



REQUEST FOR PROPOSAL

Audit Services

RFP NO. 031020

RESPONSE SUBMISSION DATE AND TIME

March 27, 2020

AT 3:00PM (EASTERN STANDARD TIME)

AT

2301 Sugar Bush Road

Suite 400

Raleigh, North Carolina 27612

Telephone: (919) 420-0334

TABLE OF CONTENTS

	PAGE
I. Table of Contents	1
II. Introduction	2
II. Notice to Respondents	3
III. Evaluation Process	4
IV. Proposal Requirements	4
V. Standard Terms and Conditions	6
VI. Scope of Services	8
VII. Execution of Offer	11
VIII. Respondent Questionnaire	13
IX Exhibit A. Mandatory Contract Provisions	15

1.0 BACKGROUND OF ORGANIZATION

East Coast Migrant Head Start Project (“ECMHSP”) is a non-profit organization (501(C)(3)) funded by the United States Department of Health and Human Services through the Office of Head Start to provide Head Start services to the children of migrant and seasonal agricultural workers. ECMHSP provides direct Migrant and Seasonal Head Start services through 30 centers located in the following states: Florida; North Carolina; Alabama; South Carolina and Virginia. ECMHSP also subcontracts with three other non-profit delegate agencies that provide Head Start services: Benedictine Sisters of Erie, Pennsylvania; PathStone Corporation, Pennsylvania and New Jersey; and Yadkin Valley Economic Development District, Inc., North Carolina. ECMHSP receives approximately \$46.5M from the Office of Head Start for the operation of the Migrant and Seasonal Head Start Program and \$1.8M for the operation of an Early Head Program for Migrant Children. ECMHSP also receives approximately \$700k from the U.S. Department of Agriculture funding which passes through each state to operate the Child Care Food Program (CCFP).

ECMHSP operates on a fiscal year that runs from January 1st through December 31st. The services provided at each location are seasonal, as the migrant workers move where the crops are active. The seasons tend to run October through May for Florida and April to November for the other locations. The seasonality has a large impact on the spending and staffing throughout the organization. Staffing peaks at 900 and falls back to 600 depending on the month of operation.

2.0 SERVICES TO BE PERFORMED

The purpose of this Request for Proposal (“RFP”) is to obtain competitive proposals from independent Certified Public Accounting firms to perform a financial and compliance audit of ECMHSP in accordance with Uniform Guidance 2 CFR Part 200, Generally Accepted Accounting Principles, and other applicable federal and state laws and regulations. The team performing the audit should have the following minimum experience: Partner 10 years, Manager 5 years and Staff 2 years.

ECMHSP maintains a 403B Retirement Program, which has approximately \$22M in assets. The current vendor is Lincoln Financial Group. CAPTRUST acts as the advisor and co-fiduciary to the Benefits Committee.

ECMHSP’s sister-non-profit, The Foundation for Farmworkers, was incorporated on November 28, 2018 to meet the needs of agricultural workers that go beyond Head Start services. In July of 2019 the initial fundraising event was held and netted approximately \$72k in revenues.

The Board of Directors of ECMHSP has determined that Audit Firms should be reviewed every 5 years. ECMHSP is currently completing a five-year agreement with Bernard Robinson from Greensboro, NC. This RFP will be for the next five-year period beginning with the 2020 Audit.

Your proposal is expected to cover the following services:

1. Annual GAAP audit

2. Annual Single Audit in accordance with Uniform Guidance 2 CFR Part 200
3. Tax filings (990) for the organization and related foundation
4. Auditor evaluation of and reporting on the internal control over financial reporting
5. Annual 403B Audit
6. Meetings with the audit committee and board of directors as necessary

3.0 NOTICE TO RESPONDENTS

- 3.01 This Request for Proposal seeks competitive proposals complying with the terms and conditions and requirements set forth below.
- 3.02 ECMHSP's submission deadline is March 27, 2020 by 3:00 pm. Proposals should be sent electronically (mail is acceptable) to:

Francesca Bradshaw, Procurement Manager
EAST COAST MIGRANT HEAD START PROJECT
2301 Sugar Bush Road, Suite 400
Raleigh, North Carolina 27612
Tel: (919) 926-3375
fbradshaw@ecmhsp.org

- 3.03 Any questions or concerns regarding this Request for Proposal shall be directed to the Chief Financial Officer at the number above.
- 3.04 The successful Respondent will be required to enter into an Engagement Letter to be negotiated between the parties. The Agreement, this Request for Proposal, the Execution of Offer, Respondent's Questionnaire and all amendments issued will constitute the Contract between ECMHSP and the successful Respondent.
- 3.05 Responses to inquiries that directly affect an interpretation or change to this Request for Proposal will be issued in writing by amendment and mailed to all parties recorded by ECMHSP as having received a copy of the Request for Proposal. All such amendments issued by ECMHSP prior to the time that proposals are received shall be considered part of the Request for Proposal. Only those inquiries ECMHSP replies to which are made by written amendment shall be binding. Oral and other interpretations or clarifications will be without legal effect.

4.0 CONTRACT AWARD PROCESS:

An award may be made on the basis of the proposals initially submitted, without discussion, clarification or modification; or on the basis of negotiation with any of the Respondents. After the submission of a proposal and before making an award, ECMHSP may permit a Respondent to revise the proposal in order to obtain a best and final offer. ECMHSP reserves the right to award a Contract for all or any portion of the requirements proposed by this request, reject any and all proposals if deemed to be in the best interest of ECMHSP, or re-solicit proposals.

5.0 CRITERIA FOR SELECTION:

The Respondent selected for an award will be the Respondent whose proposal is the most advantageous to ECMHSP. ECMHSP is not bound to accept the lowest priced proposal if that proposal is not in the best interest of ECMHSP as determined solely by ECMHSP. ECMHSP will evaluate proposals based upon the following criteria:

- Qualifications and experience related to Head Start, Federally Funded Programs and Non-Profit Organizations
- Methodology, approach and client communications
- The overall cost to ECMHSP for the services provided
- Respondent's references

6.0 EVALUATION PROCESS

ECMHSP Fiscal Staff will meet with the firms that have supplied a bid to discuss their proposal. This will occur the week of April 13th through the week of April 20th.

The Fiscal/Audit Committee of the Board of Directors of ECMHSP will evaluate proposals on a qualitative basis. This includes a review of the firm's peer review and related materials, interviews with senior engagement personnel to be assigned to our organization, results of discussions with other clients, and the firm's completeness and timeliness in its response to us.

7.0 PROPOSAL REQUIREMENTS

7.01 **General Instructions:** Respondents should carefully read the information contained in this Request for Proposal and submit a complete response to all requirements and questions as directed. Any information submitted by Respondents in response to this Request for Proposal shall become the property of ECMHSP. ECMHSP will not provide compensation to Respondents for any expenses incurred for proposal preparation or for any demonstrations that may be made. Proposals which are qualified with conditional clauses, alterations, or items not requested in the Request for Proposal, or any other changes to the Request for Proposal of any kind are subject to disqualification by ECMHSP, at its option. Failure to comply with the requirements contained in this Request for Proposal may result in the rejection of your proposal.

7.02 **Preparation and Submittal Instructions:** Respondents must complete, sign and return the attached Execution of Offer as part of their proposal response. Respondent's company official authorized to make such proposals must sign the proposal. Failure to sign and return these forms will subject your proposal to disqualification. Responses to this Request for Proposal must include answers to the Questionnaire. Respondents should submit a total of one complete copy of the entire response. An original signature must appear on the Execution of Offer. A proposal may be withdrawn and resubmitted any time prior to the time set for receipt of proposals. No proposal may be withdrawn after the submittal deadline

without approval by ECMHSP. Proposals are to be valid for ECMHSP's acceptance for a minimum of 60 days from the submittal deadline.

7.03 **Required Documentation:** Respondents are instructed to complete, sign and return the following documents as a part of their proposal submittal. Failure to return these documents may subject your proposal to disqualification.

- Signed and Completed Execution of Offer
- Responses to Questionnaire
- Information set forth in Section 7.04 below.

7.04 **Responsive Information**

In order to facilitate the review process and obtain the maximum degree of comparison, proposal should include the following information presented in the order and format shown below:

Section I - Technical Proposal

Title Page: Show Request for Proposal (RFP) subject, name of proposer's firm, address, telephone and fax numbers, name of contact person and date of submission.

Transmittal Letter: A one or two-page summary stating the proposer's understanding of the work to be done and making a positive commitment to perform the work within the time period required.

Table of Contents: A clear identification of the material by section and page number.

Profile of the Proposer: Include location of office(s), number of partners, managers, supervisors, seniors, and other professional staff. If applicable, identify all major subcontractors necessary to conduct the project. Describe the range of activities performed by your firm, including capability for auditing computerized systems. Also discuss your firm's experience with Federal Head Start audits, particularly Migrant and Seasonal Head Start. If you have no Head Start experience, please state so and list Federal Direct Grantee and Non-Profit audit experience to include number of audits, revenue size of organizations and if the organizations had delegate agencies. Also include your latest Peer Review and 3 Non-Profit Client References with preference for Head Start Organizations.

Technical Approach: A clear description of the approach and methodology for implementing the statement of work.

Program Organization and Management: This subsection should show the project team proposed for the work identified (identification of persons assigned to individual task(s)) and, if applicable, the function and responsibilities for major subcontractors. State the certainty that the team identified in the proposal will be the team actually performing the work.

Program Schedule: This subsection shall include the period of performance, proposed duration of the project in months and a milestone chart. Time for preparation and submission of the reports should be included in the schedule.

Qualifications and Experience of Staff: Include a list of personnel to be used on this project and their qualifications. Résumé, including education, background accomplishments and any other pertinent information must be included for each of the key personnel to be assigned for direct work on the project (including subcontractors, if any).

Qualifications and Experience of Firm: Company experience, which is relevant to the proposed program, i.e. experience with other federally funded, non-profit programs, especially programs funded to provide Head Start services.

Additional Data: Since the proceeding sections are to contain data that is specifically requested, any additional information considered essential to the project should be included in this section. If there is no additional information present, state "None".

Section II: Cost Proposal

Include a breakdown of the fixed price costs by GAAP/Single Audit, Retirement Audit, ECMHSP 990 Preparation and FFF 990 Preparation for years 1-5. Also include an estimate of any pass-through costs that you anticipate. Annual increases are anticipated to correspond with current increases in the consumer price index. Include a listing of all staff that have been included in the bid.

8.0 Standard Terms and Conditions

8.01 Definitions:

- "Contract" shall mean the Request for Proposal, the Execution of Offer, and Vendor Questionnaire.
- "Vendor" shall mean the individual, partnership, corporation or other entity responding to this Request for Proposal.
- "Contractor" shall mean the individual, partnership, corporation, or other entity awarded a Contract pursuant to this Request for Proposal.

8.02 Entire Agreement. The Contract is intended as the complete and exclusive statement of the agreement between ECMHSP and the Contractor and shall supersede all prior or contemporaneous agreements, negotiations or oral representations relating to the subject matter herein.

8.03 Time of Performance: Time is of the essence in the rendering of services hereunder. Contractor agrees to perform all obligations and tender services set forth in this Request for Proposal in accordance with the schedules herein and as mutually agreed upon between ECMHSP and Contractor during the term of this Contract.

- 8.04 **Termination for Cause:** In the event that the Contractor fails to carry out or comply with any of the terms and conditions of the Contract, ECMHSP may notify the Contractor of such default or failure in writing and demand that the failure or default be remedied within ten days. In the event the Contractor fails to remedy such failure or default within the ten-day period, ECMHSP shall have the right to hold Contractor in breach of the Contract and to recover whatever damages it may be entitled to at law or in equity.
- 8.05 **Termination for Convenience:** The Contract may be terminated without penalty by ECMHSP for convenience by giving thirty (30) days written notice of such termination to the Contractor. In no event shall termination by ECMHSP as provided for in this paragraph give rise to any liability on the part of ECMHSP including, but not limited to, any claims of Contractor for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. ECMHSP's sole obligation hereunder is to pay Contractor for services provided prior to the date of termination.
- 8.06 **Independent Status of Parties:** Contractor will neither hold itself out as nor claim to be an officer, partner, employee or agent of ECMHSP by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right, or privilege applicable to an officer, partner, employee or agent of ECMHSP.
- 8.07 **Contract Amendments:** The Contract may be amended by mutual written consent of the parties. No modifications or amendments to the contract shall become valid unless in writing and signed by both parties.
- 8.08 **Compliance with Law:** ECMHSP is a federally-funded, non-profit corporation. Individuals and corporations desiring to do business with ECMHSP must certify that they have not been debarred from receiving federal funds. By submitting a response to this Request for Proposal, Vendor is certifying that it and its principals:
- are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - have not within a three-year period preceding this transaction been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local), with commission of any of the offenses enumerated in this certification; and

- have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 8.09 **Access to Documents:** To the extent applicable to this procurement, Contractor agrees to grant access by ECMHSP, the Administration for Children & Families, the United States Department of Agriculture, and the Comptroller General of the United States or any of their duly authorized representatives to any books, documents, papers and records of the Contractor, which are directly pertinent to this Contract, for the purpose of making audit, examination, excerpts, and transcriptions.
- 8.10 **Acceptance of Services:** All services furnished under this Contract shall be to the satisfaction of ECMHSP and in accordance with the scope of work, specifications, terms, and conditions of the Contract.
- 8.11 **Indemnification:** Contractor agrees to indemnify, protect and hold harmless ECMHSP and its officers, directors, and employees from and against all claims, damages, losses, causes of action, suits or judgments arising out of, caused by, or resulting from, the provision of goods by Contractor pursuant to this Contract, which are caused in whole or in part by any negligent act or omission of the Contractor.
- 8.12 **Force Majeure:** If either ECMHSP or Contractor is delayed at any time in the performance of its obligations hereunder by economic industry-wide strikes, fire, unusual delay in deliveries, unavoidable casualties, or other causes reasonably beyond such party's control and which could not have been reasonably anticipated by that party, then the time for performance of such party shall be extended by one day for each day of such delay.
- 8.13 **Non-Disclosure:** Contractor and ECMHSP acknowledge that they or their employees may, in the performance of the resultant Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any third person, firm, corporation, or other organization.
- 8.14 **Governing Law:** This Contract shall be construed and governed by the laws of North Carolina.
- 8.15 **Right to Reject:**
ECMHSP reserves the right to reject any or all proposals received in response to this RFP.

9.0 Notification of Award

ECMHSP anticipates selecting the successful proposal within two weeks of the closing date for receipt of proposals. Upon conclusion of final regulations with the successful Contractor, all Contractors submitting proposals in response to the RFP will be informed, in writing, of the successful bidder.

10.0 SCOPE OF SERVICES

Purpose

The purpose of this RFP is to obtain the services of an independent Certified Public Accounting firm relevant forensic accounting experience to perform a financial and compliance audit of East Coast Migrant Head Start Project in accordance with Uniform Guidance 2 CFR Part 200, Generally Accepted Accounting Principles, and applicable federal, state, or local laws and regulations. Additional services may be requested by the Board of Directors at their discretion.

Background

Uniform Guidance 2 CFR Part 200 requires that non-profit corporations that are recipients of federal assistance have an organization-wide financial and compliance audit once a year. It is the Office of Management and Budget's intent that a single audit of each of these entities will meet the needs of all parties concerned and that no additional audit requirements be placed upon the recipients or sub-recipients. The audits are to be performed in accordance with *Government Auditing Standards* published by the General Accounting Office, compliance supplements approved by the Office of Management and Budget and audit standards established by the Comptroller General and the American Institute of Certified Public Accountants.

Statement of Work

Requirements

The contractor shall furnish all qualified personnel, facilities, equipment, and supplies to conduct an organization-wide financial and compliance audit in accordance with appropriate standards on behalf of ECMHSP.

Scope

The Contractor shall conduct a survey of the financial and compliance activities of ECMHSP analyze the data gathered and develop an audit work plan which will provide the audit coverage required by Uniform Guidance 2 CFR Part 200. Further, the contractor shall perform an organization-wide financial and compliance audit in accordance with the approved audit work plan; Uniform Guidance 2CFR Part 200; applicable American Institute of Certified Public Accountants (AICPA) Audit guides and professional standards; and guidance provided by ECMHSP. The Board of Directors may require a focus on certain areas each year, which will be part of the audit. A separate audit of the agency 403B program is required. Services also include the 990 tax returns for the agency and The Foundation for Farmworkers. The annual audit, retirement audit and 990 preparation fees shall be broken out separately.

In performing audit surveys and the work required in this contract, the Contractor shall comply with the Generally Accepted Auditing Standards developed by the AICPA and those developed by the U.S. General Accounting Office (Government Auditing Standards).

Audit Period

The initial audit period shall be for the fiscal period beginning January 1, 2020 and ending December 31, 2020. The work shall continue through 2024. The final audit report for the annual

audit and the retirement fund will be completed by no later than June 30th of each year and presented to ECMHSP's Board of Directors at the Board's July meeting. The 990 and the 403B Audit will be filed by July 31st each year.

Description of Organization and Records to be Audited

This fund's financial records are accumulated at year-end from our computerized system. The agency uses the Abila MIP fund accounting software system.

Payroll

ECMHSP processes its own payroll using the ADP Workforce Now timekeeping and payroll system. Total gross pay is expected to be approximately \$23M for fiscal year 2020. Tax filings are outsourced to ADP.

Checking Accounts

ECMHSP banks with Wells Fargo and BB&T. There are approximately 5 separate checking accounts maintained within all the funds, only one of which has considerable activity. The one active account is the operating account.

All account activity will be reconciled by accounting staff.

Client Communications

ECMHSP Management expect that the respondent firm will communicate regularly with staff, daily while on-site, so that Management is fully aware of any significant developments that may occur during the audit process.

Reports Required

The contractor shall prepare reports in accordance with all applicable standards, including Uniform Guidance 2 CFR Part 200, and the Government Auditing Standards. The contractor shall submit eleven copies of the final report to ECMHSP's Board of Directors shall present an oral report on the audit to the Board.

Workpapers

The contractor shall summarize all audit findings, observations, conclusions and recommendations in a workpaper file that without further oral explanation will support the financial statements reported on. The audit workpapers shall be made available for review by the Federal Cognizant audit agency and the U.S. General Accounting Office during the course of the audit and for a period of three years after the audit has been accepted by the Department of Health and Human Services.

EXECUTION OF OFFER

THIS SHEET MUST, BE COMPLETED, SIGNED, AND RETURNED WITH RESPONDENT'S PROPOSAL. FAILURE TO SIGN AND RETURN THIS SHEET WILL RESULT IN THE REJECTION OF YOUR PROPOSAL.

1. By signature hereon, Respondent offers and agrees to furnish the services at the prices quoted and comply with all terms, conditions, and requirements set forth in the Request for Proposal.
2. By signature hereon, Respondent affirms that Respondent has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to an ECMHSP employee on connection with the submitted proposal.
3. By signature hereon, the Respondent hereby certifies that neither the Respondent nor the firm, corporation, partnership or institution represented by the Respondent, or anyone acting for the firm, corporation, or institution has violated federal or state antitrust laws, nor communicated, directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
4. By signature hereon, Respondent certifies that all statements and information prepared and submitted in response to this solicitation are current, complete and accurate.
5. By signature hereon, Respondent certifies that the individual signing this document and the documents made part of the Request for Proposal is authorized to sign such documents on behalf of the company and to bind the company under any contract which may result from the submission of this proposal.
6. By signature hereon, Respondent certifies it is a small business and/or a minority female owned business as indicated below. Indicate status if applicable:

 Small Business
 Minority/Female Owned Business
7. By signature hereon, Respondent certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and an employee of ECMHSP.
8. By signature heron, Respondent affirms that Respondent has not received compensation for participation in the preparation of the specifications for this Request for Proposal.

- 9. By signature hereon, Respondent signifies Respondent's compliance with all Federal laws and regulations pertaining to equal employment opportunities.

- 10. Respondent certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Complete the Following

Federal Employer Identification No: _____

If Sole Owner, SS No: _____

If a Corporation, State of Incorporation: _____

Submitted By: _____
(Company Name)

(Authorized Signature)

(Printed Name/Title)

(Date)

(Street Address)

(City, State, Zip Code)

RESPONDENT QUESTIONNAIRE

Respondents are requested to submit a complete response to each of the below listed items.

1. Provide a general description of the history and growth of your company or organization from inception through the present.

2. Provide the name and position of the individuals who will be assigned to this project, their background, experience and qualifications demonstrating their ability to handle the proposed OMB A-133 audit for an organization of the complexity of ECMHSP.

3. Provide a customer reference list of no less than three organizations with which your company currently has contracts with and has previously provided consulting services of equal type and scope, as requested herein, within the past five years. The reference list must include company name, contact person, and telephone number, and length of business relationship.

4. Describe the method by which you propose to be compensated.

5. Does any relationship, exist whether by relative, business associate, capital funding agreement or any other such kinship exist between your company and any ECMHSP employee. If yes, please explain.

6. Is your company a minority-owned business? If so, under what certifying agency, state or federal is it certified.

7. Describe your companies experience in working with nonprofit organizations and any relevant experience with Head Start agencies.

Submitted by: _____
(Authorized Signature)

“Exhibit A – Mandatory Contract Provisions”Suspension and Debarment

ECMHSP is funded under a grant from the United States Department of Health and Human Services, Administration for Children & Families, Office of Head Start. Individuals and corporations desiring to do business with ECMHSP must certify that they have not been debarred from receiving federal funds. By entering into Agreement, Independent Contractor is certifying that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (2) Have not within a three-year period preceding this transaction been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (3) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local), with commission of any of the offenses enumerated in this certification;
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default; and
- (5) Will immediately contact ECMHSP upon receipt of any notice of suspension, proposed debarment, or debarment.

Byrd Anti-Lobbying Amendment: Independent Contractor certifies, to the best of its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal grant, the Independent Contractor shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- (4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (a) Termination for Convenience: Independent Contractor and ECMHSP may terminate this Agreement at any time upon the mutual agreement of the parties.
- (b) Termination for Cause: This agreement may be terminated for material breach in accordance with the terms and conditions of this Agreement.
- (c) Clean Air Act and Federal Water Pollution Control Independent Contractor agrees to comply with all requirements of the Clean Air Act and the Federal Water Pollution Act, and all regulations and guidelines listed thereunder. Independent Contractor shall promptly notify the U.S. Department of Health and Human Services and the regional office of the U.S. Environmental Protection Agency upon any violation of the Acts or their regulations and guidelines.
- (d) Energy Efficiency: Independent Contractor will comply with mandatory standards and policies relating to energy efficiency with are contained in the North Carolina energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).
- (e) Record Access: Independent Contractor agrees to make available any books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts, and transcription to the U.S. Department of Health and Human Services, the U.S. Comptroller General, or any other their duly authorized representatives.