

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET
Report of:	CHIEF OPERATING OFFICER
Date of Decision:	25th July 2017
SUBJECT:	PROCUREMENT STRATEGY FOR THE PROVISION OF DESIGN, CONSTRUCTION AND FACILITIES MANAGEMENT SERVICES (DCFM)
Key Decision: Yes	Relevant Forward Plan Ref: 002967
If not in the Forward Plan:	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Cabinet Member(s):	Councillor Ian Ward, Deputy Leader, Councillor Majid Mahmood, Cabinet Member for Value for Money and Efficiency
Relevant O&S Chairman:	Councillor Mohammed Aikhlaq, Corporate Resources and Governance Committee
Wards affected:	ALL

1. Purpose of report:
<p>1.1 The Private agenda report deals with the confidential and / or exempt information not covered in the Public report. The two reports, private and public, must be read together as this Private report does <u>not</u> repeat information contained in the Public report.</p> <p>1.2 The purpose of this public report is to obtain approval for the tender strategy and seek authority to proceed with the procurement of a third party organisation to provide design, construction and Facilities Management ('DCFM') services including integrated or direct services (i.e. cleaning and Birmingham City Laboratories Services ((BCL)) currently provided by Birmingham City Council's (the Council) Wholly-Owned Company ('WOC'); Acivico Limited ('Acivico') through its subsidiary Acivico DCFM Limited pursuant to contracts dated 28th September 2012 and 9th April 2015 respectively.</p> <p>1.3 The proposed contract will commence on 1st April 2019 for a period of six (6) years, with an option to extend for an additional period of four (4) years, subject to satisfactory performance resulting in a maximum contract duration of ten (10) years. The average annual turnover for Acivico over the last two years is £33.2m.</p> <p>1.4 The procurement route to be utilised in accordance to the Public Contracts Regulations 2015 and the Public Procurement (Amendments, Repeals and Revocations) Regulations 2016 is the Competitive Dialogue procedure ('CD'). Further details are included in Appendix A – Procurement Strategy.</p>

2. Decision(s) recommended:
2.1 That Cabinet notes the contents of this report.

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3. Consultation
3.1 <u>Internal</u>
3.1.1 The Leaders of both the Conservative and Liberal Democratic groups have been consulted and support the proposals set out in this report.
3.1.2 Acivico including its directors has been consulted regarding the preparation of this report.
3.1.3 Acivico are having on-going discussions with affected staff and trade unions in respect of the commissioning process for DCFM services. The Council and Acivico will conduct further consultations (with early engagement where possible) with staff and trade unions in accordance to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) and the milestones detailed in the Private report; paragraph 2.5
3.1.4 Officers from Birmingham Property Services (BPS), Education Infrastructure (EdI), Legal Services, Finance, Corporate Procurement and HR have been involved in the preparation of this report.
3.1.5 Further consultation, including statutory consultation obligations, will be undertaken by Birmingham City Council; (the Council) and Acivico concerning, all affected employees, trade unions, as the procurement proceeds.
3.2 <u>External</u>
3.2.1 The proposals will be shared with Head Teacher representatives from Primary, Secondary and Special School Forums, representatives from the early years sector, Professional Associations and Trade Unions.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

4.1.1 This proposed arrangement will support the following specific objectives:

- investing in priorities and addressing pressures
- The Council's Vision and Forward Plan priorities:
 - a healthy city and a great place for people to grow old in
 - a great city for children to grow up in
 - a great city to live in with decent homes for all
 - a city where citizens succeed because they have skills required for the jobs on offer
- Also refer to **Appendix B - Council's Vision for Design, Construction and Facilities Management Services (DCFM)** which provides further support and evidence on the Council's vision

Birmingham Business Charter for Social Responsibility (BBC4SR)

4.1.2 Compliance with the BBC4SR will be a mandatory requirement for tenderers and will form part of the conditions of contract. Tenderers will be required to submit an action plan with their tender that will be evaluated in accordance with section 5 of this report. The action plan of the successful tenderer will be implemented and monitored during the contract period.

4.1.3 It will also be a mandatory requirement that the 2nd tier supply chain, procured by the contractor will comply with the BBC4SR and produce action plans with commitments proportionate to the value of the services provided throughout the contract period.

4.2 Financial Implications

4.2.1 Details of the Financial Implications are set out in the Private report.

4.3 Legal Implications

4.3.1 The works and services carried out under the proposed DCFM outsourcing will be in relation to Council owned buildings. Because of the numerous Council services and functions carried out from such buildings it is not practical to include, in this report, details of all relevant legislation enabling those services and functions to be carried out.

4.3.2 The requirements of the Data Protection Act 1998 and Human Rights Act 1998 will be taken into consideration in terms of the processing, management and sharing of data involved in these proposals. The recommended tenderer will be required to demonstrate or evidence that they have appropriate policies and procedures relating to data protection in place. A full diligence exercise will be undertaken by Legal Services. Data Processing / Sharing Agreements will be agreed with the recommended tenderer.

4.3.3 The transfer of staff will take place by operation of law if the conditions in the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") are satisfied.

Acivico will provide details to the successor of those personnel they believe to be entitled to transfer with the undertaking.

4.4 Public Sector Equality Duty

4.4.1 An initial Equalities Assessment has been completed to decide whether the commissioning and planned procurement of an organisation for the provision of the services currently provided under the DCFM contracts has any relevance to the equality duty contained in Section 149 of the Equality Act 2010. The initial screening identified that there was no requirement to assess it further at this stage; another assessment will be carried out following the procurement exercise.

4.4.2 The requirements of Standing Order No. 9 in respect of the Council's Equal Opportunities Policy and the Equality Act 2010 will be incorporated into the terms of the extended contracts, as they are incorporated in the terms of the current DCFM contracts and any subsequent contract with the appointment of third party organisation.

5. Relevant background/chronology of key events:

5.1 Background

5.1.1 The Council is undertaking the re-commissioning of its DCFM services. The report to Cabinet in December 2016 set out the Council's aim to create a more flexible and commercially focused model of service delivery to promote and facilitate partnership working that provides the optimum service for the Council and its citizens.

5.1.2 The report explained why the Council wanted to move away from a WOC model for these services and the outcome of a market sounding exercise that demonstrated the benefits of procuring an alternative model and the procurement of a Joint Venture (JV) partner was recommended.

5.1.3 During the market sounding exercise there were a number of overlaps between the perceived strengths and weaknesses of the JV option as compared with Strategic Outsourcing, with the two terms used almost interchangeably at times, with only a 2% difference in their qualitative scores.

5.1.4 The key perceived benefits of the JV model included the potential income the Council would receive as a JV partner, and the ability to introduce significant change to the scale or scope of services. The 'cost' of these perceived benefits include more complex and expensive contractual arrangements, a smaller pool of service providers willing to adopt this approach, the requirement on the Council to apply appropriate resource to the JV partner and the expectation of a longer term (10 years +) contract to offset the additional set-up costs.

5.1.5 The majority of the benefits detailed in the Cabinet report could equally be delivered by either model, and since December the priorities for these services have been clarified and the Council has developed its visioning document. Therefore there is a risk that the Council may pursue a JV model based on assumptions and considerations that have evolved since the Cabinet report. Given the intelligence gathered and considered since the December 2016 Cabinet report, it is recommended that a strategic outsourcing model is approved

- 5.1.6 In considering the performance of the benchmark public/private sector DCFM JV it is clear that potential to generate income for the Council is limited without very significant external growth of the JV business, and more certain financial benefit for the Council exists in the opportunity to improve the efficiency of Acivico and the services delivered. Although the strategic outsource model may be less flexible with regard to introducing significant change to scope or scale (as the council will no longer have the control currently afforded as sole shareholder), this is offset by the increased flexibility in changes in demand and contract term (six (6) years, with an option to extend for an additional period of four (4) years, subject to satisfactory performance resulting in a maximum contract duration of ten (10) years).
- 5.1.7 The delivery model now considered to provide the best fit for the council and therefore recommended for these DCFM services is the strategic outsourcing option for the following reasons:
- a) That the Council's clear priority for these services is the achievement of value for money (VFM) and the implementation of a lean and efficient system of working, rather than requiring this in addition to the future growth of a JV partner for which the Council would be a minority shareholder.
 - b) That the Council has no desire to achieve transformational change through this vehicle for other related agendas (e.g. energy strategy, SMART City etc.). This would require large-scale long-term investment from a partner, whereas the Council needs to focus its attentions on reducing its costs and moving towards an optimised, commercially competitive model. An area where the Council can improve is to initiate change to a more planned approach to its repair and maintenance work, rather than a reactive approach.
 - c) That the Council has no aspiration for retaining Acivico as a WOC per se. The Council's commissioning approach is delivery model neutral and will pursue the best provider arrangement for a particular service. It is not a pre-requisite that Acivico needs to be retained for future service provision.
 - d) That the Council does not need to have a controlling interest in the delivery of DCFM services. It is more important to focus on establishing the right contract terms and the correct contract management skills in its management function.
 - e) That the Council wishes to transfer appropriate service delivery risk to the private sector rather than take on a share of the additional risk that would accompany any external growth of a JV business.
- 5.18 The net benefit analysis summary, as appended to the Private report, indicates a higher financial benefit to the Council of pursuing the outsourcing option. The outsourcing option will avoid the establishment costs of the JV partner, with its additional shareholder and JV agreements. The difference in financial benefit between outsourcing and JV model is however small and consequently the council will, through the dialogue process with the market, ensure that its assumptions on the financial benefits and risk transfers are correct. The process will require the market to give their commercial view on the optimal delivery model for service provision and the council will pursue that which provides the greatest financial and risk benefit to itself.

5.2 Scope of Services

5.2.1 It should be noted that Building Consultancy (BC) will not form part of this procurement activity. BC will continue under the control of the council either as a hybrid in-house with company trading ability or as a WOC. A separate report on the future of BC was approved by Cabinet on May 16th 2017.

5.2.2 It should be noted that the Civic Catering aspect of Acivico's services should not be included in the scope of the services to be outsourced. A further report on the exact nature of the delivery model will be presented to Cabinet by the end of 2017. Details of the options appraisal are set out in the Private report.

5.2.3 Therefore the scope and range of services that will be procured are those services provided by Acivico under the variation and extension agreement for design construction and facilities management services and integrated services (excluding Civic Catering), including Design and Construction Services, Repairs and Maintenance (hard facilities management), BCL and Cleaning.

5.3 Procurement Strategy

5.3.1 Please refer to **Appendix A – Procurement Strategy**.

5.4 Contract Management

The Acivico DCFM contract and supply chain arrangements are managed in a number of ways across the Council.

5.4.1 Landlord Functions within the Council preside over estate / property strategy for a number of portfolios including, for example, Central Administration Buildings, Customer Service Buildings, Commercial & Industrial, Education (Schools). Revenue budgets associated with the operation and support of buildings within these portfolios, in some cases are centralised but in the main are held and distributed across occupying Council service areas. At present the Landlord functions take both a strategic and operational interest in their respective building portfolios as well as taking a hands-on role in the delivery of both major capital projects and capital maintenance programmes. As such these functions incorporate programme / project management, building surveying, quantity surveying teams / resources which are in turn supported several Client side data management systems.

5.4.2 The Acivico contract is monitored and managed by the Council through an Intelligent Client Function comprising a small team retained within Corporate Procurement with support from lead representatives from client landlord and corporate support functions. A number of strategic and operational performance meetings have been established to monitor the performance of the Council's WOC alongside a suite of formal KPI's and Management Information measures.

5.4.3 The Councils Corporate Procurement team retain ownership of all primary goods, services and works contracts including the Constructing West Midlands (CWM) framework suite.

5.4.4 A Strategic Partnering Board representing senior officers from Acivico and the Council meet monthly and it is likely that the new arrangement will require a senior partnership

arrangement with the new provider.

5.4.5 The new contract will require a client function and governance arrangement which will require an adjustment to these arrangements. Further information on this function will be detailed in the award report.

6. Evaluation of alternative option(s):

6.1 Refer to the Cabinet report dated 13th December 2016 entitled 'Commissioning Strategy for Construction Related and Facilities Management Services' and available as background documentation.

7. Reasons for Decision(s):

7.1 To enable the commencement of the procurement process for a third party organisation to provide design, construction and Facilities Management (DCFM) services including integrated or direct services (i.e. building cleaning and Birmingham City Laboratories Services) through a competitive dialogue process in order to ensure the best option for the Council is implemented.

Signatures:

Councillor Ian WardDate
Deputy Leader

Councillor Majid MahmoodDate
Cabinet Member for Value for Money and Efficiency

Angela ProbertDate.....
Chief Operating Officer

List of Background Documents used to compile this Report:

1. Cabinet Report dated 13th December 2016 entitled 'Commissioning Strategy for Construction Related and Facilities Management Services'

List of Appendices accompanying this Report (if any):

Appendix A – Procurement Strategy

Appendix B – Council's Vision for Design, Construction and Facilities Management Services (DCFM)

Procurement Strategy

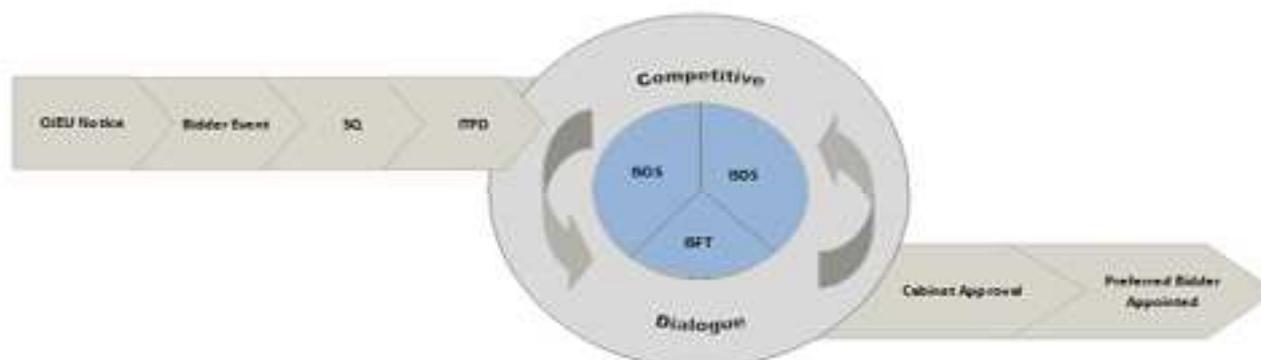
Indicative Procurement Timeline

5.3.1 Note that dates may be subject to change.

Deliverable / Milestone	Anticipated Timetable
Approval of Procurement Strategy	July 2017
Advertise OJEU / Intend / Journal Adverts / FIIB	Aug 2017 - Sep 2017
Issue Selection Questionnaire (SQ); (return, evaluate and long List)	Aug 2017 - Nov 2017
Invitation to Participate in Dialogue (ITPD)	
Invitation to Submit Outline Solution Stage (ISOS) (inc dialogue meetings, evaluations and report)	Nov 2017 - March 2018
Invitation to Submit Detailed Solution (ISDS) (inc dialogue meetings, evaluations and report)	Mar 2018 - Jun 2018
Invitation to Submit Final Tenders (ISFT) (inc dialogue meetings, evaluations and Cabinet report)	Jul 2018 - Nov 2018
Scrutiny Call In	Nov 2018
Alcatel (10 days mandatory standstill period)	Nov 2018 - Dec 2018
Contract Execution and Signing	Dec 2018 - Jan 2019
Mobilisation	Feb 2019 - Mar 2019
Contract Commencement	April 2019

Procurement Route

5.3.2 In accordance with the Public Contracts Regulations 2015 and the Public Procurement (Amendments, Repeals and Revocations) Regulations 2016, the Council will adopt for this procurement the CD procedure as depicted below:



- 5.3.3 As the CD procedure does not impose any time restrictions on the process, it provides increased flexibility to both the Council and tenderers. It also allows for early due diligence for all parties and should reduce bid costs for unsuccessful tenderers as there are gateways at each stage of the process that allows tenderers to either drop out or to be discounted from the process.
- 5.3.4 The ITPD is conducted in successive stages, with gateways. It is proposed that tenderers will make an initial presentation on their thoughts on the service and how the contract could be delivered. This will be followed by dialogue with individual tenderers to discuss and articulate options of possible solutions. This part of the process allows for the definition of a solution that is most likely to lead to the achievement of improved service levels and overall value for money.
- 5.3.5 Throughout the course of the CD the evaluation will provide coverage of fundamental measures such as, but not limited to, cost, quality, risk, operational capacity, KPIs, technical expertise, customer care and affordability. Other dimensions such as value for money, performance, strategic vision, innovation and creativity, integration and implementation will also be incorporated.
- 5.3.6 To assist tenderers with the construction of their bids, the Council will, prior to the commencement of each stage of the process, supply more detailed information on the evaluation criteria for that particular stage. This will be issued alongside the invitations to participate, providing clarity on the key areas the Council will be assessing and the weighting that will be applied to each.
- 5.3.7 The CD process can be divided into stages:
- **Stage 1: SQ.** This stage allows the Council to assess for example tenderers status and legitimacy, commercial, technical ability and professional competence, financial standing, insurance, environmental, health and safety to determine whether they meet the minimum criteria of the contract. The aim at this stage is to deselect down to 6 tenderers.

Invitation to Participate in Dialogue Structure:

- **Stage 2: ISOS.** This is the beginning of 'The Dialogue Phase' which formally acknowledges the need to talk around solutions, develop ideas and explore options and provision of the required service. Tenderers long-listed from the SQ stage are invited to participate in dialogue with the Council and receive an ITPD pack of information which defines the Council's needs and requirements. Tenderers then submit an outline proposal (excluding pricing proposals) which is evaluated and a short-list will be determined who will be invited to take part in the ISDS stage. This will effectively be the first gateway of the ITPD where some tenderers may choose to drop out of contention or are not shortlisted by the Council. The aim at this stage is to deselect down to 4 tenderers.
- **Stage 3: ISDS.** The dialogue in the 'ISDS' stage focuses on the development of a detailed proposition of how the required services will be organised, delivered, and governed. The dialogue will continue until the Council has clearly identified and specified its detailed requirements, and solution(s) capable of meeting these have been determined acceptable by the Council. These solutions will then form the basis upon which Final Tenders (FT) will be submitted. The Council will formally declare when the dialogue has been concluded and will notify which of the remaining

tenderers are invited to submit Final Tenders. The aim at this stage is to deselect down to 2 tenderers.

- **Stage 4: ISFT.** The Council will invite selected tenderers to submit their final offers. The FT must contain all the elements required and necessary for the performance of the proposed contract. A preferred tenderer will be appointed and there will be limited scope to make any amendments to the FT. The core purpose of the Dialogue is that negotiations are brought upstream in the procurement process, helping to shape the tender and limit the need for further amendments at a later stage. The aim at this stage is to conclude with a single tender that can be recommended for award.
- **Important Feature CD:** It should be noted that the nature of the CD is such that it may be necessary to further review the scope of the services and the number of provider(s) that may be awarded the contract(s) in order to establish the optimum delivery model for the Council. Any future developments that transpire through the CD process will be reported in accordance with paragraph 2.5 of the Private report.

5.3.8 Throughout the course of the procurement the dialogue and evaluation will provide coverage of fundamental measures such as, but not limited to, cost, quality, social value, terms and conditions of contract, risk, operational capacity, KPIs, technical expertise, customer care and affordability. These cut across the key evaluation criteria outlined in paragraph 5.3.15.

Contract Duration

5.3.9 Currently the Council anticipates that the contract duration for this procurement is up to a period of six (6) years, with an option to extend for an additional period of four (4) years, subject to satisfactory performance resulting in a maximum contract duration of ten (10) years.

Evaluation of Bids and Scoring Methodology

5.3.10 Tender evaluations will be divided in to five work streams and facilitated by Corporate Procurement Services (CPS):

- WS1 Soft FM
- WS2 Hard FM
- WS3 Capital Programme / Project Delivery
- WS4 Financial and Commercial
- WS5 Legal

5.3.11 Key clients (Birmingham Property Services and Education Infrastructure) together with subject matter experts will be involved in the CD process including the evaluation of tenders through to Stage 4 - FT as it is essential that the Council retains knowledge and expertise prior to final award. This position will provide confidence to tenderers that all parties are treated with fairness and equality.

5.3.12 It should be noted that dialogue at FT will not close until all parties to the CD process are confident that no issues or clarifications remain outstanding. This includes the conclusion of the terms and conditions of the contract.

5.3.13 Tenders will be evaluated using the quality / social value / price balance on accordance with a pre-determined evaluation model. The quality element will account for 40%, social value 10% and price 50%. This quality, social value and price balance has been established having due regard to the Corporate document 'Evaluating Tenders' which considers the complexity of the services to be provided and the degree of detail contained within the contract specification.

Evaluation of the SQ

5.3.14 The key criteria on which the tenderers will be evaluated against during the SQ are as follows. The scoring regime / sub-weightings for 'Part 1 – 3 will be documented in the OJEU notice and also in the ITPD suite of documents.

SQ
Part 1: Potential Supplier Information
Part 2: Exclusion Grounds
Part 3: Selection
- Economic and Financial Standing
- Technical and Professional Ability
- Modern Slavery Act 2015
- Insurance
- Health and Safety
- Environmental Sustainability
- Energy Management Systems
- Quality Management Process
- Compliance with Equalities
- Birmingham Business Charter for Social Responsibility
- Supplier Portal
- Supply Chain Financing Solution
Part 3: Additional Project Specific Questions
- Service Delivery
- Commercial
- Management and Organisation
- Technology
- Financial

Evaluation Structure for the Invitation to Participate in Dialogue:

5.3.15 The following are key themes documented under 'Quality' will cut across the evaluation of each workstream during the ITPD. The scoring regime weightings for 'quality', 'social value' and 'price' will be documented in the OJEU notice and also in the ITPD suite of documents:

Quality Proposals (40% Weighting)
Lean - <i>The Council aims to ensure an efficient end to end quality process for Council customers. Culture, Trust, avoiding duplication.</i> Proposals for a lean interface with Council functions.
Sustainable - <i>Confidence in the stability of the provider and its ability to introduce a planned maintenance strategy.</i> Proposals for how the Council can implement a Planned Maintenance Strategy for its CAB estate and other buildings.

<p>Flexibility - <i>To meet changing demand of the Council recognising a reducing estate in line with the Future council program and develop opportunities to grow – e.g. The West Midlands Combined Authority, other Public and Private Sectors</i></p> <p>Proposals on how providers can support the rationalisation of the Council's portfolio, and how they can manage the challenges of operating without visibility of a pipeline of work.</p>
<p>Management of Risk - <i>Operational, Legal, Reputational, optimise the transfer of contractual risk from the Council</i></p> <p>Demonstration of a transparent, competitive methodology for the delivery of major capital schemes, ensuring value for money is achieved.</p> <p>Proposals on how the provider will manage the expiry of the current Lot 7 framework in Sept 2019.</p>
<p>Service Improvement – Proposals for continuous improvement, particularly around demonstrating value for money, over the life of the contract</p>
<p>Transition – Management of implementation issues and their impact on the Council</p>
<p>People – Ensuring the best endeavours are made to protect the rights of Acivico staff in the new organisation</p>

Social Value Proposals (10% Weighting)
Local Employment
Buy Birmingham First
Partner in Communities
Good Employer
Green and Sustainable
Ethical Procurement

Price Proposals (50% Weighting)
Pricing
Pricing Approach to Deliver Services

5.3.16 The evaluation process will reserve the right (but not the obligation) for the Council not to invite any tenderers to the Final Tender stage or award a contract who score:

- Below a **60%** threshold in terms of quality
- Below a **40%** threshold in terms of social value
- 0% in any one section or Zero / no response in any one scored question
- Fails to pass a Pass/Fail criteria question.

Council's Vision for Design, Construction and Facilities Management Services (DCFM)

1. Background

- 1.1 An options appraisal was undertaken in 2016 based on a market-sounding exercise, and in December Cabinet gave approval for the Council to procure a Joint Venture partner, in which the Council would have a minority shareholding.
- 1.2 In developing the procurement strategy, the core Council team have considered what the JV will look like and what we will ask it to deliver. In scoping this, a number of issues have arisen in respect of the Council's vision for these services.
- 1.3 In the Cabinet report the scoring was extremely close between a JV partner and Strategic Outsource. This paper sets out the Council's vision and aspirations for its DCFM services and the way forward for the various aspects of this vision.

2. The Council's Vision

- 2.1 The Council's key priorities for these services were set out in the Cabinet report as follows:

A Cost effective Approach	A Sustainable Approach
A Lean Operating Model	Flexibility
Management of Risk	Inclusive Economic growth

3. A Cost effective approach

- 3.1 The market sounding exercise revealed that the existing arrangement has a high overhead percentage for the delivery of these services. One of the key priorities for a new model is to drive down the cost of delivery and therefore the new model will need to address any excess costs in the Acivico operating model.
- 3.2 The reduced total cost of service delivery, includes provider costs, client costs, the works costs and impact on the Council e.g. taxation, pension liabilities etc., and the cost of moving to a new model. Value for money is seen as the primary driver for these services.
- 3.3 **Way forward:** Ensure the pricing methodology allows for competitive tension and arrives at a contractual arrangement that demonstrates on-going value for money.

4. **A Lean Operating Model**

- 4.1 The Council aims to ensure an efficient end-to-end quality process for Council customers. Moving the managing agent function (Acivico) to an externally contracted provider will lead to a reconfiguration of the Council's interface with its provider.
- 4.2 As part of the procurement exercise, the Council will need to design a client function that complements the delivery model, has the right balance of subject-matter expertise and efficiently manages the Council's priorities for these services. This will require the reassessment and potential redesign of the Council's current interfaces with Acivico, namely Birmingham Property Services (BPS), Education Infrastructure (EdI) and Corporate Procurement (CPS).
- 4.3 **Way forward:** Ensure the Council is clear to the market about how it interfaces with the current provider (Acivico) and invite proposals on how this interface will work under the new contract.

5. **A Sustainable approach**

- 5.1 The Council needs to have confidence in the stability of the provider and its ability to sustain a long-term positive strategic relationship with the Council in a competitive market - including the ability to effectively manage and utilize the supply chain.
- 5.2 The market sounding exercise recommended a greater emphasis on direct delivery with a reduction of margin-on-margin managed arrangements.
- 5.3 In developing its vision for repair and maintenance, the Council recognises the need to move away from an emphasis on reactive maintenance to a planned approach. Spend information shows that we spend around 70% on reactive works. This is not sustainable and the introduction of a new approach with a level of investment is required to develop a maintenance strategy for planned works. The Council will need to evaluate the impact of bidders' proposals for a planned maintenance strategy on its resources, as well as its approach to allocation of budgets.
- 5.4 In order to achieve this, the Council needs a greater understanding of its assets which will inform the approach to rationalisation of its portfolio. Currently we have only very limited condition survey information across the estate. Additional investment in assets would be required to ensure value is maximised.
- 5.5 **Way forward:** The Council should aspire to establishing a planned maintenance strategy as a key deliverable of the new model. The governance arrangements for the new provider will form part of the competitive dialogue.

6. **Flexibility**

- 6.1 Clearly the delivery of the Council's DCFM services needs to have the flexibility to both support a reducing estate in line with the Future Council programme and develop opportunities cross the wider sector - e.g. The West Midlands Combined Authority, other Public and Private Sectors.

6.2 Therefore the new delivery model needs to inform and help facilitate the rationalisation of the Council's portfolio. The OJEU notice will identify public sector partners that are interested in having the option to use the new model. Acivico have an action to engage with partners to confirm the extent of this, as well giving evidence of the impact of Academisation of schools on the demand for their services.

6.3 **Way forward:** Seek proposals from the market to support the rationalisation of the Council's portfolio. Acivico to confirm their findings in respect of the impact of Academisation, and from engagement with potential partners, and the Council to reflect these findings in the OJEU.

7. **Management of Risk**

7.1 Our current understanding is that out of a potential total of several thousand property assets, in-scope buildings account for circa 400-450 non-school properties, and circa 200 school properties.

7.2 Were we to continue with a reactive-only approach, we would only be able to transfer the risk of undertaking statutory maintenance, not building condition. A planned maintenance approach could deliver more cost-effective maintenance to a reducing number of buildings and therefore transfer condition risk.

7.3 The Council also needs to ensure that the opportunity is appealing to the market, given the Council's reducing size. Furthermore the attractiveness of the Lot 7 arrangement needs to be built upon to ensure an effective capital projects framework is accessible by third public sector parties.

7.4 Employment risks, e.g. pension liabilities will need to be managed in establishing the new delivery model, and negotiated as part of the competitive dialogue.

7.5 From the market exercise it was clear that, should a form of JV arrangement be sought, then potential partners (providers) would need some form of majority ownership/control to be able to implement the necessary organisational changes to Acivico and introduce a more commercial approach to the delivery of these services. Additionally, financial certainty for projects and services is seen as a key priority for clients.

7.6 **Way forward:** The Council to ensure that employment risks are managed through competitive dialogue process.

8. **Inclusive Economic Growth**

8.1 The organisational strength of the new model will support local growth, development and wellbeing. This will deliver the Council's aspirations for Social Value through the Birmingham Business Charter for Social Responsibility.

8.2 The growth agenda was a central part of Acivico's long-term vision as presented during the market-sounding, however when analysed further, growth and surplus-return is likely to be of limited value to the Council. In considering the performance of the benchmark public/private sector DC&FM JV it is clear that potential to generate income for the Council is limited without very significant external growth of the JV business, and more certain financial benefit for the council exists in the opportunity to improve the efficiency of Acivico and the services delivered.

- 8.3 In the market sounding exercise we noted that Authorities that had entered into long-term (10 year +) contracts had a strategy to leverage the contract to deliver or support wider transformation objectives, requiring an investment of capital or resource from the JV or strategic partner. Typically this included investment in delivering property rationalisation, investing in energy efficiency improvement, SMART infrastructure, technology & systems, inward investment to the region and delivering 3rd party income from assets.
- 8.4 Alongside these aspirations is the reality of the Council's budgetary challenges and as a priority the Council needs to implement its future operating model, supported by an informed rationalisation of its building portfolio. Therefore any investment from bidders needs to be targeted at an improved understanding of our stock and an informed prioritisation of our reduced portfolio. This may impact on the optimal contract period and so therefore the contract length will form part of the competitive dialogue.
- 8.5 Although it is clear that the Council's building portfolio will reduce, the profile of the reduction is yet to be determined and will be influenced by local service need and the relative cost/value of sites. As part of the procurement we will be able to give bidders visibility of the direction of travel for different services and the building portfolio to which they relate, however we need to avoid the scenario where they just cherry-pick sites.
- 8.6 **Way forward:** The Council will indicate to the market that it is not seeking any wider transformational change from this arrangement and that any investment is focused on giving a commercial focus to the new service and on implementing a maintenance strategy for a reducing stock.
- 8.7 The Council will provide its best information on which services are being targeted for reduction and the buildings this will impact on. The competitive dialogue will negotiate on the appropriate contract length to reflect this.
9. **Impact of the Vision on the Procurement Strategy**
- 9.1 As the Council's drive for better value for money is seen as a priority over the growth agenda for the new model, the Council is in danger of embarking on a procurement for a JV partner that may be costly to set-up, introduce a substantial amount of governance and may not deliver on the above priorities in the most effective way.
- 9.2 For this reason, a Strategic Outsourcing option has been further investigated as an alternative through the procurement process. A decision on the preferred approach will be included in the July cabinet report.
- 9.3 These changes to the procurement strategy will require the Council to reconsider the role of Acivico in the procurement process. The Council would also need to reconsider whether any additional services should be added to, or excluded from, the scope, if we were to pursue a strategic outsource option.
- 9.4 **Way Forward:** A decision to be made on the preferred procurement strategy and this should be incorporated in the July cabinet report.