

THE UNIVERSITY of
TENNESSEE 
Request for Qualifications (“RFQ”)

Title: Programming Consultants

Issue date: March 19, 2019

Due date: April 16, 2019

Section A: Introduction and Basic Information

1. **Purpose and Scope:** The University of Tennessee (University) issues this RFQ to identify qualified Programming Consultants interested in providing services for the development of programming statements for potential capital projects. The University intends to create a list of three pre-qualified consultants for each type of project function:
 - Classroom/Lab/Research
 - Medical/Health/Science
 - Music/Performing Arts
 - Office/Administration
 - Site/Infrastructure
 - Dining/Housing
 - Athletics/Recreation

Once a project has been identified the University would solicit the pre-qualified list for exact qualification depending on type of function and schedule. Once the qualifications are reviewed and selected by the University, a contract with a Consultant will be executed following fee negotiations.

Consultants interested in responding to this RFQ must submit Qualifications Statements in accordance with the requirements provided below.

Summary of Project and Required Services

This project will provide programming to enable the design and construction of potential capital projects.

Programming services for these types of projects usually includes the following activities:

- A. Development of a program statement, the majority of spaces must be defined around Postsecondary Education Facilities Inventory and Classification Manual (FICM), the Tennessee Higher Education Commission (THEC) space guidelines, campus direction relative to functional utilization, and the respondent's experience for benchmarking similar space. The THEC space guidelines for instructional classrooms, laboratories, and office space must be consulted and utilized during the development process.
- B. Development in compliance with applicable laws, including the ADA. The University is devoted to principals of universal design and the building must conform to all relevant ADA requirements.
- C. The overall building infrastructure, including network wiring, must be compiled

in the finished product.

- D. The program statement will be developed to meet the Tennessee High Performance Building Requirements.
- E. The program statement includes site, landscape, Masterplan and other University wide considerations and must comply with pertinent University design and construction guidelines and standards, Masterplans and other related documents.
- F. Program statements must include for each space:
 - 1) Name of space.
 - 2) Number of persons occupying the space.
 - 3) The net assignable square feet of the space, spaces which fall under the THEC guidelines, unless there is a compelling reason.
 - 4) A unique space number.
 - 5) A description of architectural features and services to include, but not limited to:
 - a. Relation to other spaces within the facility
 - b. HVAC requirements
 - c. Illumination requirements
 - d. Electrical requirements
 - e. Plumbing requirements
 - f. Fume hood requirements (if applicable)
 - g. Vibration requirements (if applicable)
 - h. Sound attenuation and acoustical requirements (if applicable)
 - i. Gas use requirements (if applicable)
 - j. Compressed air requirements (if applicable)
 - k. Recirculating water system requirements (if applicable)
 - l. Communications (internet speed, parts, wireless)
 - m. Security and fire alarm
 - n. Level and Quality of Finishes:
 - i. Lab bench surface (if applicable)
 - ii. Floors
 - iii. Walls and doors
 - iv. Ceilings
 - v. Windows
 - 6) A succinct, but precise, description of the work which will be performed in the space.
 - 7) A description of equipment requirements, divided into elements of:
 - a. Major equipment to be housed within the space, with associated requirements for electrical, plumbing, shielding, and the space around the unit/equipment (if applicable)

- b. Workstation requirements – describing the type of bench or workstation, along with associated chairs or stools (if applicable)
 - 8) A complete list of all fixed and movable furniture and equipment to be in the space, with notation of which items are to be consolidated into the project budget (fixed and built-in, and movable equipment) and which will be supplied by the end user (example – scientific equipment). (if applicable).
 - 9) Site and utility considerations.
- H. Periodically meeting with a University committee comprised of faculty and staff concerning the development of the specific building program. This committee shall provide input and review the progress of the program document and ascertain any special requirements dictated by the end users.
- I. Deliver to the University a package that can be submitted to the architectural firm assigned to the project. In addition, the programming firm shall be available to address questions originating from the architectural firm during the design process.
- J. The final product delivered to the campus shall be hard copies 8-1/2" x 11" as requested and formatted in an executable electronic version that is approved by UT Office of Capital Projects, which can be revised and amended.
- K. The Contents of the final product will address item numbers listed above and incorporated into the following format.
 - a. A project narrative which will provide information to external constituents, such as state government or federally funded research entities. The narrative will include a written description of the project goals, objective justifications, and relationship to the Campus Master Plan. The narrative will also contain philosophical criteria relative to facility design, sustainability and historical significance, if applicable. Other issues may include project phasing, future projects, and any known externally imposed requirements.
 - b. Diagrams and drawings necessary to define functional relationships among individual spaces otherwise necessary to communicate design criteria.
 - c. Project site plans and diagrams.
 - d. Individual space definition sheets with criteria as shown
 - e. Any specialized requirements or system descriptions
 - f. Related site and utility requirements or system descriptions
 - g. Any externally imposed requirements; in other words, federal requirements, or state and local stipulations.
 - h. Conceptual project timeline
 - i. Reconciliation of program to University Capital Budget (where applicable)

2. **Communications:**

The following University office is managing this solicitation:

The University of Tennessee
Office of Procurement Services
5723 Middlebrook Pike
Knoxville, TN 37921

Regarding the subject matter of this solicitation, respondents may only communicate with staff members of the University's Office of Procurement Services. The primary contact person for this solicitation is listed below:

Name: Rebecca Douglas
Title: RFQ Coordinator
Email: rdougla5@utk.edu

If a respondent contacts anyone except the University's staff members listed above, the University may disqualify the respondent.

3. **Term:**

- The initial term for the pre-qualified consultants is active for 1 year.
- The University may renew the list of pre-qualified consultants for up to five additional year(s), upon State Building Commission (SBC) approval and mutual agreement.
- The term of each individual contract will be based on agreed upon schedule resulting from each individual project.

4. **Number of Awards:** The University intends to award this solicitation for up to 21 respondents, unless the University deems it to be in its best interest to award to fewer, or more, respondents. A respondent can be awarded for multiple project functions. The University retains sole discretion over this decision.

5. **Extension of the Award:** Other university departments, agencies with the State of Tennessee and other Tennessee public universities may also purchase goods and/or services from this award, if the winning respondent is agreeable. It should be noted that these entities are not required to use this agreement. If any of them elect to participate under the terms and conditions of this resulting award, the University of Tennessee reserves the right to re-negotiate favorable incentive with the successful consultant that are reflective of the additional volume. Note: The offer to extend the award to these other entities is at the discretion of the winning respondent and they should not be extended if it would affect your ability to offer the most favorable terms to The University of Tennessee.

6. **Non-Exclusive:** Although it is the University's hope that most projects will procure items

from this award, this is not a solicitation for an exclusive agreement and campuses will still have the option of procuring items from other consultants in accordance with our purchasing policies. The University does not guarantee that all programming statement solicitations for the type of services available under these qualifications will be made exclusively from the pre-qualified consultants.

7. **Pre-Proposal Conference:** Project review conference will be held on Tuesday March 26, 2019 at 2:00 p.m. Eastern Time. Attendance is not a prerequisite for submission of Qualifications Statement. RSVP if you plan on attending.
8. **Schedule:** Note the University reserves the right to change these dates. All times are quoted in Eastern Time.

Publication Date	March 19, 2019
Pre-Proposal Conference	March 26, 2019
Deadline for Questions	April 10, 2019
Bidder Submission Due Date	April 16, 2019
Notice of Intent to Award	May 30, 2019
Open File Period / Protest Period	May 30 – June 6, 2019
State Building Commission Approval	June 13, 2019

Section B: Instructions and Evaluation Criteria

1. **Assistance to Respondents with a Disability:** In the event that a respondent has a disability, the University will make reasonable accommodation to allow them to participate, provided that the individual requesting assistance contacts the Solicitation Coordinator no later than 10 days before the response deadline.
2. **Qualifications Submission:** Qualification Statements will be received at UT Office of Capital Projects, 5723 Middlebrook Pike, Suite 201, Knoxville, TN 37996.

Respondents must submit their proposals as eight bound copies and a single digital file copy in .pdf format on a flash drive. The digital file should not exceed 10 MB and should be named using the following format: Respondent Name UT PC 2019-04-16.pdf. Submitted packages should be clearly marked as follows:

Qualifications Statement
 UT Programming Consultants
 SBC No. 540/000-01-2019
 Submitted By: <<Respondent Name>>
 Contact: <<Contact Person Name, Address, Telephone Number>>

The Qualifications Statement shall be on standard 8 1/2" x 11" paper (landscape or portrait). It shall not exceed 30 pages including pages with photos (used as dividers or section headers or otherwise), charts, spreadsheets, and appendices. Binding covers, a one-page transmittal letter, and table of content pages may be provided in addition to the maximum of 30 pages. Pages or sheets with print on both sides will be counted as two pages. All pages must be numbered. Follow the information structure provided herein with clear identification of each information section.

3. **Governing Law:** The laws of the State of Tennessee, without giving effect to its principles of conflicts of law, govern this solicitation. Any liability of the University is governed by the Tennessee Claims Commission Act. The venue for any claim against the University is the Tennessee Claims Commission.
4. **Confidential Information:** Any proprietary or confidential materials contained in the qualification statements will be subject to the Tennessee Public Records Act, TCA 10-7-503. All responses, inquiries, or correspondence relating to or in reference to this solicitation, and all other documentation submitted by the respondents will become the property of the University when received. All qualification statement material submitted and evaluation documents will remain confidential, as provided by law, until after the University announces the notice of intent to award to the successful respondent. The University will not agree to provide advance notice of disclosure and placing confidential notices on documents is meaningless. After the notice to award, all materials submitted are open for inspection.
5. **Qualification Statement Preparation Costs:** The University will not pay any costs in the preparation or submission of a proposal. Respondent is responsible for its preparation costs.
6. **Withdrawal of Qualification Statement:** A submitted qualification statement may be withdrawn by sending a written request to the Solicitation Coordinator before the solicitation due date. Qualification Statements may be withdrawn and resubmitted in the same manner, if done prior to the submission deadline. Withdrawals or modifications offered in any other manner will not be considered.
7. **Presentations:** The University may invite any Respondent, only certain Respondents, or all Respondents for presentations. Respondent hereby acknowledges that the University has sole and absolute discretion regarding presentation invitations
8. **Acceptance and Rejection of Qualification Statements:** The University may accept or reject any qualification statement that, in its opinion, is in the best interests of the University. The University may re-solicit qualification statements, or to continue with the current consultant for these services. The University may also waive minor variances or immaterial defects in a response. The University may also accept any item in the proposal, unless otherwise specified by the Respondent.

9. **Late Responses:** The University will not accept responses after the deadline listed in the RFQ.

10. **Questions:** Up to the deadline for questions, respondents may ask the Office of Procurement Services questions in writing via email to the email address listed above in the “Contact Person” subsection. In the event that a respondent communicates with the Office of Procurement Services verbally, the respondent understands that verbal communication is non-binding, and respondent further acknowledges the only official communication about this solicitation is written communication. Respondent understands that it must not rely on verbal communications with the University.

11. **Addenda:** The University will make reasonable efforts to ensure that all respondents have the same material information. Accordingly, if a respondent asks a question that the University considers, in its sole discretion, to be material, the University will issue an addendum to this solicitation. The University will communicate all addenda to all respondents who have requested communications.

12. **Evaluation of Technical Responses:**

- A. The scoring committee will score each Respondent based on the criteria listed below.
- B. The University uses the median of the scores given by each member of the committee.
- C. The University will use the following scoring criteria:

Evaluation Criteria	Maximum Points Possible
Mandatory requirements	Pass/Fail
Qualifications and Experience	500
Technical Services	500

- D. The University will consult with the Office of the State Architect.
- E. The University will recommend up to 3 proposers for each project type for approval by the SBC.

13. **Immaterial Defects:** The University may waive minor variances from full compliance with this solicitation. If the University waives immaterial defects in a response, such a waiver does not modify this solicitation’s requirements.

14. **Award:** This solicitation does not commit the university to make an award or to procure or contract for services described in this solicitation. The University will make individual

project assignment awards that the University determines to be in its best interest. The University reserves the right to negotiate terms and alter the specifications with the selected respondent, however, if they are unable to reach mutually agreeable terms and conditions, the University reserves the right to reject the proposal and negotiate terms of an agreement with the next respondent. If the agreement with the successful respondent is terminated for any reason prior to the agreement termination date, the university may elect to substitute the next respondent, if they are agreeable to the terms and schedule. The Office of Capital Projects of the University of Tennessee is the only office authorized to award a purchase order for the required services.

15. **Notice of Intent to Award:** After the evaluation process is completed, the University will issue a formal notice of intent to award notifying all respondents of the identity of the winning respondents.

Section C: Technical Response

Registration: All Consultants must register with the Office of the State Architect to be able to enter into a contract for this work:

<https://designerregistration.osa.tn.gov/WebForms/Home.aspx>

Instructions: Respondents must write and organize their responses in the same order as listed below. The University may deem a response non-responsive if the respondent does not comply.

Part A: Mandatory Requirements

The University will assess each criteria below on a pass/fail basis: respondents must pass each criteria to qualify.

- A.1 Provide the Consultant's name, address, website address, number of years in business, and legal structure (e.g., corporation, etc.).
- A.2 Provide the name, e-mail address, mailing address and telephone number of a single primary contact of the respondent.
- A.3 Provide any details of all past or pending litigation or claims filed against your company that would affect your company's performance under an Agreement with UT System.
- A.4 Is Respondent's business currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the

impact of both in organizational and directional terms.

A.5 Describe Respondent's hours of business.

A.6 Describe Respondent's experience transacting with state or local government agencies.

A.7 Provide a statement of whether the Consultant, its sub-consultants or any individual who shall perform work under this contract has a possible conflict of interest (e.g., employment by the State of Tennessee) and, if so, the nature of that conflict.

A.8 List project function type(s) Respondent is submitting for consideration. Project function types include:

- Classroom / Lab / Research
- Medical / Health /Science
- Music / Performing Arts
- Office / Administration
- Site / Infrastructure
- Dining / Housing
- Athletics / Recreation

A.9 Respondents acknowledge that this solicitation is for programming work only. The Respondent to whom the University issues an award for any individual project will not be eligible to provide design services for that project; however, the Respondent would be eligible to provide consulting services to any contractor who provides the design services to the University.

Part B: Qualifications and Experience

B.1 Describe the Respondent's qualifications to deliver the services needed for this solicitation in regard to the following.

- The proposed personnel experience who will be working together on the project.
- The firm's sustainable design capabilities including experience with State of Tennessee Sustainable Design Guidelines or The Tennessee High Performance Building Requirements, sustainable design credentials of personnel, and example sustainable design projects.
- Illustrate how the firm is familiar with the code requirements enforced in the state of Tennessee.

B.2 Provide information on up to five of the Respondent's projects where the team provided programming services that have been completed within the last five years and that are of similar program function type. Include the following information:

- Extent of services provided for each project.
- A reference (by a University representative) for each project including contact name, address, telephone number, email address. The University may contact references as well as any other source available.
- Include staff, which are listed in B.3 if applicable.
- Information, sample format and/or photographs for each project

B.3 Provide the resume of key respondent personnel who will be assigned to these services and describe their proposed role and time commitment once a project is underway.

Include resumes of all principals and technical associates who would be brought together as a staff, which would serve either as an implementation team and/or which would be responsible for overseeing the requirements of this RFQ. This information could include related technical and professional affiliations, related employment, accomplishments and involvement in contracts of this size/complexity. Provide each individual's current position with the firm or consultant, years with the firm, education, licensing, professional credentials, and similar project experience.

B.4 Provide the Respondent and consultant office location(s) that will be supporting this project with the distance in miles to the project site. If the Respondent and consultants have multiple locations serving this project describe how personnel from each location are involved.

Part C: Technical Services

C.1 Describe how the Respondent team approach and document various programming aspects of the project including planning, architectural and engineering, site analysis, Master Plan analysis, graphics, accessibility, date/A/V, cost estimating, sustainability, etc.

C.2 Describe the Respondent's experience in communicating with clients regarding programming, providing alternatives, value engineering options, etc.

Exhibit 1: Draft Master Agreement

This Exhibit 1 contains a draft master agreement. The University will enter into negotiations with respondents that are selected for individual project. The University provides this draft to help expedite the negotiation process. Please note that this draft is subject to change at the University's discretion, and the draft is for review purposes only.

The University of Tennessee
Contract

This contract documents the agreement between The University of Tennessee (hereinafter University), _____ (hereinafter Consultant).

This contract consists of this cover page, the University's Standard Terms and Conditions, the requested scope of services described in the Request for Letters of Interest dated _____ for the *Proposed Project* (SBC No. 540/XXX-XX-XXXX) at the UT _____ campus, _____, Tennessee and the Consultant's proposal dated _____. Terms contained on this cover page and the University's Standard Terms and Conditions shall prevail over those of any attachment unless otherwise stated under "Other terms" below.

The period for performance under this contract is from _____ through _____

The University will compensate the Consultant a maximum hourly not to exceed fee in the amount of \$_____ invoiced and compensated as described herein up to the maximum amount unless additional services is requested. Payment shall be made after receipt of the Contractor's statement of services is performed. The final payment shall be made only after Consultant has completely performed the required services. The compensation shall be based on rates stated herein for services and reimbursement for expenses.

The University agrees to reimburse Consultant for printing costs and customary travel expenses incurred in connection with this Contract according to University policy. Reimbursement shall be made only after Consultant has completed and submitted an expense statement accompanied by receipts.

In witness of their acceptance of the terms of this agreement, the parties have had this Contract executed by their duly authorized representatives.

Consultant:

_____ Signature	_____ Name	_____ Date
_____ Title	_____ Telephone Number	_____ Federal Tax ID Number

The University:

_____ Michelle L. Crowder Interim Executive Director of Capital Projects	_____ Date
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Approved as to Form and Legality:

_____ C. Ryan Stinnett Deputy General Counsel	_____ Date
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The State:

_____ Ann McGauran State Architect	_____ Date
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_____ SBC No. 540/XXX-XX-XXXX Project Name	_____ Responsible Account
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STANDARD TERMS AND CONDITIONS

1. The University is not bound by this Contract until it is approved by the appropriate University and State official(s) indicated on the signature page of this Contract.
2. This Contract may be modified only by a written amendment, which has been executed and approved by the appropriate parties as indicated on the signature page of this Contract.
3. This University may terminate this Contract by giving the Consultant at least thirty (30) days written notice before the effective termination date. The Consultant shall be entitled to receive equitable compensation for satisfactory authorized work completed as of the termination date.
4. If the Consultant fails to perform properly its obligations under this Contract or violates any term of this Contract, the University shall have the right to terminate this Contract immediately and withhold payments in excess of fair compensation for completed services. The Consultant shall not be relieved of liability to the University for damages sustained by breach of this Contract by the Consultant.
5. The Consultant shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the University.
6. Unless otherwise indicated on the reverse, if this Contract provides for reimbursement for travel, meals or lodging such reimbursement must be made in accordance with University travel policies.
7. The Consultant warrants that no part of the total Contract amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or subconsultant to Consultant in connection with any work contemplated or performed relative to this Contract, and that no employee or official of the State of Tennessee holds a controlling interest in the Consultant. If the Consultant is an individual, the Consultant certifies that he/she is not presently employed by the University or any other agency or institution of the State of Tennessee; that he/she has not retired from or terminated such employment within the past six months; and that he/she will not be so employed during the term of this contract.
8. The Consultant shall maintain documentation for all charges against the University under this Contract. The books, records and documents of the Consultant, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment, and shall be subject to audit, at any reasonable time and upon reasonable notice, by the University or the Comptroller of the Treasury, or their duly appointed representatives. These records shall be maintained in accordance with generally accepted accounting principles.
9. No person on the grounds of disability, age, race, color, religion, sex, national origin, veteran status or any other classification protected by Federal and/or Tennessee State constitutional and/or statutory law shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract.

The Consultant shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to all employees and applicants, notice of non-discrimination.

10. The Consultant shall maintain insurance coverage with the limits set forth below. Consultant's certificates of insurance, in a form acceptable to the University, shall be provided to the University before the date of this Agreement and thereafter upon written request.

Commercial General Liability	Each Occurrence	\$ 1,000,000
	Aggregate	\$ 1,000,000
Commercial Automobile Liability		
Any Auto – Each Accident, Combined Single Limit		\$ 1,000,000
Workers' Compensation as required by statute, including employers' liability with limits of:		
	Each Accident	\$ 100,000
	Disease, each employee	\$ 100,000
	Disease, policy limits	\$ 500,000
Professional Liability Insurance		
	Each Claim	\$ 1,000,000
	Annual Aggregate	\$ 1,000,000

11. The University shall have no liability except as specifically provided in this Contract.
12. The Consultant shall comply with all applicable Federal and State laws and regulations in the performance of this Contract.
13. This Contract shall be governed by the laws of the State of Tennessee, which provide that the University has liability coverage solely under terms and limits of the Tennessee Claims Commission Act.
14. The Consultant shall avoid at all times any conflict of interests between his/her duties and responsibilities as a Consultant and his/her interests outside the scope of any current or future Contracts. The following principles define the general parameters of a conflict of interests prohibited by the University:
 - a. Consultant's outside interests shall not interfere with or compromise his/her judgment and objectivity with respect to his/her duties and responsibilities to the University.
 - b. A Consultant shall not make or influence University decisions or use University resources in a manner that results in: Financial gain outside any current or future Contracts for either the Consultant or his/her relatives or unfair advantage to or favored treatment for a third party outside the University.
 - c. A Consultant's outside financial interests shall not affect the design, conduct, or reporting of research.
 - d. The Consultant certifies that he/she has no conflicts of interests and has disclosed in writing the following:

- a) Any partners or employees of the Contractor who are also employees of the University.
 - b) Any relatives of the Consultant's partners or employees who work for the University.
 - c) Any outside interest that may interfere with or compromise his/her judgment and objectivity with respect to his/her responsibilities to the University.
15. For personal, professional, and contract services, the Consultant shall submit brief, periodic progress reports to the University as requested.
16. Prohibition of Illegal Immigrants: The requirements of Public Acts of 2006, Chapter Number 878, of the State of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the State of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Consultant hereby attests, certifies, warrants, and assures that the Consultant shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subconsultant who will utilize the services of an illegal immigrant in the performance of this Contract. The Consultant shall reaffirm this attestation, in writing, by submitting to the University a completed and signed attestation document, hereto, no less than semi-annually during the period of this Contract. Such attestations shall be maintained by the consultant and made available to state officials upon request.
 - b. Prior to the use of any subconsultant in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Consultant shall obtain and retain a current, written attestation that the subconsultant shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subconsultant who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such sub consultants shall be maintained by the consultant and made available to state officials upon request.
 - c. The Consultant shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Consultant understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a consultant from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a consultant is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.

- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the Department of Homeland Security and who, under Federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- 17. Upon completion of the Contract, the documents provided by the Consultant to the University as instruments of professional services shall be the property of The University of Tennessee, and may be used again by the Consultant only for the benefit of the University. Originals of these documents may remain in the files of Consultant. The Consultant and the Consultant's sub consultants may reuse any portion of the work prepared for this Project for other projects. Except as set forth in the Contract or any subsequent agreements between the Consultant and the University, the Consultant shall have no liability for any future use by the University of the Instruments of professional service provided by the Consultant under the Contract where the Consultant is not engaged to provide services for such future use.
- 18. This Contract is the entire agreement between the University (including University employees and other end users) and the Consultant. In the event the Consultant enters into terms of use, end user agreements, or other agreements or understandings, whether electronic, click-through, or shrink-wrap, and whether verbal or written, with University employees or other end users, such agreements shall be null, void, and without effect, and the terms of this Contract shall apply.
- 19. In compliance with the requirements of Tenn. Code Ann. § 12-4-120, the Consultant hereby attests that the Consultant has registered with the State of Tennessee's Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.
- 20. The Consultant will not be eligible to provide design services to the University for the <<Programming Project Name>> Project; however, the Consultant would be eligible to provide consulting services to any Designer who provides the design services to the University for its <<Programming Project Name>> Project.
- 21. Iran Divestment Act. The Consultant certifies, under penalty of perjury, that to the best of its knowledge and belief the Consultant is not on the list created pursuant to Tenn. Code Ann. § 12-12-106. The Consultant further certifies that it shall not utilize any subconsultant that is on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- 22. Additional services shall be negotiated as a not to exceed amount billed at an hourly rate as set forth in the Contract. Compensation for these additional services shall not be payable to the consultant unless prior to the time such additional services are rendered. The University shall have approved by written agreement the payment and scope of work to the Consultant prior to the Consultant commencing with any additional work.