



*Achieve
Ambitions*

The complexity of compliance:

Where to start and how the right facility management partner will help you meet compliance goals and effectively manage risk



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Executive Summary

Today's corporate real estate (CRE) team has more business influence than ever before, due to rapid advancements in data accessibility and technology, increasing C-Suite emphasis on CRE as a value-driver, increased business enterprise and workplace responsibilities, and expanded service provider capabilities. As a result, this convergence of technology, evolving workplace needs, and integrated facilities management (FM) outsourcing capabilities has ushered in a new era in CRE outsourcing that transforms FM service providers into strategic enterprise partners: Outsourcing 4.0.

Within this new Outsourcing 4.0 model, FM service providers partner with CRE teams to manage both everyday facility management tasks and achieve high-level strategic goals aimed at maximizing the company's productivity, profitability, and employee engagement, while also minimizing costs, mitigating risk, and enhancing service quality and operational excellence. As a result, CRE teams increasingly rely on their FM service providers to offer expertise and solutions to achieve integrated compliance goals across regulatory, operational, contractual, and ethical dimensions of their business operations and scope.

The first step in navigating the compliance journey is developing a keen understanding of the distinct elements driving the increasing breadth and depth of compliance. Then, organizations should look towards the role that standards can play in achieving compliance and apply the fundamental elements of an effective compliance program to their own compliance strategy.

Section 1 | Demystifying the compliance conundrum

The journey to achieve compliance is neither simple nor straightforward, with interwoven layers of complexity that are confusing, yet critical to attaining compliance success. It is useful to consider the following framework when evaluating your organization's compliance program across four key dimensions:



Statutory and regulatory compliance includes the laws, regulations, and statutes that govern an organization's activities at international, national, regional and local levels. The overwhelming complexity of the regulatory environment—especially across jurisdictions and geographies—is a key challenge to achieving compliance in this area. Highly-regulated industries, such as healthcare and banking and financial services, face additional governmental oversight and present further challenges for organizations and their FM service providers.

Operational and financial compliance programs are designed to minimize and mitigate enterprise risk, using internal processes and procedures, across diverse disciplines including procurement, vendor management, financial reporting and accounting, information security, data governance, safety, human resources, and others. Designing and implementing successful compliance programs are challenging endeavors, requiring platform-wide strategies, strong governance structures, effective educational frameworks, and consistent reinforcement. Compliance in this area also drives and underlies activities across regulatory, contractual, and ethical dimensions.

Contractual compliance—being in accordance with terms and obligations set forth in contracts—is straightforward by definition, but complex in action. Contracts can adopt many distinct forms, whether master service agreements (MSAs), union labor contracts, pricing agreements, or other documents, and are often overly lengthy and constructed in complex legal language. To achieve compliance in this area, FM partners must have an accurate understanding of the contract's requirements, and communicate effectively with clients, employees and third-party contractors to ensure that these terms are understood and that the FM delivery is executed accordingly.

The journey to achieve compliance is neither simple nor straightforward, with interwoven layers of complexity that are confusing, yet critical to attaining compliance success.

Ethics sits at the core of the basic compliance framework and includes responsibilities towards an organization's employees, clients, shareholders, stakeholders, communities, and the marketplace. Businesses utilize ethical guidelines to set the right tone for proper business conduct, advance principled decision-making, and promote integrity among employees. There are numerous challenges to achieving ethical compliance, including spreading awareness of the different types of ethical violations, enforcing ethics programs, and fostering an ethical environment. These challenges are magnified when considered across a global workforce, where ethical expectations and practices may diverge.

Section 2 | Adopting standards: means to achieve compliance goals

Meeting the compliance demands and rising expectations of real estate teams requires a multi-faceted approach by FM partners. The dilemma for companies and their FM partners is: where to set the bar in terms of compliance and its related ownership parameters with so much variance in laws, customs, and acceptable risk across the dimensions of compliance?

Fortunately, the growing complexity of compliance has been met with an equally impressive expansion of standards, particularly in the regulatory and operational compliance spheres. In fact, FM partners are inundated with opportunities to implement standards, ranging from standards governing CRE data to property measurement to benchmarking, among others. When considering various standards, it is important to differentiate between the different types of standards, as described below.

Regulatory standards, and their corresponding guidelines, are promulgated by a government agency or national body. Regulations are rules or directives made and maintained by an authority and may include: Acts, Laws, Executive Orders and Statutes. Some regulations are also codified into building codes or national standards/codes that are adopted and enforced by regional or local government agencies, or authorities having jurisdiction (AHJs).

Voluntary consensus standards are developed by accredited domestic and international voluntary consensus standards bodies and are highly-recommended, but not mandated by law. The

premise is that the relevant intellectual property of the developers is agreed upon and made available on a royalty-free and non-discriminatory basis to all interested parties. Voluntary consensus standards are designed to improve performance, promote safety and enhance the delivery of services.

Guidance and technical standards generally provide a framework or best practices to ensure quality of services or products. Where voluntary consensus standards provide the requirements of “what needs to be done,” guidance standards often provide recommendations regarding “how to do it.”

Management system standards, or requirements standards, describe a set of procedures an organization needs to follow in order to meet its objectives. These standards can be applied to any organization, large or small, whatever the product or service and regardless of the sector of activity. Management system standards also enable alignment with strategy or certification by internal audits or independent third-party conformity assessments.

Implementing standards can help an organization to achieve its compliance objectives, by providing a supportive governance framework, standardizing operations, and creating a straightforward approach to performance measurement and verification. The benefits of implementing standards also extend beyond supporting compliance, and include mid- and long-run cost savings and simplifying and clarifying how a company should conduct business, especially across a global portfolio.

Section 3 | Beyond standards: assessing and aligning compliance vision and values

While navigating the world of compliance is challenging and complex, strategic FM service providers must meet this challenge head-on to remain competitive in the marketplace. The list of questions below provides a useful starting point for CRE teams as they evaluate potential FM service providers and their compliance capabilities¹:

1. Is the scope of compliance requirements well understood and reviewed periodically?
2. Are knowledgeable personnel in place, at both the corporate and operations level, that maintain expertise collectively across the four key compliance areas?
3. How are compliance training requirements being met? Additionally, how should they be designed to meet client needs?
4. Has the FM service provider established a functional compliance planning and reporting system?
5. Does the FM compliance organization offer performance measurement and reporting to drive continual improvement?
6. Does the FM partner have a process for monitoring and auditing compliance, and follow-up support to ensure compliance and corrective actions are followed?
7. How does the FM partner consistently enforce its policies and other requirements across the organization and how does it respond to acts of non-compliance?

The due diligence outlined in the framework above is necessary for CRE managers and FM service providers to develop mutually-beneficial strategic relationships built upon trust and proven capability. Organizations should seek out integrated facility management teams that combine technical

expertise, service excellence, business intelligence and a solid track record of compliance. Employing the recommendations outlined here will allow real estate teams to partner with an FM provider who extracts the most value from their CRE assets or portfolios, while simultaneously improving compliance and mitigating risk.

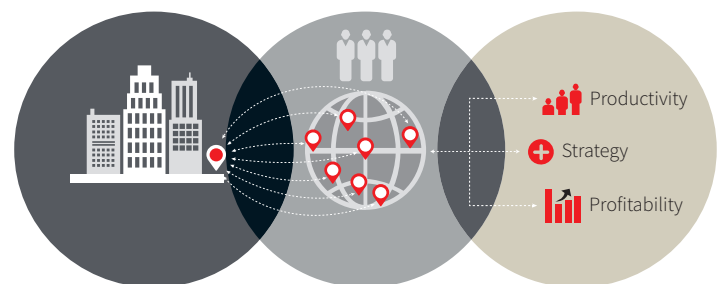
Conclusion | Navigating the compliance journey

As the Outsourcing 4.0 model continues to gain traction and FM service providers adopt an increasingly strategic role, clients will seek FM partners that can provide expertise and solutions across the key compliance dimensions and contribute towards meeting the organization's compliance objectives. The stakes are high for FM partners: the consequences of non-compliance can be catastrophic to people, processes, and ultimately profitability.

Navigating the compliance journey is a rigorous and complicated undertaking, requiring thorough research, a robust strategy and careful actions. Whether your organization is just starting out on the path to compliance or already has a strong compliance strategy and program in place, there are a number of different resources that you can utilize to support and drive your activities along the way. Consulting a professional compliance organization can be a productive first step on the journey to compliance.

Introduction

Today's corporate real estate (CRE) team has more business influence than ever before, due to rapid advancements in data accessibility and technology, increasing C-Suite emphasis on CRE as a value-driver, increased business enterprise and workplace responsibilities, and expanded service provider capabilities. As a result, this convergence of technology, evolving workplace needs, and integrated facilities management (FM) outsourcing capabilities has ushered in a new era in CRE outsourcing that transforms FM service providers into strategic enterprise partners: Outsourcing 4.0.



Within this new Outsourcing 4.0 model, FM service providers partner with CRE teams to manage both everyday facility management tasks and achieve high-level strategic goals aimed at maximizing the company's productivity, profitability, and employee engagement, while also minimizing costs, mitigating risk, and enhancing service quality and operational excellence. As a result, CRE teams increasingly rely on their FM service providers to offer expertise and solutions to achieve integrated compliance goals across regulatory, operational, contractual, and ethical dimensions of their business operations and scope. In many ways, FM partners sit at the intersection of compliance—ensuring services and its impacted processes, properties, and employees are fully compliant while also minimizing and mitigating compliance risks with suppliers.

¹ These questions are based on the United States Sentencing Commission's Sentencing Guidelines for Organizations

Even as more FM partners embrace their expanded strategic role, the complexity of compliance continues to increase. The sheer number of compliance regulations means that no one person can keep track of them alone. Adding to the challenge, many CRE portfolios include locations across countries within a region or around the globe, which adds further layers of regulatory, contractual and cultural complexity and operational risk to the compliance profile.

The consequences of non-compliance demand that FM partners address this complexity directly and effectively. “Non-compliance can have a very significant impact on the bottom line, ranging from hundreds of thousands to millions of dollars,” says Jim Whittaker, Engineering Services Lead at JLL. “And the financial cost of non-compliance captures only a small part of the larger consequences. Non-compliance can also put human lives at substantial risk and can significantly impact the corporate image or brand.”

Clients seek partners that are keeping pace with and are knowledgeable of compliance developments across industries, geographies, and jurisdictions. All CRE teams need FM partners making smart investments in people, processes and technologies that balance compliance management and administration capabilities with current regulations and standards; maintain sufficient knowledge and flexibility to respond to changes across varied strategic business dimensions; and be equipped and prepared to anticipate and meet future compliance requirements. So, how can CRE teams determine and trust whether a potential FM partner has the expertise, resources, and processes in place to meet these changing compliance challenges and, by extension, support their business strategy?

The changing nature and diverse risks presented by potential non-compliance underscores the importance of wisely choosing a strategic FM partner that can support the enterprise’s compliance requirements in addition to meeting its operating objectives. In this paper, we set the stage for this decision by discussing the distinct elements driving the increasing breadth and depth of compliance. We also explore the role that standards can play in achieving compliance and reporting goals. Finally, we offer advice on what to look for in an FM partner and outline key questions that CRE teams should consider as a means to help real estate executives make that important decision.

Section 1 | Demystifying the compliance conundrum

The journey to achieve compliance is neither simple nor straightforward, with interwoven layers of complexity that are confusing, yet critical to attaining compliance success. For FM service partners, the stakes are exceptionally high when navigating this territory together with their clients: the consequences of non-compliance can be catastrophic for people, processes, and profitability.

The following framework identifies four key compliance dimensions that seek to debunk the underlying complexity of compliance. While this framework is not intended to capture every nuance, it provides a high-level overview of each dimension. A more detailed description of each category follows, with discussion of the risks inherent in each area of compliance, examples of non-compliance, and key challenges to addressing compliance in each dimension.

Figure 1: The compliance framework



Statutory and regulatory compliance

Businesses (and by extension, their strategic enterprise partners) are subject to the laws, regulations and statutes that govern their activities and operations at international, national, regional, and local levels. As a result, ensuring regulatory



compliance is a complex undertaking, which requires an enterprise to maintain a comprehensive—yet extraordinarily detailed—collective understanding of the laws, regulations and statutes to which the business is subject. Differences in regulations across industries, jurisdictions, and geographies can add additional layers of intricacy to an already complex subject.

Increased demand for FM compliance expertise in highly-regulated industries

Changing regulatory environments challenge FM service providers to partner with their clients to interpret the new regulations and develop processes that seamlessly address the new compliance needs. “When partnering with clients in heavily regulated industries, it is crucial for FM service providers to understand how the delivery of their services impacts their clients’ regulatory obligations,” says Jane Niven, JLL’s Global Client Governance Counsel. This need is particularly apparent across healthcare, banking and financial services, pharmaceuticals and life sciences, and the oil and gas industry, among others.

Healthcare

The healthcare sector traditionally experiences considerable governmental oversight, in large part driven by the need for patient-centric care environments. “Managing a healthcare facility presents significant challenges that are unique to the industry,” says Michael Chisholm, Vice President of Compliance for JLL’s Healthcare Solutions group. “Healthcare facilities serve those who are most vulnerable without the capability of self-preservation. As a result, the federal government has set forth numerous requirements to ensure that healthcare facility occupants receive the necessary level of care.”

Healthcare organizations must undergo a stringent accreditation process in order to receive federal reimbursements for Medicare and Medicaid services rendered. Independent accrediting organizations, such as The Joint Commission and DNV Healthcare, periodically send their trained assessors to visit healthcare organizations to survey the organization’s compliance competencies across patient care, policies and procedures, safety, facilities, and other key dimensions. “The accreditation requirements for the physical healthcare environment and facility safety, in particular, are extremely rigorous and require FM service providers to partner very closely with their clients to ensure compliance,” says Chisholm. “The rigor and risks surrounding healthcare compliance do not subside, however, once the organization has been accredited. Continuous readiness must be woven into the fabric of all operations in order to ensure patient safety, care, and comfort.”

As regulations in this sector continue to evolve, there is a need for increasingly compliance-savvy FM service partners. “The growing complexity of the healthcare regulatory environment necessitates a shift towards utilizing subject matter experts to achieve compliance objectives that fall outside of the core healthcare business,” says Chisholm. “This spirit of partnership between clients and service providers is essential to success in this industry.”

Banking and financial services

Changing regulatory environments aren’t just an issue for the healthcare industry—the 2008–2009 financial crisis led regulators in the US, Europe, and Asia to require that banks and financial institutions engage in more stringent screening and vetting for both new employees and suppliers. As regulatory burdens increase, heightened requirements around privacy, security, partnership risk and operational risk will require banks to take a more proactive, enterprise wide approach to managing compliance issues, both through internal operations and with third party vendors.

Fueled by the growing business value of data as a strategic information asset, these institutions are also implementing more rigorous controls around IT security and data management in order to protect information collected on customers and employees. This changing business landscape and regulatory environment has had a direct impact on FM service providers, and in many cases requires interpretation to establish a corresponding compliance strategy. “In banking, for example, many regulations are oriented towards the bank’s interaction with their client base. This requires FM service providers to work with their clients to interpret the regulations from a service-provider perspective, and innovate to develop solutions that ensure compliance in the FM delivery,” says Niven.

Pharmaceuticals and life sciences




Quality is the key standard in the life sciences industry. For many years, major life sciences companies have had their own quality standards and systems which service providers have worked within and demonstrated adherence through. Now, it is becoming more commonplace that service providers are expected to have their own internal Quality Management System and follow ISO 9001:8002, providing their own stringent documentation of their quality process and adherence to that process. “Life sciences companies want to ensure when they partner with an FM service provider, they are mitigating risk. As a service provider, we’re expected to provide documentation of our quality process as well as supporting documentation that we’ve adhered to that process,” says Dick Auger, Director of Operations in JLL’s Life Sciences group. “Likewise we self-perform audits of our own work and our sub-contractors’ work to ensure adherence throughout the year.” In addition to self-performed audits, service providers can expect annual audits from outside companies hired by life sciences organizations.

Oil and gas

Corporations in the oil and gas industry are subjected to increasingly rigorous regulations that are constantly evolving, and which may differ markedly across geographies and jurisdictions. Ensuring the safety of people, property, and processes is a key driver of regulation in this sector—particularly because non-compliance in this industry can be highly destructive, and even deadly. This has important implications for FM service providers, who are tasked with partnering with oil and gas clients to develop, implement, and monitor processes and procedures that address these inherent risks. “The safety hazards that are associated with operations in the oil and gas industry range far and wide—from explosions due to flammable gases to falls from equipment high above the ground, among many others,” says Renee Leach, Senior Vice President for one of JLL’s international oil and gas clients. “As a result, clients in this industry seek FM partners that are not only prepared to help them achieve their regulatory obligations, but that can also offer recommendations for safety best practices and propagate a safety-centric culture.” In addition, FM service providers that partner with clients in this sector should also be prepared to address heightened compliance requirements for document management, process documentation, financial reporting, and sourcing, among others.

Examples of the consequences of regulatory non-compliance

Consequences of non-compliance with laws and regulations vary substantially depending on the scope and severity of the incident. However, the impact of non-compliance in this dimension should not be understated, particularly because regulatory non-compliance can endanger both lives and the bottom line, depending on the situation.

- **Law:** United States Occupational Safety and Health Act (OSHA) of 1970, under which employers are required by law “to assure safe and healthful working conditions” for employees. 
 - **Regulation:** 1910.157(c)(4), stating that “the employer shall assure that portable fire extinguishers are maintained in a fully charged and operable condition.”
 - **FM Non-Compliance Incident:** A building’s fire extinguishers were not properly inspected or maintained, and as a result the existing fire extinguishers are expired and inoperable.
 - **Consequences:** In the event of a fire, the lives of the building’s occupants are at increased risk; the building’s infrastructure and operations are at increased risk; the business may be subject to OSHA non-compliance fines; the FM service provider’s and the client’s brand reputations are at increased risk (based on public response to the incident).
- **Law:** Articles L4121-3 of the French labor code; L461-2, -3 of the French social security code 
 - **Regulation:** Under these laws, employers are required to assure a healthy work atmosphere for their employees, notably by avoiding long-time exposures to hazardous materials and radiations.
 - **FM Non-Compliance Incident:** An FM service provider does not supply its employees with proper safety supplies to use when handling hazardous materials (such as eye protection, gloves, or chemical aprons). As a result, employees are unnecessarily exposed to hazardous materials.
 - **Consequences:** The health and wellness of the FM service provider’s employees (and others who may come into contact with the hazardous materials) are at increased risk; the FM service provider may be subject to lawsuits and financial penalties; the FM service provider risks its standing as an employer-of-choice; the FM service provider’s brand and reputation are at increased risk due to negative publicity.
- **Law:** Sarbanes-Oxley (SOX) Act of 2002, which was enacted “to protect investors by improving the accuracy and reliability of corporate disclosures”² 
 - **Regulation:** Section 404 requires that, under the act, corporations must complete an annual report to document and assess the performance of the corporation’s internal financial controls, which will be submitted to the Securities and Exchange Commission as well as an independent external

auditor. While specific provisions or requirements for internal control programs are not identified within the act, SOX has important implications for the application of internal controls to sourcing and supply chain management.³

- **FM Non-Compliance Incident:** An FM service provider contracts with a third-party vendor to supply janitorial services, on the corporation’s behalf. The FM provider’s due diligence and internal controls process was not sufficiently stringent to uncover the janitorial vendor’s non-compliant money laundering activities.⁴
- **Consequences:** The FM provider may be subject to severe financial penalties and lawsuits; the FM provider’s senior executives may risk imprisonment; the FM provider’s relationship with the corporation is at risk; the FM provider and the corporation are both at increased risk of negative publicity and loss of brand equity.

Key challenges to achieving regulatory compliance

The overwhelming complexity of the regulatory environment is the primary challenge to regulatory compliance that businesses should be prepared to address. The sheer number of laws and regulations—across business sectors, geographies, and levels of government—precludes any one individual from mastering the full spectrum of regulatory compliance requirements. As a result, organizations must prioritize making significant investments in personnel, processes, and tools to ensure that regulatory compliance objectives are met.

To add to this complexity, the regulatory environment is dynamic and constantly evolving, particularly in developing countries where the adoption and promulgation of new regulations often occurs at a rapid pace. Staying abreast of rapidly-shifting laws and regulations is challenging, particularly within a global portfolio, yet crucial in the quest to achieve regulatory compliance.

Compliance is top executive concern, especially in heavily regulated sectors

Companies in a variety of sectors are contending with changes in regulatory schemes, and expanding their compliance activities as a result.

- Financial institutions have hired thousands of staffers to meet growing regulatory demands. JP Morgan Chase & Co. added more than 13,000 employees to its compliance staff to address new regulations after the financial downturn.⁵
- A survey of pharmaceutical industry executives found that their top business concern was the changing regulatory environment and many view compliance as a responsibility for every employee,⁶ no matter their level or function.
- Over 82% of the 4,300+ executives surveyed recently by IBM stated that managing and mitigating enterprise risk were essential and growing parts of their remit.⁷

² United States Code, Sarbanes-Oxley Act of 2002, Public Law 107-204

³ Gregg Stults, An Overview of Sarbanes-Oxley for the Information Security Professional, *SANS Institute*, 09 May 2004

⁴ Abigail Gray, What the Sarbanes-Oxley Act Means for Facilities, *FacilitiesNet*, September 2005

⁵ Rachel Louise Ensign, Lenders Bolster Risk and Compliance Staff, *The Wall Street Journal*, 04 May 2014

⁶ KPMG, Pharmaceuticals & Life Sciences Industry Outlook Survey, 2012

⁷ IBM, Pushing the Frontiers: CFO Insights from the Global C-Suite Study, February 2014

To address these challenges, businesses and their FM service partners should strive to identify and utilize subject matter experts (SMEs) across the different areas of regulatory compliance, thereby creating a deep, collective network of regulatory compliance expertise. These SMEs should have considerable expertise within their designated purview (for example, a safety-focused SME should maintain an active, working knowledge of fire, life, and health safety codes and stay abreast of regulatory changes within this environment). SMEs should undergo certification programs in their chosen discipline (where applicable) and achieve continuing education goals to ensure that their expertise expands with current developments.

SMEs across the discipline will be the best sources of information for businesses as they develop, implement, or refine their compliance programs.

Operational and financial compliance

Operational and financial compliance are central to an enterprise's business activities: in fact, compliance in this category also underlies and drives compliance across regulatory, contractual, and ethical dimensions. Operational compliance programs are designed to minimize and mitigate enterprise risk. This objective is largely achieved through processes and procedures, across diverse disciplines including procurement, vendor management, financial reporting and accounting, information security, data governance, safety, human resources, and others. While certainly not exhaustive, this list paints a picture of the wide range of factors that should be considered as part of an operational compliance program.

Successful compliance programs in this dimension enforce consistency and standardization across the business, while maintaining sufficient flexibility to address clients' specific requirements. According to Whittaker, implementing minimum operational compliance requirements across a global portfolio can also minimize liability for an FM service provider in the event of a compliance-related incident, as it sets a "corporate standard of care" across the portfolio. Furthermore, it is important to note that FM service providers are subject to both the compliance programs set forth by their own company, as well as those required by their clients.

As FM providers sit at the intersection of client-side and supplier-side compliance, **procurement and vendor management compliance programs** are of particular importance. Minimizing risk in relationships with third-party contractors and ensuring that selected suppliers are ethical and comply with client and provider requirements are vital to achieving success in this area. It can be a complex undertaking when qualifying contractors, sourcing goods and services, and monitoring performance for third-party suppliers across a global portfolio.

"From a global perspective, FM service providers should implement a risk-based ethics and compliance approach that takes into account the category and size of spend, the geography where procurement occurs, and the industry. FM partners should establish minimum supplier compliance standards that apply across all geographies and business lines," says Shahid Javed, JLL's Global Chief Procurement Officer. "However, the FM providers must maintain a certain degree of flexibility to address any unique industry requirements above and beyond the base and customize vendor compliance programs on a regional basis, which are regularly monitored and updated, while simultaneously minimizing risk."

Compliance with financial reporting and accounting requirements also presents a particular challenge for FM service providers, who must not only adhere to the financial compliance demands of their own

business, but must also comply with the requirements of their clients. Within this area of compliance, it is crucial that FM service providers partner with their clients to truly understand and operationalize their financial reporting expectations.

Operational compliance programs are designed to minimize and mitigate enterprise risk. This objective is largely achieved through processes and procedures, across diverse disciplines including procurement, vendor management, financial reporting and accounting, information security, data governance, safety, human resources, and others.

The underlying relationship between regulatory and operational compliance is particularly apparent in this category. "For example, the Sarbanes-Oxley Act imposes regulatory restrictions on corporations, which in many cases the corporation then imposes on their FM service providers," says David Flynn, Managing Director of Operations and Compliance for Integrated Facilities Management at JLL. "While the impetus for this type of financial reporting compliance program is obviously regulatory, it has very clear operational implications that impact how the FM service partner conducts their day-to-day business. As a result, the FM provider must establish internal compliance processes and procedures to accommodate this demand."



With rapid advances in information technology and heightened risk of security breaches, businesses are also increasingly concerned with information security compliance. It is important for FM partners to note that compliance within this category includes preserving the security and integrity of both physical information technology infrastructure (such as servers or data control rooms) and digital components (confidential client information, for example)—and there is an added layer of complexity to consider when these elements are one and the same, as in smart building ecosystems. “The Internet of Things has dramatically altered the information security landscape and as a result, ensuring compliance in this area is more important than ever before,” says Edward Wagoner, JLL’s Chief Information Officer in the Americas. “Smart buildings, for example, are engineered to collect massive amounts of real-time data across a diverse range of building systems. The integration of these systems creates multiple potential points of entry—and thus multiple points of vulnerability—to an organization’s IT infrastructure. FM service providers must develop new core competencies to meet these increasing compliance demands in our interconnected world.”

Given this interconnectedness, it is dangerous to view information security compliance, especially with regard to corporate real estate, within a silo. FM service providers must adjust accordingly, and ensure that their compliance strategies in this area also consider broader compliance goals, as well as overarching business objectives. It is also essential for FM partners to have adequate documentation of their information security compliance capabilities, processes and procedures, to meet growing client expectations. According to Gartner, “smart building components cannot be considered independently, but must be viewed as part of the larger organizational security process. Products must be built to offer acceptable levels of protection and hooks for integration into security monitoring and management systems. Certification programs that allow organizations to ensure the correct level of security for their needs during procurement will be required.”⁸

Data governance compliance, which also has an information security component, addresses the collection, organization, retrieval, and retention of data that can then be used to enforce regulatory, operational, and contractual compliance programs. From an FM perspective, data governance processes seek to balance enterprise information management with the needs of the CRE team via an integrated framework. It goes beyond the quality dimensions of data accuracy, consistency, integrity, timeliness, completeness and validity; data governance also ensures that the right data is delivered in the right form at the right time for the intended and authorized use, with proper protection.

Data standards often play a crucial role within a business’ data compliance strategy, particularly when enforcing contractual compliance. “Standardization is a key component of a strong data governance strategy,” says HoChun Ho, JLL’s Global Head of Data Governance and Management. “Moreover, implementing data standards offers the business, and its employees, the opportunity to enforce compliant behavior and minimize misunderstandings.”

Within the operational compliance category, **safety compliance** is also a primary objective, particularly since the consequences of non-compliance in this area can be tragic. While this category is also supported by safety laws and regulations, the importance of adopting stringent safety

requirements—and propagating a corporate culture that integrates these requirements into day-to-day business—cannot be understated.

“Developing a comprehensive safety compliance program is crucial for any organization to protect its people, property, and profitability,” says Mike Robinson, JLL’s Senior Vice President of Health and Safety. “Clients have entrusted their FM providers with the lives and well-being of their employees, clients, buildings and properties. Creating a culture that puts safety first is essential to success.”

FM service providers must also develop a strong **human resources compliance program**, designed to both comply with employment laws and regulations and establish internal compliance expectations. Non-compliance with human resources regulations can be enormously costly, as penalties and damages in discrimination lawsuits continue to escalate and standards of proof become more and more difficult to meet. Employment laws also vary substantially across jurisdictions, requiring organizations to devote additional resources to understanding legal nuances across geographies and integrating these requirements into operational procedures.

“Developing a comprehensive safety compliance program is crucial for any organization,” says Mike Robinson, JLL’s Senior Vice President of Health and Safety. “Clients have entrusted their FM providers with the lives and well-being of their employees, clients, buildings and properties. Creating a culture that puts safety first is essential to success.”

Implementing strong internal controls (such as a stringent social media use policy or a drug testing policy) and proven processes to identify and rectify non-compliance with the policy can also minimize an organization’s exposure to risk and reduce liability, should an incident arise. “At the most fundamental level, human resources compliance programs are designed to protect both employees and employers,” says Rachel Barner, Global Ethics Officer for JLL’s Corporate Solutions business. “Whether navigating employment and labor laws in Singapore or implementing an employee code of conduct in London, organizations must invest in developing robust HR compliance programs that are communicated effectively across all levels of the enterprise. Without a strong HR compliance program, organizations open themselves up to substantial financial and legal risk that can also negatively impact the company’s brand.”

Examples of the consequences of operational and financial non-compliance

While the repercussions for operational and financial non-compliance are inherently tied to the specific type of non-compliance and the scope and scale of the incident, non-compliance within this category can threaten the health and well-being of a business’ (and FM service providers’) employees, infrastructure and assets, brand reputation, and financial standing.

⁸ Gartner, Top Strategic Predictions for 2016 and Beyond: The Future Is a Digital Thing, 02 October 2015

- **Category:** Information security compliance

- **Compliance Requirement:** Corporate compliance policy mandates that firewalls must be installed to protect confidential client data.
- **Non-Compliance Incident:** The service provider did not properly install a firewall, and confidential client data was hacked as a result.
- **Consequences:** The service provider's relationship with the client is at increased risk; the security of confidential client information has been compromised; negative publicity surrounding the incident impacts brand equity and, consequently, shareholder value.



- **Category:** Human resources compliance

- **Compliance Requirement:** For cases of work-related misconduct termination such as theft or time card fraud, the employer should maintain written documentation of the misconduct incident(s) and work with their human resources, employee relations and/or legal advisors before taking any action against the employee. Those groups will work with the business team to ensure that the decision to terminate is appropriate and necessary documentation is retained in case documented proof is requested by any governmental agency like an unemployment agency or requested in relation to a court action.
- **Non-Compliance Incident:** An FM service provider terminates an employee for theft. However, the service provider does not maintain written records that reflect this misconduct and there is no supporting documentation that shows why the



employee was terminated. The terminated employee files for unemployment or files suit for wrongful termination, and the service provider does not have adequate evidence available to refute the claim.

- **Consequences:** The service provider must shoulder the cost of unemployment (or risk incurring additional financial penalties for non-compliance with unemployment regulations) and/or engage in costly and time consuming litigation; the service provider's standing as an employer-of-choice may be at increased risk; and the service provider risks missing necessary client key performance indicators.

Key challenges to achieving operational and financial compliance

Achieving operational and financial compliance is rooted in the successful implementation of processes and procedures that are designed to enforce the compliance program.

As a result, one key challenge to operational compliance lies in the design of the supporting compliance programs. Operational compliance programs must be thoughtfully and strategically designed, with a clear understanding of both compliance-related goals and larger business objectives. "It is crucial that FM service providers create and implement compliance programs, not just on a client-by-client basis, but across their entire platform," says Maureen Ehrenberg, President of JLL's Global Integrated Facilities Management business. "Compliance is too important—and the consequences of non-compliance too costly—to address through a series of one-off actions." Establishing a governance structure to continually monitor progress and update the program is also essential to success.

Once a compliance program has been designed, another key challenge lies in the implementation of the program, and ensuring that compliance becomes ingrained in the day-to-day business. Communicating the program requirements (and subsequent updates) to service provider employees, clients, and others is critical to success. Setting up this educational framework (which may include seminars, manuals, training conferences, or other resources) also facilitates the development of a culture of compliance.

Contractual compliance

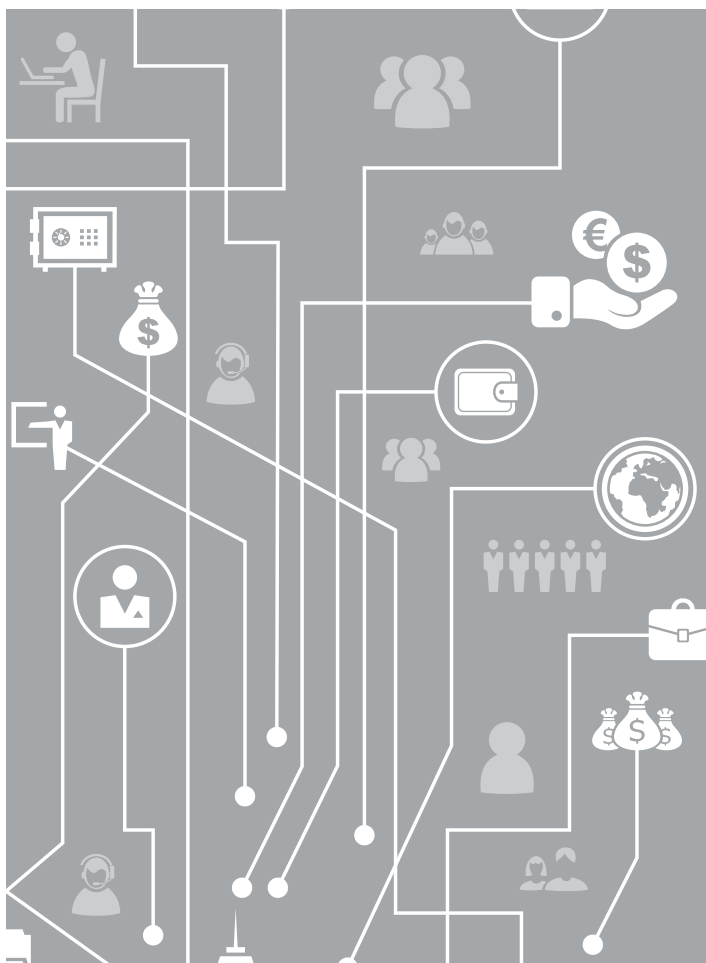
While the definition of contractual compliance—being in accordance with terms and obligations set forth in contracts—is relatively straightforward, the impact of contractual compliance on business activities can be diverse and far-reaching.



Contracts can adopt many distinct forms, whether master service agreements (MSAs), union labor contracts, pricing agreements, or other documents. Often constructed in complex legal language and excessively lengthy, there is considerable margin for interpretation between contract writers and negotiators and those who are operationalizing the contract terms. To add further complexity, FM service providers must navigate both the service level agreement (SLA) obligations to their clients, as well as enforce the terms of contracts with suppliers, labor agreements and third-party contractors.

Examples of the consequences of contractual non-compliance

The consequences of contractual non-compliance are rooted largely in the FM service provider's relationship with their clients and



vendors, and may ripple outwards to impact financial outcomes for both the provider and the client.

- **Contract type:** Master service agreement (MSA)

- **Compliance Requirement:** Per the terms of the MSA, an FM partner is contractually obligated to perform routine maintenance on an HVAC system on a monthly basis.
- **Non-Compliance Incident:** The FM service provider fails to perform this maintenance as described in the contract, and there is a resulting gap in service level.
- **Consequences:** The gap in service level may strain the FM partner-client relationship and breed mistrust; if the lack of maintenance leads to an equipment breakdown, the impact of non-compliance can extend to a loss of productivity and, ultimately, profitability.



- **Contract type:** Third-party contract

- **Compliance Requirement:** The FM service provider contracts a third-party vendor to source food service staff, and the service contract requires that the food service provider maintain adequate commercial insurance.
- **Non-Compliance Incident:** The third-party vendor fails to obtain appropriate insurance as mandated by the contract.
- **Consequences:** If an incident occurs and an insurance claim is filed, the FM service provider (or its insurers) will be required to compensate the claimant with no opportunity for compensation from the food service provider; this leaves the FM service provider at considerable financial risk, as a result.



Key challenges to achieving contractual compliance

The primary challenge to achieving contractual compliance is communication between the contract owners and the employees responsible for carrying out the contract terms. While source documents obviously provide the foundation for contractual compliance, the length and legal language used in most commercial contracts means that it is neither practical nor advisable to simply refer every employee back to the original contract when questions arise. Ensuring that employees have a functional

How can FM partners balance compliance and cost-effectiveness?

Given the growing complexity of compliance in many industries and geographies, strategic FM partners are tasked with a myriad of responsibilities, including (but not limited to) staying abreast of changes within rapidly-shifting regulatory environments, adapting global policies to regional expectations, ensuring compliance and minimizing risk with third-party vendors, and maintaining the agility and acumen to address new and unexpected developments. The question for CRE teams thus becomes: how can FM partners cost-effectively ensure compliance across each of the key dimensions?

Two fundamental compliance objectives include minimizing business risk and controlling cost of enforcement. The lack of a consistent regulatory approach across all markets creates uncertainty and complexity and, as a result, influences the amount of money that is spent on compliance-related efforts. That being said, organizations are committed to achieving compliance with regulatory requirements and are using it as an opportunity to rebuild trust with customers, investors, markets and partners alike. The shift to a more strategic FM provider-client partnership also means that this commitment to compliance, and the associated cost of compliance-related investment in resources and infrastructure, is being passed on to FM partners as well.

Firms may choose to leverage their compliance capabilities to create a competitive advantage, and this will become a significant differentiator, especially as outsourcing and third-party vendor support increases. FM partners may target greater efficiency in their compliance processes; while others take the opportunity to create more significant operating model transformations on the back of regulatory pressure.

FM service providers are making significant investments in operational infrastructure to support compliance and more is being earmarked for future investments. Regulatory requirements are on the rise, and FM service providers are preparing to meet the challenge head on. So while profitability is a business focus, as a result of regulatory change, FM service providers must find ways to adapt and transform compliance from a cost center to a value added-service.



knowledge of what is—and what isn't—required, per the terms of the contract, is fundamental to a successful contractual compliance program. Some FM service providers have training sessions for employees to educate them on the contract's obligations and necessary points of contact.

Similarly, working with vendors and suppliers to write and enforce contracts is crucial to success on the sourcing-side of compliance. This can be particularly challenging when sourcing suppliers globally because situations will inevitably arise where the available supplier pool is not able to meet the stipulated contract requirements. In these situations, it is important to maintain a certain degree of flexibility, to amend and update the contract appropriately.

While meeting contractual obligations is the primary objective in this area of compliance, FM service providers and their clients should also take care to establish and understand the standards of measurement used to verify compliance. For parties on both sides of a SLA, developing a mutual understanding of the performance measures used to validate compliance can clarify expectations and minimize perceived shortcomings surrounding the FM delivery that might arise.

Ethics

While regulatory, operational, and contractual compliance are each extremely process- and rule-driven, ethics represents the most deeply human-oriented piece of the compliance puzzle and includes responsibilities towards an organization's employees, clients, shareholders, stakeholders, communities, and the marketplace. As a result, ethics sits at the core of the basic compliance framework, underlying and supporting compliance activities in each of the other categories. Businesses utilize ethical guidelines to set the right tone for proper business conduct, advance principled decision-making, and promote integrity among employees.



Ethics represents the most deeply human-oriented piece of the compliance puzzle and includes responsibilities towards an organization's employees, clients, shareholders, stakeholders, communities, and the marketplace.

Ethics programs should seek to increase awareness of types of ethical violations (such as conflicts of interest, fraud, or corruption), set a baseline for a business' ethical expectations of its employees, provide a clear process for managing ethical violations and delineate the consequences. It is important to note that ethical norms often have cultural roots—so accounting for cultural differences in ethics practices is crucial when operating on a global scale.

Furthermore, it is important for FM service providers to be sensitive to the ethical expectations of both their employer and their clients.

Examples of the consequences of ethical violations

Within this category, enterprises seek to minimize incidents of fraud, bribery, corruption, and other unethical behaviors that have a negative impact on both the company's bottom line and reputation.

The consequences of unethical behavior depend upon the type and magnitude of the violation, cultural expectations, and the circumstances surrounding the violation. However, it is important to note that ethical violations can have a severe financial impact as well.

- **Ethical violation:** Conflict of interest



- **Ethical requirement:** FM service providers must ensure that all employees know the limits for accepting tokens of appreciation from vendors and suppliers.
- **Non-Compliance Incident:** A vendor offers to fly an FM employee to a resort for three days of golf and fishing, and the FM employee accepts the offer.
- **Consequences:** The extreme value of the gift creates a sense of obligation by the FM employee towards the vendor, undermining the employee's objectivity; the FM employee may be in violation of the client's rules for accepting gifts, as well as the FM partner's corporate guidelines; the client loses trust in the FM service provider; the FM service provider is at increased financial and legal risk in the event of an incident; the FM service provider may incur legal penalties for fraud; the FM service provider's actions are negatively publicized and the brand is subsequently at increased risk.

Key challenges to achieving ethical compliance

The human-oriented nature of ethics presents numerous challenges to implementing a successful ethics program. First, spreading awareness of the different types of ethical violations—and fostering an understanding of when and how such situations arise—is a key challenge in implementing a successful ethics program. This task can be doubly complex when communicating across a global workforce, where ethical expectations and practices may diverge “Establishing global consistency with ethical standards—so that expectations for ethical conduct are the same in Chicago as in Dusseldorf as in Mumbai—is key to the success of an ethics program,” says Barner. “While the communication of these expectations should account for regional differences and cultural acceptances, the message of adherence to ethical standards should be the same across the global platform.”

Enforcing ethics programs is also challenging, particularly because many ethics violations arise out of external pressures (such as cost, time, and workload, among others). Similarly, using audits to identify ethical violations is oftentimes not as effective as in other areas of compliance, simply because there is not always robust data to capture the nuances of human behavior.

Fostering an ethical environment is also challenging, especially as pressures surrounding cost-cutting and profitability mount. Ensuring that employees are equipped to make the “right” decisions, even when that decision may detract from the firm's competitive position, requires a clear code of ethics to govern behavior, a robust educational program to communicate expectations across the workforce, strong monitoring processes and enforcement policies to correct non-ethical behavior, and flexibility to adapt ethical expectations to align with disparate cultures.

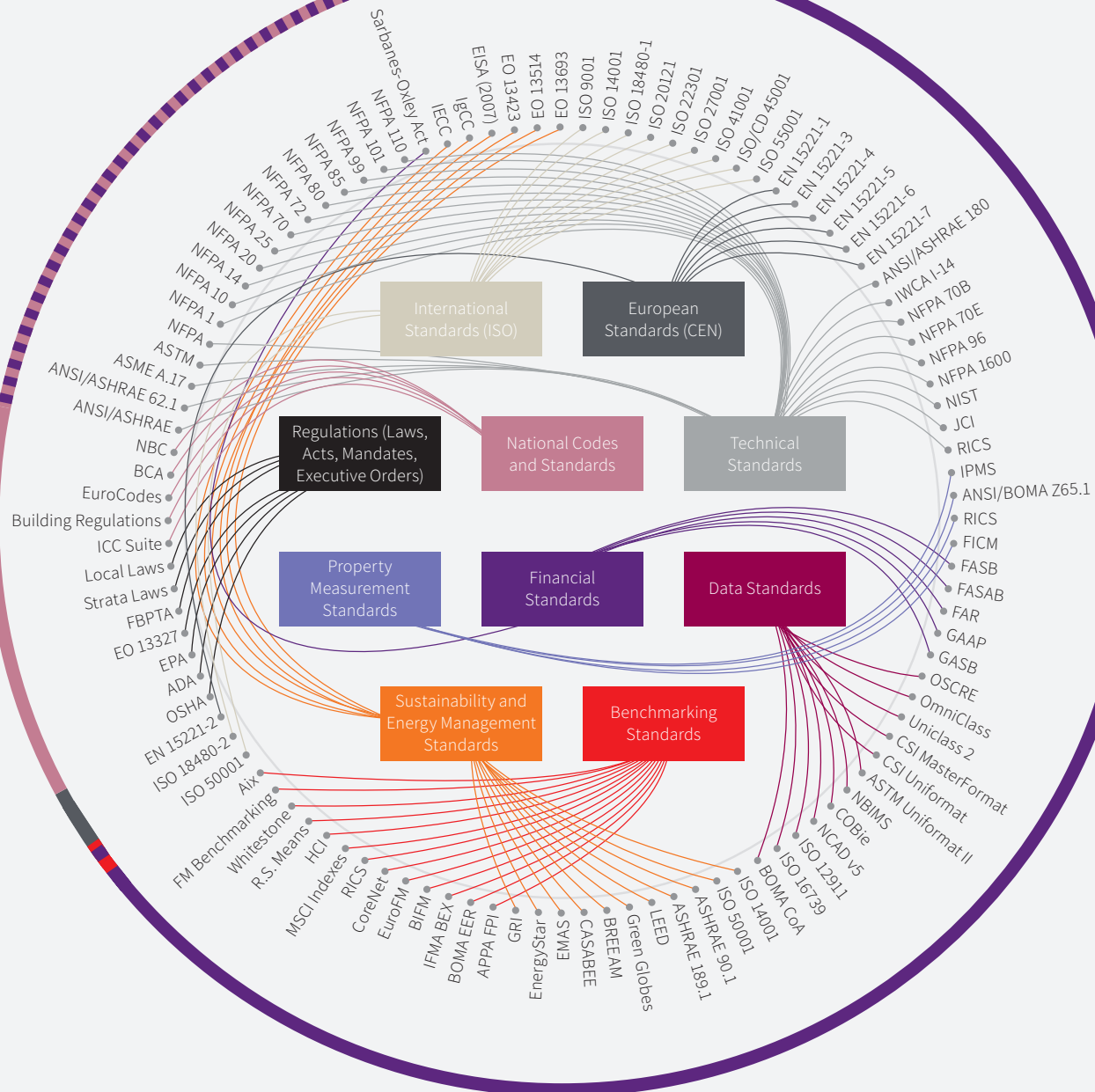
Section 2 | Adopting standards: Means to achieve compliance goals

Meeting the compliance demands and rising expectations of real estate teams requires a multi-faceted approach by FM partners.

The dilemma for companies and their FM partners is: where to set the bar in terms of compliance and its related ownership parameters with so much variance in laws, customs, and acceptable risk across the dimensions of compliance? For example, an organization operating in multiple markets may find labor practices that are acceptable in some geographies may fall short of the minimum requirements in others. Similarly, some markets may have mandates with a required or nonnegotiable adherence while others may have room for acceptable flexibility.

Fortunately, the growing complexity of compliance has been met with an equally impressive expansion of standards, particularly in the regulatory and operational compliance spheres. In fact, FMs are inundated with opportunities to implement standards, ranging from standards governing CRE data to property measurement to benchmarking, among others (see figure 2) For a more comprehensive look at the different standards that organizations can adopt as part of their compliance programs, please reference [JLL's International Standards Summary Table](#).

Figure 2: The proliferation of standards



It is important to note that standards can take several different forms:

- **Regulatory standards** which are developed by a regulatory body to enforce provisions of legislation.
- **Voluntary consensus standards**, which are highly recommended and typically established by industry-level bodies, but which are not required by law.
- **Guidance standards**, which are designed to guide professional behavior and support ethical behavior.

Regulatory standards

Regulatory standards, and their corresponding guidelines, are promulgated by a government agency or national body. Regulations are rules or directives made and maintained by an authority and may include: Acts, Laws, Executive Orders and Statutes. Examples relevant to the CRE industry include acts or laws to ensure fiduciary integrity (e.g., the Sarbanes-Oxley Act), to protect worker and employee safety, health and well-being (e.g., OSHA), to avoid discrimination based on accessibility (e.g., ADA, ABA and DDA), and to reduce energy consumption or enhance sustainability (e.g., the U.S. Energy Independence and Security Act 'EISA' and Executive Orders 13423, 13514, and 13693 related to sustainability). These regulations mandate financial, building and FM performance objectives be met and measured.

Some regulations are also codified into building codes or national standards/codes that are adopted and enforced by regional or local government agencies, or authorities having jurisdiction (AHJs). These building codes typically incorporate technical and consensus standards by reference that also mandate quality or performance. The result is a set of regulatory standards that specify the minimum requirements for the construction, alteration, repair, maintenance and operation of the built environment. An example is the International Building Code, which references multiple National Fire Protection Administration (NFPA) fire and life safety standards and technical standards regarding adequate indoor air quality and energy performance (ASHRAE 62.1 and 90.1) among many others.

Voluntary consensus standards

Voluntary consensus standards are standards that are developed by accredited domestic and international voluntary consensus standards bodies. The premise is that the relevant intellectual property of the developers is agreed upon and made available on a royalty-free and non-discriminatory basis to all interested parties. Voluntary consensus standards include guidance standards, technical standards and management systems standards developed by standards development organizations (SDOs) such as the International Organizations for Standardization (ISO), national standards bodies or mirror committees (e.g. ANSI, BSI, DIN, etc.), NFPA, ASHRAE, and others. Because of the independence, openness, transparency and credibility of SDOs, they can attract a wide range of subject matter experts to serve on standards drafting committees.

Voluntary consensus standards are designed to improve performance, promote safety and enhance the delivery of services. They can include technical, financial, and management standards developed to carry out policy objectives. Unless codified, adopted and enforced by AHJs, these are agreed-upon procedures or guidance documents. Voluntary consensus standards are developed at national (e.g., U.S./ANSI and U.K./BSI), regional (e.g., EU/CEN), and international (e.g., ISO) levels. ANSI oversees the development of voluntary consensus standards in the United States.

In addition to hundreds of technical standards, there have been several voluntary consensus management standards developed, and currently in development, to support the CRE and FM disciplines at each level; and can be generally categorized as 'guidance' or 'requirements' standards.

Guidance and technical standards

Guidance standards generally provide a framework or best practices to ensure quality of services or products. Where voluntary consensus standards provide the requirements of "what needs to be done," guidance standards often provide recommendations regarding "how to do it."

Examples of FM guidance standards include the suite of EN 15221 standards prepared and published by the European Committee for Standardization (CEN). These standards provide guidance on FM terms and definitions, service provision agreement clauses, processes, space management, quality and benchmarking.

Finally, there are also property measurement, technology and FM data standards that support a consistent and reliable foundation to generate credible and repeatable data analytics and information for benchmarking.

Converging priorities in FM point to a clear need for data standards and stewardship

CRE teams are under increasing pressure to manage data more effectively, which requires an integrated data governance strategy coupled with a robust data compliance program. These procedures may prescribe, at a minimum, common mandates for data fit for use, data accuracy and correctness, data consistency and data transparency. Governance will prove to be even more valuable, as companies deal with larger volumes and types of data, while ensuring its storage and proper protection. Furthermore, sound governance also drives credible business intelligence and decision-making.



Data standards address this need for a consistent, standardized approach to data management, and provide a supportive framework for a sound data governance strategy. Data standards, such as OSCRE (Open Standards Consortium for Real Estate) define common terminology that facilitates more effective benchmarking and easier communication among disparate platforms in the CRE industry.

"Data standards provide CRE teams with the common language and platform to assess compliance portfolio- and platform-wide," says Lisa Stanley, OSCRE's CEO. "Data standards allow companies to move from a data-exchange mentality—based in facts and figures—to an information-exchange model that facilitates smarter decision-making and yields actionable insights." Consistency in reporting of linked data dependencies also supports the "single source of truth" principle. This standardization also ensures that all FM partners receive reporting data in a uniform way, reducing any potential concerns about data or reporting limitations; which in turn drives data analysis.

The need for data standards is not limited to only CRE owner/operators; the implementation of data standards can also assist FM teams, service providers and customers to perform their roles more effectively. According to JLL's HoChun Ho, "Data standards offer clarity and consistency across services, portfolios and service providers. This standardization, in turn, allows for better, faster, and less costly decision-making."

Management systems standards

Management system standards, or requirements standards, describe a set of procedures an organization needs to follow in order to meet its objectives. These standards can be applied to any organization, large or small, whatever the product or service and regardless of the sector of activity. Management system standards also enable alignment with strategy or certification by internal audits or independent third-party conformity assessments.

Examples of management system standards, developed by ISO and related to CRE and FM, include asset management (ISO 55001), business continuity (ISO 22301), energy management (ISO 50001), environmental systems (ISO 14001), and facilities management (ISO 41000).⁹



Advantages of universal standards

To maximize the benefits from standards implementation, it is crucial to consider standards within the larger compliance context. “Adopting standards with no monitoring and compliance methodology is toothless,” says Neil Shah, Managing Director, Americas, RICS. “Both standards and compliance are required together to be a best practice.”

For some, the proliferation of standards and best practices may seem like too much of a good thing—a way of increasing the costs of compliance, especially when implementing voluntary standards that aren’t attached to any sort of enforceable mandate. And, in reality, no one property owner or facility manager can master or even know about all the possible FM standards—there are simply too many—so the awareness should be measured at the organizational level. “Embracing standards such as those developed by ISO not only elevates the quality of operations, in the mid- and long-run it actually saves time and money by simplifying and clarifying how a company or FM partner should conduct business,” says David Flynn, Managing Director, Operations for IFM at JLL.

Further, CRE teams and FM partners can use standards to benchmark compliance programs and capabilities, prioritize investments, and design programs to fill capability gaps. Standards also provide a consistent vocabulary and a way of talking about two complex areas: integrated facilities management and compliance. Accordingly,

adopting standards makes discussions about all facets of compliance—from regulatory to local, cultural norms—easier.

FM partners specifically benefit from adopting universal standards because they allow the provider to develop a playbook to use when responding to bids or vetting sub-contractors, which can save time, eliminate confusion and raise quality. As standards become part of a firm’s culture, they are seen as the natural and expected way of doing business, and demonstrate a commitment to quality. After all, with compliance ‘scorecards’ published for firms in many sectors, companies do not want to risk the appearance of skirting compliance. While no company wants to overspend significantly, the risk of underinvesting in compliance can be far more severe.

Compliance overlap

There is a fair amount of redundancy in compliance requirements when the spectrum of regulatory compliance issues and standards is considered holistically. As FM partners become more knowledgeable about the spectrum of compliance issues and incorporate them into their culture, standards can actually simplify compliance requirements. This simplification of redundancy in the regulations, codes and standards can save time and money, as well as improve overall compliance.

Consider the complexity of requirements in the U.S. alone related to the task of providing personnel safety and continuity of business in case of an emergency, such as a fire. A few of the overlapping requirements that must be addressed include:

- Having a written Emergency Action Plan (EAP) and Fire Prevention Plan (FPP) in accordance with OSHA 1910.38 [Regulation]
- Meeting the requirements of the International Fire Code (IFC) regarding operation, maintenance, testing and inspection of life safety systems [Code]
- Meeting the minimum standards required by the NFPA standards related to means of egress, fire protection and alarm systems, and integrating testing of systems [Technical standards]
- Following the protocols of local fire codes and protocols [Fire Marshall]

Using standards to develop a global playbook, customizable for local needs

FM service providers can synthesize best practices from various sectors and arrangements to propose global guidelines to a prospect, leaving the flexibility to customize local practices as needed. To be a trusted advisor in the U.S., for example, an FM service provider would need to understand and have action plans to demonstrate to a client how they would help achieve compliance with many regulatory schemes, from OSHA to Sarbanes-Oxley as well as local safety code requirements. The playbook can be configured by integrating content reflecting local customs, rules, resources and jurisdictional requirements. It could also include a strategy for identifying, developing and learning from local resources, as well as training them in firm wide global operating and reporting standards.



⁹ ISO 41000 is currently under development by ISO Technical Committee 267

- Having an Emergency Preparedness and Business Continuity Plan in accordance with NFPA 1600 or FEMA Guidelines [Standards]
- Implementing a management system standard in accordance with ISO 22301 societal security—business continuity [Requirements Standard]

There are common elements in each requirement that can be simplified by following an integrated approach to awareness and implementation.

Finally, by using universally accepted standards FM partners demonstrate that they have a holistic, big picture perspective on compliance. Alignment of strategy and execution of critical compliance standards, supported by the required tools and technology, allows FM partners to effectively collaborate across stakeholders to achieve sustainable compliant results. This allows for a top down and bottom up transparent reporting workflow and delivery of integrated information analytics to help minimize compliance risk.

Section 3 | Beyond standards: Assessing and aligning compliance vision and values

While navigating the world of compliance is challenging and complex, strategic FM service providers must meet this challenge head-on to remain competitive in the marketplace. “Globally across multiple sectors, clients are asking for enhanced compliance frameworks. They want higher standards and confidence that service providers have robust systems in place to protect them. This will continue to differentiate the market between the top tier professionals and firms and those who are unable or unwilling to improve,” says Neil Shah, Managing Director, Americas, RICS.

Adherence to specific standards and operating best practices can be detailed in contractual and service level agreements, but many promising relationships flounder on less tangible aspects. Ultimately the quality of the relationship between an FM partner and CRE team may hinge on whether there is alignment on the values underpinning compliance efforts, the overall vision and goals of the compliance function, and customer responsiveness when compliance concerns arise.

Fundamental elements of an effective compliance program

To find the right FM partner, CRE teams need to determine whether a particular FM service provider is a good cultural fit for their organization, and whether the provider can meet the demands of their existing compliance function. Compliance managers and FM partners will need to articulate what compliance means at their respective organizations; they may find that their perspectives differ markedly. To assess fit with a potential FM partner, CRE managers need clear answers to several fundamental questions about their compliance program. While not exhaustive, the list of questions below provides a useful starting point for CRE teams as they evaluate potential FM service providers and their compliance capabilities:¹⁰

1. Is the scope of compliance requirements well understood and reviewed periodically?

When assessing potential FM partners, firms should evaluate whether the FM service provider has a clear and accurate understanding of compliance requirements, across the four primary compliance dimensions. The FM partner should have the resources and infrastructure to interpret



compliance requirements, and disseminate this information across the organization’s employees and key stakeholders. The FM partner should be able to articulate how the compliance requirements serve to mitigate enterprise risk on the firm’s behalf.

It is advisable for FM partners to provide compliance training for their employees, and establish procedures to mitigate inaccurate interpretations of compliance scope requirements.

Furthermore, a scheduled periodic review for changes in the compliance environment (with particular attention to laws and regulations) should be established and executed in a consistent and transparent manner. For example, a review of the compliance program should include updates in the following categories:

- National and state laws
- National, state, and customer agency regulations
- Contracts and agreements
- Company policies and practices

2. Are knowledgeable personnel in place, at both the corporate and operations level, that maintain expertise collectively across the four key compliance areas?

SMEs represent a key resource in an organization’s compliance program, and allow organizations to develop deep networks of knowledge across the areas of compliance. Furthermore, successful compliance programs are designed to disseminate this SME knowledge both across corporate



FM partners bear the burden of compliance proof

As companies move towards an Outsourcing 4.0 model to form more strategic relationships with their FM service providers, there will naturally be an increased focus on compliance, standards, and ethics. As such, in an increasingly complex business environment, companies and their strategic FM partners will need to discuss viewpoints and processes to not only achieve compliance, but also demonstrate proof of it.

Just as clients expect their FM partners to monitor and ensure compliance among third-party vendors, clients increasingly demand proof that an FM service provider is compliant. “There has been a shift from a ‘trust but verify’ approach, which can entail an enormous time expenditure for clients,” says Jim Whittaker. “Instead, many clients today have a ‘trust and prove’ mentality that drives compliance among their FM partners.”

Technology can play a key role in determining how FM partners provide proof of compliance to their clients. “In the past, an FM might manually close out a work order to confirm that ladder safety inspections were completed,” says Whittaker. “Today, clients expect that the FM will be able to supply specific proof that the work order was completed. In many instances, technology can help FMs meet this elevated level of oversight. For example, this could include affixing a bar code to each ladder, which must be scanned after the ladder has been inspected and provides a digital audit trail in an open and transparent FM technology application.”

¹⁰ These questions are based on the United States Sentencing Commission’s Sentencing Guidelines for Organizations

silos and to operations personnel who maintain responsibility for enforcing compliance in FM service delivery.

Compliance professionals ensure compliance problems are fixed rather than just advising they be fixed. These are team members and leaders who delegate to other departments the appropriate elements of a compliance program in a collaborative manner without giving up the authority to ensure the task is completed.

Identifying governance roles and relationships within the organization is also vital to effectively deploying the compliance program. Leading organizations have well-defined governance systems with clear reporting relationships. It is important to clearly identify which functions are performed by senior leaders and, as applicable, by the FM compliance governance board, its parent organization and inter dependent groups. Board independence and accountability are frequently key considerations in a compliance governance structure while planning and deploying standards.

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The questions to ask regarding the compliance team's membership and authority include:

- At what level in the organization is the compliance lead placed?
- To whom does the compliance lead report? The position should be sufficiently senior to afford it adequate authority to effectively function within the organization. It should report into an executive officer whose interests are aligned with effective execution and fulfillment of the compliance officer's duties.

Organizations may choose to establish a professional standards group to govern ethics across the business through a corporate-level SME network. This group's activities may include developing and revising guidance standards that every employee is expected to adhere to, and supporting new account teams and new manager training to institutionalize these standards at an operational level. Special attention should be given to conduct in sectors that present unique legal and ethical challenges, such as government defense contracts, or pharmaceutical or financial services organizations. Clients and prospects will want to conduct their own due diligence to determine if the provider has been named in any compliance-related proceedings.

3. How are compliance training requirements being met? Additionally, how should they be designed to meet client needs?

Compliance depends upon maintaining a shared understanding of compliance goals, as well as making this information readily accessible. Clients should explore an FM service provider's investment in on-going training to



determine how and how often a provider's staff is trained on compliance topics. Clients should also evaluate the FM partner's process for maintaining and documenting its employees' current certifications, particularly for positions where professional licenses or credentials are mandatory. This is most effective when the compliance training and monitoring follows both a top-down and a bottom-up approach.

An FM service provider's commitment to regular training may also align with the client organization's training objectives, as required per contractual agreements. An ongoing FM compliance communication and training plan may include:

- Published, readily available documentation of compliance requirements
 - Regulatory development monitoring, day-to-day guidance and compliance support available to operating locations
 - Periodic general communication concerning changes in compliance requirements, with primers on certain areas of special focus
 - Periodic company-wide functional area conferences and/or "roundtables"
 - Appropriate training for applicable personnel
4. Has the FM service provider established a functional compliance planning and reporting system?

Compliance planning and reporting within the FM organization is vital to the effectiveness and influence of its compliance program. The team structure may include a functional area steering committee or council to identify and plan for any company-wide compliance needs in that functional area. This committee should be responsible to identify compliance needs and establish governing processes and



procedures, track progress, and periodically report on milestones for each operating location. Regular reporting allows the FM service provider to swiftly address any significant compliance-related issues that will take an extended amount of time to correct, or which require timely actions to meet future requirements.

5. Does the FM compliance organization offer performance measurement and reporting to drive continual improvement?

Clients and prospects should have a clear picture of the standards that the FM service provider has implemented to support their own compliance function. For example, does the organization maintain any ISO certifications, and can they provide proper documentation? Are the FM service provider's tools and programs OSCRE-compliant? Does the FM service provider employ RICS-accredited professionals? What kind of guidance standards does the FM service provider have in place to govern employee conduct?



Measuring the performance of an FM service provider's compliance program should be cautiously deployed with effective metrics. The metrics may be designed to be an indicator of existing risks, as well as provide the ability to interpret and understand potential future risks.

Completion rates for compliance-related training are popular metrics used by most FM partners. However, this metric alone may not holistically represent operational risks or concerns, that are vital to the overall health of FM compliance, such as monitoring compliance with standards and policies, indicators of non-ethical behavior or the number of operational risk events reported. Metrics should be selected based on the overall FM organization's risk profile, its client's risk profile and impacted stakeholder teams (for example, legal, operations, safety, procurement, or technology). Re-assessing these performance metrics and risks on a continual basis is required, particularly in a dynamic business environment where new risks continually emerge.

The compliance planning and reporting committee, described above in question 4, should be tasked with ensuring FM compliance performance measurement and reporting to drive continual improvement. Key objectives should include:

- Setting realistic, achievable goals
- Identifying appropriate metrics that will drive improved compliance performance
- Reporting performance regularly to management to support improvements
- Collecting data on compliance problems; top problems should be periodically communicated across all operating locations

The implementation of ISO management system standards (MSS), such as 9001 (quality), 55001 (life cycle asset management from acquisition to decommission), and 41000 (integrated facility management) can be hugely beneficial to FM service providers as they seek to measure and report on their compliance performance. "Achieving ISO 9001 certification as part of our quality management strategy has been a game-changer," says Linda Peele, Associate Director of Quality and Compliance for JLL's IFM EMEA business. "Achieving ISO 9001 certification, as JLL has across Europe, the Middle East, and Africa, simplifies operations by prescribing a framework to achieve compliance, improves internal controls, and provides robust documentation of compliance activities—all of which drive desirable outcomes for clients. For FM service providers, this can be a very strong differentiator in an increasingly competitive marketplace."

The successful integration of these standards into an organization's operations provides proof in certification (or self-certification) and a consistent, documented method of compliance planning, execution, monitoring and improvement. All ISO MSSs follow a standard format and employ the "plan, do, check, act" (PDCA) model. For example, the forthcoming ISO 41000 MSS for FM (which is currently under development) will incorporate a means of checking that FM standards and compliance requirements are addressed by an organization.



The adoption and implementation of ISO management system standards helps ensure alignment and integration of compliance requirements to the client's mission and across the organization. By virtue of the PDCA framework of the ISO standards, the FM organization is forced to consider the following:

- **Context of the organization**—Understanding the external and internal issues that are relevant to achieving the intended outcomes, the needs and expectations of stakeholders, and thus the scope of the services
- **Leadership**—Demonstrating top leadership and commitment in ensuring that policy and compliance objectives are established, as well as communicating the importance of compliance
- **Planning**—Taking actions to address risks and opportunities and planning to achieve them
- **Resources**—Determining and providing capable and competent resources needed for the establishment, implementation, maintenance and continual improvement of the services
- **Operations**—Implementing and controlling the processes needed to meet requirements, and to implement the actions necessary to achieve compliance
- **Performance evaluation**—Determining what needs to be monitored and measured; the methods for monitoring, measurement, analysis; when the monitoring and measuring is to be performed; and when the results from monitoring and measurement will be analyzed and evaluated
- **Continuous improvement**—Documenting how nonconformities will be addressed and corrective actions taken, as well as continually improving the suitability, adequacy and effectiveness of the management system

6. Does the FM partner have a process for monitoring and auditing compliance, and follow-up support to ensure compliance and corrective actions are followed?

An FM service provider's compliance program should monitor and audit activities to evaluate compliance, provide follow-up support to ensure compliance, and prescribe and follow-up on corrective actions to address non-compliance. These activities should include:



- Process control, risk testing and monitoring program to help assure the control environment is effective
- Implementation of appropriate standards and controls that are regularly tested and ultimately monitored and audited on a regular basis. In the spirit of ongoing testing and monitoring, it is also crucial to perform periodic risk assessments
- Review of risk assessments and audit reports with impacted stakeholder organizations (e.g. legal, procurement, sourcing). This information should also be communicated to applicable business leadership.
- Guidance and support provided to audited location in making management action plans and corrective actions
- Quarterly reviews of action status reports from audited operations
- Implementation of system where employees or agents may report criminal or other serious conduct without fear of retribution

- Developing formal feedback mechanisms related to the program's performance metrics, including adapting the program to the business environments as needed

Effective FM compliance programs should be designed to address non-compliance matters in conjunction with the appropriate business authority. This requires a clearly communicated and documented escalation process that will allow for non-compliant activity to be tracked and reported. The escalation process may include levels of escalations driven by the type of risk and its exposure that will in turn inform the escalation process and its impacted stakeholders. Escalations are necessary to form the basis of self-identified risks shared with auditors, and to make the appropriate judgment under the specific non-compliance circumstances.

FM service providers must also extend this level of scrutiny and risk management to their subcontractors and third-party vendors. This process should include stringent screening for potential vendors, strong vendor support programs to enforce compliance, and continual monitoring and auditing to identify non-compliant behaviors and prescribe corrective actions.

Managing third party vendor compliance

In addition to monitoring and auditing their internal compliance programs, FM service providers must also extend this level of scrutiny and risk management to their sub-contractors and third-party vendors. This process should include stringent screening for potential vendors, strong vendor support programs to enforce compliance, and continual monitoring and auditing to identify non-compliant behaviors and prescribe corrective actions.

Clients will want validation that the provider has adequately shielded it from risk in third-party contracts, while also ensuring that high compliance standards are transferred to any sub-contractors deployed by the provider. Many clients will conduct operational and financial audits of providers and subcontractors to verify training, licenses, controls and certifications. FM service providers should anticipate having to provide prospective clients with proof of these as well as primary and excess insurance for any vendor that may become part of the service team.

Tools and technology can make this monitoring and reporting process more transparent and easier to deploy. To shield both their own organization and their clients from undue risk, FM service providers should ensure comprehensive support and oversight of their sub-contractor and vendor relationships. This process should include several critical activities throughout the life cycle of the relationship, including (but not limited to):

- Identification and mutual alignment with the sub-contractor on the inherent risks in the partnership
- Due diligence in selecting a subcontractor (on-boarding)
- Due diligence during subcontractor service completion (off-boarding)
- Contracts that outline the rights and responsibilities of all parties
- Ongoing monitoring of the sub-contractor's activities and performance
- Development of contingency plans for terminating the sub-contractor relationship in an effective manner
- Clear definitions of roles and responsibilities for overseeing and managing the relationship and sub-contractor risk management process, as determined with the client organization

Documentation and reporting that facilitates oversight, accountability, monitoring, and risk management of the sub-contractor, especially across disparate cultures and regions and across matrix functions (where applicable).

7. How does the FM partner consistently enforce its policies and other requirements across the organization and how does it respond to acts of non-compliance?

It starts with the standards of conduct and the policies and procedures, and is supported by leadership's commitment to these developed policies and procedures. Creating an organization-wide awareness of compliance requirements and processes, reinforced through training and other support networks, is also essential. Does everyone at the organization understand why compliance is crucial, what compliance requirements are, and how to achieve compliance? Can staff members confidently communicate these points to clients or auditors?



Clients will also want to see if the FM service provider has a strategy and thirst to get to the bottom of the most frequent drivers of non-compliance (such as lack of compliance knowledge or training, culture-based ethical quandaries or stresses on resources) and address them. Fair, equitable and consistent treatment is a fundamental element of effective enforcement of a compliance program and its participants. Appropriate incentives for abiding by the program's standards and disciplinary measures for engaging in noncompliant conduct as well as for failing to take reasonable steps to prevent such behavior need to be articulated in a written policy statement. The statement should note:

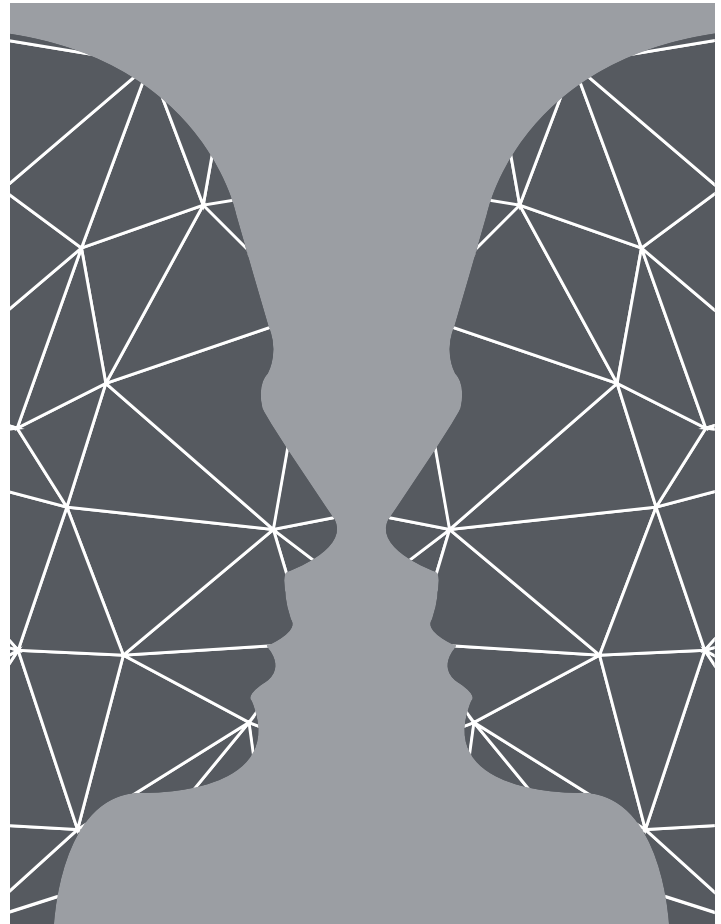
- Noncompliance will not be tolerated
- Failure to report noncompliance is as unacceptable as noncompliant behavior, and will not be tolerated; in other words, "sins of omission" will be treated just as seriously as "sins of commission"
- The parties responsible for the appropriate enforcement action
- Assurances that discipline will be fair, timely and consistent

FM service providers should strive for consistent enforcement of policies and other requirements across the entire organization. There

should be a clear process for identifying, correcting, and disciplining non-compliant activities, commensurate with the magnitude and severity of the non-compliant behavior.

Compliance is an active, ongoing process that is the responsibility of everyone on the team.¹¹

The due diligence outlined in the framework above is necessary because an FM partner's performance—or lack of it—can significantly impact an organization's brand. One bad decision by an FM service provider or its vendor (such as an on-site injury that could have been prevented) can inflict long-lasting reputational harm on a company. Consequently, choosing the right FM partner is critical not just for the day-to-day management of your facilities, but to protect and preserve the CRE's corporate brand.



Through consistent and transparent tracking of performance measures, FM service providers help clients to understand that the cost of maintaining compliance is low compared to cost of non-compliance that results in downtime/business disruption or injury or death. The FM service provider's posture—wait and react vs. anticipate and prepare—may be central to whether the partnership will succeed.

CRE managers and FM service providers can develop mutually-beneficial strategic relationships built upon trust and proven capability. Organizations should seek out integrated facility management teams that combine technical expertise, service excellence, business intelligence and a solid track record of compliance. Employing the recommendations outlined here

¹¹ Debbie Troklus and Sheryl Vacca, Compliance 101, How to build and maintain an effective compliance and ethics program, 2nd ed., *Society of Corporate Compliance and Ethics*, 2015

will allow real estate teams to partner with an FM provider who extracts the most value from their CRE assets or portfolios, while simultaneously improving compliance and mitigating risk.

Conclusion | Navigating the compliance journey

As the Outsourcing 4.0 model continues to gain traction and FM service providers adopt an increasingly strategic role, clients will seek FM partners that can provide expertise and solutions across the key compliance dimensions and contribute towards meeting the organization’s compliance objectives. The stakes are high for FM partners: the consequences of non-compliance can be catastrophic to people, processes, and ultimately profitability.

“The need for qualified compliance professionals and programs is undeniable in today’s business environment,” says Roy Snell, CEO of the Society of Corporate Compliance and Ethics. “Staffing your organization with compliance subject matter experts is a critical step in developing a successful compliance program and building an ethical business culture. The road to compliance starts with education.”

While the complexity of compliance continues to increase, FM service providers are tasked with developing a deep understanding of the compliance landscape, across regulatory and statutory, operational and financial, contractual, and ethical dimensions. FM service providers must also acknowledge, understand, and accommodate differences in compliance requirements between geographies, jurisdictions, and industries.

To begin the compliance journey, FM service providers must be aware of the various requirements that apply across each dimension, understand the challenges that they face in each category, and be mindful of the inherent risks in each category of compliance. Once the organization has developed a keen understanding of the compliance environment, FM partners should develop a compliance strategy and corresponding compliance program that is designed to address these challenges, minimize risk, and monitor performance on an on-going basis.

Standards offer a supportive framework that FM service partners can adopt and implement to support, streamline, and benchmark compliance programs across each dimension. Whether regulatory standards for fire and life safety, data standards to offer clarity and consistency across data sets and platforms, or professional standards to govern ethical behaviors, standards provide a systematic approach to compliance that can also ultimately lead to cost-savings and increased productivity.

Given the complexity of the compliance environment, as well as increasing demand for compliance-savvy FM partners, CRE teams must be prepared to critically evaluate compliance capabilities among their FM partners. CRE teams must assess the scope of compliance activities, level of institutionalized compliance knowledge across the organization, and how compliance programs are implemented, monitored and measured.

As a shared objective with impacted stakeholders, FM compliance supports a cross-functional leadership culture. This leadership model, coupled with fact-based intensity and professional discourse, is a strong indicator of an effective compliance program. Progressive firms leverage compliance investments enterprise-wide and utilize these assets to help manage their business more effectively. While the cost of compliance is expected to rise, an enterprise-wide approach can create an economy of scale, of sorts, where incremental costs are reduced as the program expands across the business.

Navigating the compliance journey is a rigorous and complicated undertaking, requiring thorough research, a robust strategy and careful actions. Whether your organization is just starting out on the path to compliance or already has a strong compliance strategy and program in place, there are a number of different resources that you can utilize to support and drive your activities along the way. Consulting a professional compliance organization, such as those outlined in figure 3 below, can be a productive first step on the journey to compliance. “The need for qualified compliance professionals and programs is undeniable in today’s business environment,” says Roy Snell, CEO of the Society of Corporate Compliance and Ethics. “Staffing your organization with compliance subject matter experts is a critical step in developing a successful compliance program and building an ethical business culture. The road to compliance starts with education.”

Figure 3: The road to compliance starts with education: Resources

Global Business Resources	Specialty
Accenture	Consulting*
Protiviti	Consulting*
Deloitte	Financial
EY	Financial
KMPG	Financial
PwC	Financial
CEB	General*
DNV GL Hospital Accreditation	Healthcare*
Metric Stream	Compliance software
TeamMate	Compliance software
Thompson Reuters Risk Management Solutions	Compliance software
JLL’s Global Real Estate Transparency Index	Transparency
JLL’s International Standards Summary Table	Standards

Organizations	Global		Specialty
	Y	N	
Committee of Sponsoring Organizations of the Treadway Commission (COSO)		X	Consulting*
Illuminating Engineering Society (IES)		X	Engineering
National Fire Protection Association (NFPA)		X	Fire protection
American Hospital Association (AHA)		X	Healthcare
Ethics and Compliance Initiative (ECI)	X		General*
Society of Corporate Compliance and Ethics	X		General*
American Society for Healthcare Engineering (ASHE)		X	Healthcare*
Building Owners and Managers Association International	X		Real estate
CoreNet Global	X		Real estate
The American Institute of CPAs (AICPA)		X	Financial
The Institute of Internal Auditors (IIA)		X	Financial
FMLink	X		Facilities management
International Facility Management Association (IFMA)	X		Facilities management
Institute of Real Estate Management (IREM)	X		Real estate
International Electrotechnical Commission (IEC)	X		Technology
Joint Commission		X	Healthcare
Electronics Industry Citizen's Coalition	X		Electronics supply chain
World Economic Forum, Partnering Against Corruption Initiative (PACI)	X		Anti-corruption and transparency

* These businesses and organizations offer guidance on compliance program creation, in addition to providing educational resources to support your compliance journey.



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