of its confidentiality and confident that reported incidents will be investigated promptly and properly. Information about the reporting hotline should be made available to property service workers and publicised in common work areas, along with other resources that may be available from relevant government ministries, for example. Information should also be provided to property service workers on how complaints will be investigated and acted upon and ensure that feedback is provided to complainants.



**FIGURE 1: MONITORING PROVISIONS IN COMPANY POLICY****FIGURE 2: MONITORING PROVISIONS EMPLOYED**

## 4.6 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. Nine of the eleven 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. However, several companies noted that there would be several steps taken before any of the above enforcement mechanisms were employed and that regular communication and effective supplier management frameworks should identify potential problems and rectify these before they get to the point of contract termination or contractor probation.



*RESULTS: first year companies*

## 5. RESULTS: FIRST YEAR COMPANIES

Two new companies, Allied Properties Real Estate Investment Trust and Dundee Real Estate Investment Trust, are included in this year's assessment. These two companies were identified by SHARE because both are significant owners and managers of commercial real estate, with large office space inventories. However, since both companies are new to this assessment and were not previously engaged by SHARE or the Atkinson Foundation we evaluated them using a modified evaluation framework. The purpose of applying a different evaluation framework for new companies is to introduce them to the work we have been doing in the area of precarious employment in the property service supply chain, determine whether current company policies incorporate labour standards and at the same time allow the companies to express their commitment to improving current policies or to develop new policies to reflect the responsible contracting principles contained in the Code.

SHARE reviewed the public documents that were available for Allied Properties REIT and Dundee REIT and also contacted each company asking that they provide relevant information about their policies and procedures for the purposes of this report. Based on the information gathered, we were able to do a basic assessment based on the four questions contained in Table 5 below. The four questions provide a snapshot of the degree to which current company policies incorporate labour standards as well as a sense of each company's openness to engaging with stakeholders on issues of precarious employment and the role that responsible contracting policies can play in mitigating the risks that precarious employment arrangements can have for commercial real estate companies

As indicated in the table, Dundee REIT responded to SHARE's request for information and indicated that they would be looking at their current policies and updating these to incorporate responsible contracting principles. Allied Properties REIT did not respond to SHARE's request for information despite numerous attempts to reach out to the company. Both Allied and Dundee have a Code of Business Conduct available on their respective websites that make some reference to labour standards such as compliance with employment regulations and commitments to maintaining safe and healthy working environments. The Allied Properties Code of Business Conduct includes a section on Subcontractors which states:

*Subcontractors play a vital role in the fulfillment of many of the REIT's contracts. In some cases, subcontractors are highly visible to customers. It is therefore very important to ensure that subcontractors of the REIT preserve and strengthen the REIT's reputation by acting consistently with the Code*

It is not clear from the company's publicly available information whether contractors and subcontractors are provided with a copy of the Code, whether the Code provisions are a part of the contract obligations or whether or not Allied Properties actively monitors contractors and subcontractors to ensure compliance with the Code. The Dundee Code of Conduct does not make any reference to contractors or subcontractors.



TABLE 5: ASSESSMENT FOR FIRST YEAR COMPANY PARTICIPANTS

ALLIED PROPERTIES REIT	DUNDEE REIT	
▼	▲	Did the company respond to SHARE's request for information for the purposes of this public report?
▲	■	Do the company's current policies that are relevant to third party service providers or contractors address labour standards?
■	■	Has the company committed to developing a responsible contracting or similar policy in 2012?
▼	▲	Did the company respond to SHARE's request for information for the purposes of this public report?

▲ YES

▼ NO

■ No Response / Uncertain

# *CONCLUSIONS AND RECOMMENDATIONS*

## 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>14</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 contracting and responsible employment practices into company policies, service contracts and agreements as well as in requests for proposals. The policy should make specific reference to the types of precarious employment practices that you seek to avoid, including misclassification of workers, consecutive fixed-term contracts, labour-only contracting and other arrangements that have the sole aim of lowering labour costs and employer obligations.
- Go beyond compliance with the law and establish explicit expectations of service providers, particularly in the areas of prevailing wages, working hours, working conditions, freedom of association and discrimination and harassment.
- In addition to on-going monitoring procedures, commercial real estate companies should establish confidential grievance mechanisms that are accessible to contractors and their employees and ensure that these mechanisms are well communicated to property service workers.
- 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 contracting and responsible employment practices into company policies, service contracts and agreements as well as in requests for proposals. The policy should make specific reference to the types of precarious employment practices that you seek to avoid, including misclassification of workers, consecutive fixed-term contracts, labour-only contracting and other arrangements that have the sole aim of lowering labour costs and employer obligations.

<sup>14</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>.



- 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.
- Go beyond compliance with the law and establish explicit expectations of service providers, particularly in the areas of prevailing wages, working hours, working conditions, freedom of association and discrimination and harassment.

### 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.

# *APPENDICES*

## 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 and 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).

## 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. The evaluation of this category was adjusted for the 2012 report so that companies were awarded a higher score if they publicly disclosed parts of their policies than if they simply shared parts of their policies with SHARE for the purposes of this report.

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
	50	Parts of the policy were provided to SHARE 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	
25%	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.

This year, we adjusted the way company performance was evaluated in this section to not only consider whether monitoring provisions were present, but also whether or not they were used.

WEIGHT	SCORE	
7.5%	50	Provisions in place to monitor compliance of property service suppliers with policy and legal requirements and these mechanisms were employed at some time in the 2011 calendar year (i.e. audits conducted)
	25	Provisions in place to monitor compliance of property service suppliers with policy and legal requirements but these mechanisms were not employed in the 2011 calendar year
	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