DATE: July 21, 2021

TO: All Bidders

FROM: Angela R. Young
Executive Director of Contracting

RE: Invitation for Bid No. 123-22, Protective Face Masks

Fulton County Schools (FCS) invites bids for furnishing any and all goods and/or services required for Protective Face Masks.

Sealed Bids will be received subject to the attached terms specified in “Bid Conditions”, at the office of the FCS Contracting Department, The Administrative Center, 6201 Powers Ferry Road, Atlanta, Georgia 30339 or via email to wecare@fultonschools.org. Bids will be received up to 2:30 p.m. local time (as per the Contracting Department time clock) on Friday, July 30, 2021. Bids must be time stamped by FCS in the manner described herein in order to be timely.

Questions regarding the bidding process should be directed in writing to the Executive Director of Contracting via facsimile at (470) 254-1248 or via email to wecare@fultonschools.org. Only questions received prior to 2:30 p.m. on Friday, July 23, 2021 will be considered.

Bids are subject to rejection if the signature page is not completed and returned with the bid on or before time of bid opening.

BIDS MUST BE SUBMITTED IN A SEALED ENVELOPE AND PLAINLY MARKED “INVITATION FOR BID NO. 123-22” ON THE OUTSIDE OF THE ENVELOPE, AS WELL AS THE DATE OF THE BID OPENING OR VIA EMAIL TO WECARE@FULTONSCHOOLS.ORG. IF NOT SUBMITTING A BID, “NO BID” MUST BE INDICATED AS SUCH ALONG WITH THE BID NUMBER ON THE OUTSIDE OF ENVELOPE. FOR IDENTIFICATION PURPOSES, THE CONTRACTOR’S NAME AND COMPLETE ADDRESS MUST BE CLEARLY PRINTED OR TYPED ON THE OUTSIDE OF THE ENVELOPE. FAXED OR E-MAILED RESPONSES WILL NOT BE ACCEPTED.

VISIT OUR WEBSITE AT www.fcspurchasingdept.org

NOTICE as to all Fulton County Schools premises: Any person entering the premises waives all civil liability against this premises owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm, by the individual or entity of the premises. (O.C.G.A. § 51-16-3).
SOLICITATION NO. 123-22

INVITATION FOR BID

FOR

PROTECTIVE FACE MASKS

FULTON COUNTY SCHOOLS
CONTRACTING DEPARTMENT
ADMINISTRATIVE CENTER
6201 POWERS FERRY ROAD
ATLANTA, GEORGIA 30339
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## FOR

INVITATION FOR BID NO. 123-22

PROTECTIVE FACE MASKS

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SECTION I - PREPARATION AND SUBMISSION OF BIDS

1. INTRODUCTION
   a. To be entitled to consideration, sealed bids shall be made in accordance with the following instructions and **shall be received in duplicate and one (1) flash drive** in the office of the FCS Contracting Department, 6201 Powers Ferry Road, Atlanta, Georgia 30339 or via email to wecare@fultonschools.org, no later than the date and time (determined by the time stamp in the FCS Contracting Department) set forth in the “Invitation for Bid”, at which time and place the bids will be publicly opened and read. Delivery of bids shall be submitted via hand delivery or mail (i.e. commercial carrier or U.S. postal service) only. The FCS time stamp placed on each bid is conclusive as to the time and date that FCS actually received the bid.
   b. Bids received after the date and time specified will not be considered.
   c. FCS reserves the right to reject any or all bids and to waive technicalities and informalities. The judgment of FCS on such matters shall be final.
   d. The terms Bidder, Vendor, Contractor and/or Offeror are synonymous in this document and refer to the person, entity or firm that submits the bid in response to this IFB.

2. GOVERNMENTAL ENTITY
   a. The governmental entity, the owner, for whom the work will be executed is:

      Fulton County School District, Georgia (hereinafter “FCS”).

3. PREPARATION OF BIDS
   a. All bids shall be printed in ink or typewritten. No erasures permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent to the error. The person signing the bid shall initial corrections in ink.
   b. Specifications used are intended to be open and non-restrictive. Contractors are invited to inform the FCS Contracting Department whenever specifications or procedures appear not to be fair and open. Such information should be supplied as early in the procurement process as possible. Information received in less than five (5) days prior to the scheduled bid opening will not be acted upon unless the FCS Contracting Department rules that it is in the best interest of FCS to consider.
   c. Brand names and numbers when provided in solicitations are for reference to establish a quality standard. Any reference to a brand name shall not be construed as restricting to that manufacturer (unless “no substitutes” is stated). Bids on equal items will be considered, provided the bid clearly describes the article offered and is equal or better in quality and function and fully compatible with this requirement.
SECTION I - PREPARATION AND SUBMISSION OF BIDS

d. By submitting a bid, the Contractor warrants that any goods supplied to FCS meet or exceed specifications set forth in this solicitation.

e. The FCS Contracting Department will be the sole judge in making determination as to the quality and the appropriateness of the services proposed as well as the responsiveness and responsibility of the bidder. Bid on each item separately. Prices shall be stated in units specified in the solicitation.

f. If any supplies, materials, and equipment are provided to FCS under this solicitation, then such items shall be new and in first-class condition unless the solicitation specifically allows offers of used, reconditioned, or remanufactured items. If newly manufactured products are specified, such products shall be of recent origin and not previously used. No equipment of any type is acceptable if serial numbers or any other manufacturer’s identification labels or marks have been removed, obliterated, or changed in any way. A Contractor delivering any such equipment to FCS will be deemed to have breached the contract, and appropriate action will be taken by the FCS Contracting Department.

g. Time of delivery is a part of the solicitation and an element of the contract that is to be awarded. If the bidder cannot meet the required delivery date, a bid should not be submitted. Time shall be stated in “calendar” days. Failure to deliver in accordance with the contract could result in the Contractor being declared in default.

h. Bids shall be signed by an authorized officer of the company.

i. Telephone or fax bids in lieu of the bid schedule will not be accepted.

4. FAILURE TO BID

If a bid is not submitted, the solicitation is to be returned marked “no bid”. Failure to provide a bid or “no bid” may result in the company being removed from the FCS mailing list.

5. TAXES

FCS is exempt from all state sales tax and Federal Excise Tax. These taxes shall not be included in bids. However, in the event taxes are required by state or federal law for the services or products outlined in this bid, such taxes shall be the sole responsibility of the Contractor unless otherwise stated in writing and agreed to by FCS.
BID CONDITIONS

SECTION I - PREPARATION AND SUBMISSION OF BIDS

6. CHARGES AND EXTRAS

Bids are to be firm net prices, F.O.B. destination to include all charges for delivery, unloading, placing in our buildings as directed by the authorities in the buildings, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds and any other cost. All pricing must remain firm for each year the contract is in effect.

7. SOLICITATION QUESTIONS

If a Contractor contemplates bidding and is in doubt as to the meaning of any part of these documents, he may request an interpretation. This shall be submitted in writing and addressed to the Executive Director of Contracting, FCS Contracting Department, The Administrative Center, 6201 Powers Ferry Road, Atlanta, Georgia 30339.

8. ADDENDA

No oral interpretations will be made as to the meaning of any part of the solicitation documents. Interpretations will be made by addenda only. The FCS will not be responsible for any other interpretations or explanations.

Failure to request an interpretation shall not relieve the successful bidder from the obligation to perform work in accordance with the contract as interpreted subsequently by FCS authorized representatives. Addenda issued in writing during the time of solicitation shall be addressed in the bid as appropriate, and each addendum incorporated in the subsequent contract. Copies of addenda will be posted on the Contracting Department Web Site www.fcspurchasingdept.org for all who have obtained a set of solicitation documents from the web site to view and download.

9. ADDITIONAL TERMS

FCS shall not be bound by any terms and conditions included in any bidder’s packaging, service catalog, brochure, technical data sheet or other document which attempts to impose any conditions at variance with or in addition to the terms and conditions contained in this solicitation, the FCS purchase order related to this solicitation or contract. FCS does not accept any terms or conditions from Contractor contracts on bids.

10. REVISION OR WITHDRAWAL OF A BID

A bid may be revised or withdrawn by the bidder prior to the bid opening date and hour with the permission of the FCS Contracting Department. Requests to withdraw a bid, along with support documentation, will be made in writing to the FCS Contracting Department. After the bid opening, the FCS Contracting Department, at its sole discretion, will permit withdrawal only when the best interest of FCS would be served. Generally, withdrawal will only be allowed in cases where there has been an honest mistake made in preparing the bid not resulting from negligence and the mistake is clearly ascertainable. If withdrawal
SECTION I - PREPARATION AND SUBMISSION OF BIDS

is allowed, FCS reserves the right to determine that the Contractor is chronically not responsible.

11. FUNDS

Award will be made at the option of FCS, to the lowest priced, responsive and responsible bidder or bidders meeting specifications within appropriated funds available.

12. BID SCHEDULE

Bid prices shall be submitted on the Solicitation Bid Schedule furnished by the FCS Contracting Department. All related correspondence containing information required by solicitation documents shall be attached to said schedule.

Bids shall be submitted in a sealed envelope addressed to the FCS Contracting Department, 6201 Powers Ferry Road, Atlanta, Georgia 30339, plainly marked as a bid (nomenclature, time of bid, date and time of bid opening, and the solicitation number to be on bid envelope submitted) for the work as set forth in the Invitation for Bid or via email to wecare@fultonschools.org.

Bidders shall bid on all alternates shown on the Bid Schedule. The acceptance of any or all alternates will be at the discretion of FCS with no reference to numerical sequence. Any alterations/modifications to the bid schedule may deem the bid non-responsive.

13. EXAMINATION OF SOLICITATION DOCUMENTS

Bidders are notified that they must thoroughly examine solicitation documents which may include: Cover Sheet, Table of Contents, Advertisement, Bid Conditions, Specifications, Bid Schedule, Drawings, General Conditions, and Technical Specifications together with Addenda thereto issued prior to the receipt of solicitation.

14. COMPLIANCE WITH LAWS

All goods and/or services furnished shall comply with all applicable Federal, State and Local laws, codes, rules, ordinances and regulations, including but not limited to all FCS policies, procedures, operating guidelines and/or regulations. This solicitation and any contract arising out of the solicitation shall be interpreted under the laws of the State of Georgia. All offerors shall include a notarized affidavit stating with specificity any “trade secret” as that term is defined in O.C.G.A. § 10-1-761 to protect such confidential information from being automatically released under The Open Records Act (O.C.G.A. § 50-18-70 et. seq.), specifically O.C.G.A. § 50-18-72(a)(34). Jurisdiction and venue of any action relating to the interpretation and enforcement of this Agreement shall be proper only in the Superior or State Courts of Fulton County, or in the U.S. District Court, Northern District, Atlanta Division.
15. PROTESTS

Protests dealing with the specification or the solicitation shall be filed not later than three (3) working days prior to bid opening date. Only Contractors who participated in the solicitation are eligible to protest. Other protests shall be filed not later than three (3) working days after bid opening date, or if the protest is based on subsequent action of FCS, not later than three (3) working days after the aggrieved person knows or should have knowledge, of the facts given rise to the protest. Protests are considered filed when received by the Executive Director of Contracting.

Protests which are not filed in a timely manner, as set forth above will not be considered. Contractor agrees to pay for the School District’s reasonable attorney’s fee and expenses of litigation for any protest arising out of this solicitation in which the School District is a prevailing party.

16. PURCHASING POLICY

The FCS Purchasing Policy, Purchasing Procedures, Operating Guidelines, and Regulations are incorporated into this solicitation (and, therefore, any contract awarded as the result of this solicitation) by reference. By participation in this solicitation a bidder, potential bidder, or Contractor agrees to be bound by the FCS Purchasing Policy, Purchasing Procedures, Operating Guidelines and Regulations on any issue or action related to this solicitation or subsequent contract resulting from this solicitation. Please go to www.fcspurchasingdept.org to review the FCS Purchasing Policy and Procedures – DJE.
1. BIDDERS QUALIFICATIONS

FCS, before Contract Award, may require bidders to document that they are “responsible” bidders to the complete satisfaction of FCS. Bidders may thus be required to show that they have the necessary facilities, are properly registered and licensed to perform the work specified herein, have the technical ability and financial resources to execute the work in a satisfactory manner, and within the time specified; that they have had experience in work of a similar nature; and that they have past history and references which will verify their qualifications for executing the work. FCS shall have the absolute right to determine Contractor responsibility and responsiveness to these requirements and any other requirements under this solicitation. FCS has the right to request at any time documentation relating to the Contractor’s qualifications. The Contractor’s failure to provide such documentation or appropriate documentation will result in the Contractor being determined to be not responsive or not responsible, or both.

2. CONTRACT LETTER

The contract award letter or establishing purchase order prepared and mailed by FCS, or otherwise furnished, to the selected bidder within the time for acceptance specified, results in a binding contract without further action by either party. The contract award letter and any of its terms and conditions are a part of this contract. The contract shall consist of this solicitation and any addenda thereto, and the contract award letter or establishing purchase order, and supersedes all other prior or contemporaneous communications between the parties (whether written or oral), and all other communications relating to the subject matter of the award letter which are not included in or otherwise expressly incorporated into this contract. Unless specifically deleted in writing by addendum or amendment to one of the aforementioned documents of the contract by the Executive Director of Contracting all terms and conditions of the FCS contract documents shall be in effect and shall govern if in conflict with any term or condition otherwise presented.

3. TIE BIDS

In the purchase of supplies or services by FCS, prices and quality being equal, the tie will be resolved by a coin toss in a public forum.

4. REJECTION OF A BID

a. Failure to observe these instructions and conditions will constitute grounds for rejection of a bid or removal from the list of bidders.

b. Bids will be rejected if:

1) The bidder’s acceptance period is less than the required acceptance period in the solicitation.
2) The bidder fails to submit requested documents, including but not limited to any licenses, certificates, bonds, or insurance policies, within the time specified by FCS.

3) The bid contains a minimum order/ship quantity or dollar value (unless called for in the solicitation).

4) The bid contains a prepayment and/or progress payment requirement (unless called for in the solicitation).

5) The bid contains provisions for late charges whether designated as interest charges or otherwise.

6) The bid fails to include all appropriate elements of all addenda issues to the solicitation.

7) The bid contains terms and conditions, which are in conflict with the solicitation or FCS regulations, or that otherwise, may be construed as qualifying the bid.

8) The bid does not meet the terms and conditions of this solicitation or imposes terms and conditions not acceptable to FCS.

5. DISCOUNTS

Award will be made on the basis of the net unit price or the all items net price. When submitting bids or quotations, all discounts (any discounts, cash discounts, quantity discounts, combination of item discounts, all item discounts or any other form or combination of item discounts), shall be calculated by the bidder and reduced to a net unit price or, when requested, to an all item net price. Discounts offered in any other form or time limit will not be considered in making the award.

6. AWARD

a. The award of the contract shall be made to the lowest, responsive, and responsible bidder(s) meeting specifications within appropriated funds available and complying with all applicable requirements.

b. Unless the solicitation gives notice of an all-or-none award, FCS may accept any item or group of items of any bid, whichever is in the best interest of FCS.

c. Contractors agree that their bids are subject to acceptance at any time within ninety (90) days after opening, unless otherwise stipulated in the solicitation.
SECTION II – CONTRACT AWARD

d. FCS may accept or reject any or all bids, parts of bids, may waive informalities, technicalities and irregularities. The judgment of FCS on such matters shall be final.

e. It is within FCS’ sole discretion to determine whether the Contractor is responsible or responsive under the terms and conditions of this solicitation. Further, it is within FCS’ sole discretion to determine Contractor responsibility or responsiveness after a contract is entered into. Finally, it is within FCS’ sole discretion to terminate this agreement, to not renew a Contractor or to not make an award to a Contractor who is determined to be not responsible or not responsive. None of the foregoing limits any other discretion that FCS has in relation to its solicitation process.

f. The solicitation (including all addenda or exhibits), bid, contract notification letter or establishing purchase order, attachments or exhibits (either attached there or by reference), shall constitute the entire binding contract on the terms set forth and is to be interpreted, construed and given effect in all respects according to the laws of the State of Georgia. The solicitation supersedes all other prior or contemporaneous communications between the parties (whether written or oral), and all other communications relating to the subject matter of the Agreement which are not included in or attached to this Agreement. The Agreement may be modified or amended solely in a writing signed by both parties.


SECTION III – POST AWARD

1. ASSIGNMENT

By the submission of this bid, the bidder agrees not to assign the contract or purchase order to others unless specifically authorized in writing by the FCS Contracting Department.

2. COST OF INSPECTION OR TESTING

Cost of inspection or testing of products or materials delivered under an awarded contract which do not meet specifications shall be paid by the Contractor.

3. PAYMENT

The Contractor shall invoice FCS on a monthly basis or if payment is to be made by line item, when a single line item has been satisfactorily delivered. Complete payment will be made within thirty (30) days from either the date of delivery or the receipt of satisfactory invoice in triplicate, whichever occurs last. All invoices shall show contract number, work performed and period of work performance.

4. BACK ORDERS

Back orders may be made only when specifically authorized to do so by FCS’ Contracting Department. The necessity to back order may be deemed a breach of contract.

5. TERMINATION FOR DEFAULT

a. In the event any property or service to be furnished by the Contractor under a contract or purchase order should for any reason not conform to the specifications contained herein or to the sample submitted by the Contractor with his bid, the FCS may reject the property or service and may terminate the contract for default.

Prior to a termination for default, a Contractor will be given the opportunity to respond to a “cure notice” and/or a “show cause notice”. In either case the Contractor will be expected to either correct the offending situation or provide an acceptable plan and time frame for correction within five (5) days of receipt of or refusal of either notice. Failure to do so will be cause for termination.

In such event with specific instructions by the FCS Contracting Department, the Contractor shall immediately remove the property without expense to FCS and replace all rejected property with such property or services conforming to the specifications or samples.

b. If the contract is terminated for default, FCS may procure such property or services from all other sources and shall have the absolute right to deduct from any monies due the Contractor or that may thereafter become due to the Contractor, the difference between the contract price and the actual cost of the property or service to be replaced or substituted in
addition to the reasonable cost of FCS staff time spent securing substitute(s) at $18/hour. Price paid by FCS in such event shall be the prevailing market price at the time the substitute purchase is made.

c. Failure by a Contractor to perform on delivery of goods or services as specified may also result in the removal of the Contractor from doing business with FCS for a period of up to one (1) year and FCS reserves the right to determine that the Contractor is chronically not responsible.

6. TERMINATION FOR CONVENIENCE

FCS reserves the right to terminate for convenience, at any time for any reason with no penalty, any contract awarded through this solicitation by providing the Contractor with thirty (30) days written notice.

7. PERMITS, TAXES, LICENSES, BONDS, ORDINANCES, AND AGREEMENTS

The Contractor shall, at his own expense, obtain all necessary licenses, permits and bonds; give all notices, pay all license fees and taxes, and comply with all applicable local, State and Federal Laws, ordinances, rules and regulations. The Contractor shall maintain the licenses, permits and bonds required in a current status after award and throughout the course of the contract.

The Contractor shall agree that in the performance of the contract, they will comply with all local agreements which they have made with any association union or other entity with respect to wages, salaries and working conditions, so as not to cause inconvenience, picketing or work stoppage.

8. NON-APPROPRIATION

Notwithstanding any other provision of this agreement, the parties hereto agree that the charges hereunder are payable to the Contractor by FCS solely from appropriations received by FCS. In the event such appropriations are determined in the sole discretion of the Chief Financial Officer of FCS no longer to exist or to be insufficient with respect to the charges payable hereunder, this agreement shall terminate without further obligation of FCS at the end of any fiscal period (hereinafter referred to as “Event”) as set forth in O.C.G.A. § 20-2-506(b)(2). In such Event, the Chief Financial Officer of FCS shall certify to the Contractor the occurrence thereof, and such certification shall be conclusive.

In the event of FCS certification, FCS agrees not to replace, before the end of the fiscal year in which the Event occurs or before the expiration of this agreement, whichever occurs first, the equipment and/or services covered hereunder with equipment and/or services obtained from another Contractor at the same or higher annual cost to FCS.
9. CONTRACTOR’S APPLICATION FORM

If the Contractor does not have an application on file with FCS please go to www.fcspurchasingdept.org to register.

10. INDEPENDENT CONTRACTOR STATUS

Contractor agrees that it is an independent contractor and FCS is not responsible for the payment of any salaries, taxes, health insurance, benefits or other costs associated with the provision of workers by Contractor under this Agreement.

All workers utilized by Contractor to perform work for FCS ("assigned workers") are intended by the parties to be the common law employees of Contractor and not of FCS. As such, Contractor is responsible for: (a) providing workers’ compensation and general liability insurance coverage with respect to the assigned workers, (b) providing assigned workers with compensation and benefits and contributing to Federal Social Security, state unemployment, and other required funds through payroll; (c) complying with all obligations under the Affordable Care Act ("ACA"); and (d) verifying that all assigned workers are legally eligible to work in the United States under Federal immigration laws. Contractor retains sole and exclusive liability for all contributions, taxes, payments, obligations and tax filings required to be made for the assigned workers under all applicable federal or state income tax laws, unemployment and workers' compensation acts, social security acts, the ACA and other such legislation; and Contractor shall fully indemnify FCS for any failure by Contractor to comply with such laws.

FCS is not responsible or liable for the hiring, termination, or discipline of Contractor’s employees. If there are allegations of misconduct involving one or more of Contractor’s employees connected to any work under this Agreement, FCS reserves the right to require the Contractor to remove promptly any of Contractor’s employees from FCS’ premises pending the resolution of the employee misconduct. Contractor agrees to promptly comply with any such request from FCS and to cooperate in any investigation with FCS. The failure to cooperate with FCS may result in the termination of the agreement or non-renewal of any agreement with the Contractor, which will be determined by FCS’ sole discretion.

11. FORCE MAJEURE

Neither FCS nor Contractor shall be responsible for any delay or failure of any other obligations hereunder due to any occurrences commonly known as force majeure, including but not limited to, acts of God, war, acts of terror, labor disputes, strikes, lockouts, civil commotion, or acts of government or government agency or officers.
1. **NON-DISCRIMINATION**

   The Contractor, by the submission of a bid or the acceptance of an order or contract, does agree in providing the goods and services covered under the bid or contract not to discriminate in any way against any person or persons or refuse employment of any person or persons on account of race, color, religion, age, disability, national origin, sex, or any other legally protected status.

2. **FCS NON-DISCRIMINATION**

   FCS does not discriminate on the basis of race, color, religion, sex, national origin, age, disability, or any legally protected status in any of its employment practices, education programs, services or activities.

3. **MINORITY AND FEMALE BUSINESS ENTERPRISES**

   It is the intent of FCS to assure that Minority Business Enterprises (MBE) and Female Business Enterprises (FBE) have an equal opportunity to participate in FCS Purchasing requirements.

4. **DRUG-FREE WORKPLACE**

   By submission of a bid, the bidder certifies that he/she will not engage in the unlawful manufacture, sale distribution, dispensation, possession, or use of a controlled substance or drug during the performance of the contract and that a drug-free workplace will be provided for the Contractor’s employees during the performance of the contract. The bidder also certifies that he will secure from any subcontractor who works on the contract, written certification of the same drug free workplace requirements. False certification or violation by failing to carry out requirements of O.C.G.A. § 50-24-3 may cause suspension, termination of contract, or debarment of such bidder.

5. **CERTIFICATION OF NON-COLLUSION**

   By submitting a bid, the bidder certifies: “that this bid is made without prior understanding, agreement, or connection with any corporation firm, or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. That collusive bidding is understood to be a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.”

6. **AUTHORIZED OFFICIAL**

   It is agreed that all conditions of the bid shall be abided and that the person signing this bid is authorized to sign the bid for the bidder.
7. **SOLICITATION TERMINATION**

In any event in which this solicitation is terminated or cancelled, in whole or in part, or all bids are rejected, there shall be no liability on the part of FCS for any costs incurred by bidders or potential bidders in relation to the solicitation.

8. **RIGHTS AND REMEDIES**

The rights and remedies of FCS provided above shall not be exclusive and are in addition to any other rights and remedies provided by Federal law, Georgia law or under the contract.

9. **GOVERNING LAW**

This solicitation and any contract arising out of the solicitation shall be interpreted under governed by and construed in accordance with the laws of the State of Georgia applicable to contracts made and performed in such state. Jurisdiction and venue of any action relating to the interpretation and enforcement of this Agreement shall be proper only in the Superior or State Courts of Fulton County, or in the U.S. District Court, Northern District, Atlanta Division. Offeror consents to the exclusive jurisdiction of the state and/or federal courts of the State of Georgia, in Fulton County and to the personal jurisdiction of such courts and waives any objections Offeror may now or hereafter have based on venue or forum non convenience.

10. **CONFIDENTIALITY, PRIVACY AND SECURITY**

The Offeror's employees, agents and subcontractors may have access to or become aware of FCS’ confidential information including without limitation FCS’s strategic plans, employee data, student data and other such information of FCS (collectively referred to as the “Confidential Information”). Offeror shall presume that all information received pursuant to the contract or in the course of fulfilling Offeror's responsibilities under the contract is Confidential Information unless otherwise expressly designated by FCS. Offeror must maintain the highest levels of security in order to preserve and protect the confidentiality of FCS’s data and to protect and prevent unauthorized disclosure and use of student and personnel information.

It is imperative to protect students’ privacy in order to comply with FERPA, to avoid discrimination, identity theft or other malicious and damaging criminal acts. Offeror must and shall adhere all applicable industry standards concerning privacy, data protection, confidentiality and information security as well as all FCS policies, procedures, and operating guidelines regarding privacy, confidentiality, and security. Offeror represents and warrants that it will adhere to applicable privacy standards as required with respect to education records and personally identifiable information as required by FERPA and its implementing regulations, as well as the requirements under the Protection of Pupil Rights Amendment (PPRA) and its implementing regulations. Offeror will also comply with the Children's Online Privacy
BID CONDITIONS

SECTION IV – OTHER

Protection Act (COPPA) and its implementing regulations. To the extent Offeror or a subcontractor comes into contact with any student data or information, Offeror or subcontractor will not disclose such information without eligible student/parent/guardian and FCS written permission. In its own discretion, FCS may designate Offeror as a "school official" within the meaning of FERPA, if FCS determines that the services contemplated herein are functions that would normally be provided by FCS and if FCS determines that Offeror has a legitimate educational interest in student educational records and information. Offeror will be under the direct control of FCS with respect to the use and maintenance of personally identifiable information and education records, as those terms are defined by FERPA. Student information and educational records as defined pursuant to O.C.G.A.Title 20 and FERPA, as well as any other confidential information of FCS that Offeror or Offeror's subcontractors may come in contact with, will be deemed to have been, received in confidence and will be used only for purposes of the services contemplated in this proposal. Offeror is required to and shall immediately notify FCS when it becomes aware of any security or data breach, or a suspected security or data breach. All Confidential Information as well as other documents, data and information provided to the Offeror by FCS is and will remain the property of FCS to the extent that it was the property of FCS at the time it was provided to the Offeror. All Confidential Information and all other FCS data and information shall be returned to FCS by the Offeror, without charge, within five (5) business days of the completion of the services under this proposal unless, and to the extent as required by law, regulation or professional standards. If requested by FCS, an officer of the Offeror will certify in writing, to the best of his/her knowledge, information and belief, all Confidential Information and all copies thereof have been delivered to FCS or destroyed.

11. OPEN RECORDS ACT

Offeror acknowledges and agrees that FCS is obligated to timely comply with requests for information pursuant to state and federal law and regulation. Offeror agrees to comply with all provisions of the Georgia Open Records Act ("ORA") (O.C.G.A. § 50-18-70 et. seq.), and to make records pertaining to performance of services, provision of goods or other functions under this contract available for public inspection upon request, unless otherwise exempt under other provisions of the ORA. Offeror shall provide FCS with immediate notice should Offeror receive an Open Records Request. If Offeror asserts that any information in its response or in any information provided to the FCS with respect to the services or products under this contract are a protectable trade secret, as that term is defined in O.C.G.A. § 10-1-761, then the Offeror must follow the requirements of the ORA set forth at O.C.G.A. § 50-18-72(a)(34) and submit an affidavit declaring and specifically describing their trade secrets, including those of their subcontractor.
1. **CONTRACT TYPE**
   
The contract type contemplated for this solicitation is a Requirements Contract.

2. **CONTRACT PERIOD**
   
The base contract performance period shall be as stated in the contract award letter. This contract is subject to options as stated below in Paragraph 3.

3. **OPTIONS**
   
   In addition to the base period, there is one (1) one-year option to be exercised at the sole discretion of FCS at the same terms, conditions and pricing of the base year.

4. **CATEGORY OF AWARD**
   
   Award will be made on an “All or None” basis. However, FCS reserves the right to award to multiple Contractors if it is deemed to be in the best interest of FCS.

5. **REQUIREMENTS CONTRACT CLAUSE**
   
   This is a requirement contract for Protective Face Masks. The quantities specified in the bid schedule are estimates only. There are no guarantees as to the quantities FCS will require over the time period stated, and therefore, no liability for non-purchase of any goods and/or services. More or less of the estimated quantity may be purchased.

   Delivery or bid/performance shall be made only as authorized by Purchase Orders issued by FCS Contracting Department. The Contractor shall furnish to FCS all services specified in the schedule of the order issued by FCS.

6. **DETERMINATION OF "OR EQUAL"**
   
   FCS shall have the absolute right to determine if products meet the "or equal" requirements in terms of quality and other form, fit, and functional needs.

7. **MINIMUM ORDER CLAUSE**
   
   Any minimum order requirements shall be stated on bids prior to bid opening. Order limitations placed on FCS after contract award will not be accepted. If the Contractor fails to honor orders placed by FCS for the entire period of the contract, the Contractor will be held responsible for any cost incurred by FCS to resolicit for the item(s).

   FCS reserves the right to negotiate minimum orders whether by total dollar amount and/or by volume in association with the total amount of award to the Contractor in terms of total dollar amount and/or volume. If mutual agreement cannot be reached as to the minimum order amount, FCS reserves the right to find the Contractor non-responsive and to make the award to the next low bidder who is responsible and responsive or to
resolicit for those items, whichever is deemed in the best interest of FCS as determined by the Executive Director of Contracting. The decision of the FCS Contracting Department shall be final and unappeasable.

8. **OWNER’S REPRESENTATIVE**

Supervision of the contract will be performed by FCS’ Representative, Montreal Bell, Director, Federal Programs – CARES/ARP, or her designee(s).

9. **RECEIPT OF ADDENDUM CLAUSE**

Addenda issued to solicitations will be available at the FCS Contracting Department or on the department web site located at [www.fcspurchasingdept.org](http://www.fcspurchasingdept.org). FCS Contracting Department shall not bear responsibility for receipt of addenda by mail. If Contractors do not acknowledge receipt of all addenda the bid or proposal may be determined to be non-responsive by the FCS Contracting Executive Director.

10. **SUBMITTALS**

Bidders are responsible for submitting bids so as to reach the FCS Contracting Department office by the time and date specified in the solicitation regardless of the method of delivery (i.e. commercial carrier or U.S. Postal Service). If using a commercial delivery service, the bidder is responsible for informing the commercial delivery service of all delivery requirements, and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

11. **COMMUNICATION WITH FCS STAFF**

From the issue date of this solicitation until completion of the entire solicitation process and announcement of award notification, all Contractor communication must be authorized by and directed to the Contracting Department including, but not limited to, communications with members of the Board of Education, school system employees and/or contracted agents related to this solicitation. Violation of this provision may result in rejection of your company’s response.

12. **WARRANTY**

Bidders expressly warrant that all products purchased shall be of first quality material and workmanship, free from any defects, merchantable, fit for the purposes specified by FCS in this solicitation and shall conform to all the requirements of the solicitation. All warranties shall run from the date of Acceptance and shall remain in place for a period of one year from the acceptance date. FCS’ Representative or designee is responsible for inspection and acceptance of the goods. All non-conforming or defective products shall either be replaced at no cost to FCS within thirty (30) days of request by FCS or
FCS shall be provided with a refund for the purchase price of the defective good. FCS shall have the sole discretion in exercising either of the foregoing options. The exercise of either option is not mutually exclusive of the other with respect to defective goods. Any replacement item must be of the same or comparable make and model.

13. **PIGGYBACK CLAUSE**

This solicitation allows for other State and Local Government to buy off the awarded contract at the same prices quoted during the effective term, pending agreement between Offeror and the third-party entity.

14. **COVID-19**

**Required Precautionary Measures for COVID-19**

The novel coronavirus, SARS-CoV-2 ("COVID-19") has been declared a worldwide pandemic by the World Health Organization. COVID-19 is extremely contagious. Contractor acknowledges that Contractor, its employees, agents and subcontractors (collectively, including Contractor, the “Contractor Parties”) are at risk of exposure to COVID-19 in any public place where people are present, including without limitation while on site at any property of FCS (the “District”).

Any person entering District premises waives all civil liability against the premises owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm, by the individual or entity of the premises.

Contractor must comply, and ensure compliance by all Contractor Parties, with the provisions of this Section and all applicable laws, rules and regulations, including any then-effective Executive Order issued by the Georgia Governor’s Office, regarding COVID-19 precautions, as well as all District policies and guidelines. Such measures shall at a minimum include implementation and compliance with the requirements of this Section.

(a) Contractor Parties shall:

(i) Screen and evaluate workers for Symptoms of COVID-19; (e.g. symptoms identified by the Centers for Disease Control and Prevention as symptoms of COVID-19, including without limitation at least the following: fever or chills; cough; shortness of breath or difficulty breathing; fatigue; muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; and diarrhea). Workers who exhibit Symptoms of COVID-19 shall not report to work or enter the jobsite;

(ii) Post a sign at the jobsite stating that individuals who have Symptoms of COVID-19 shall not enter the jobsite;
(iii) Provide Personal Protective Equipment (e.g. facemasks, protective gloves, protective clothing, protective garments, and shoe coverings) as available and appropriate to the function and location of the worker within the jobsite;
(iv) Provide disinfectant and sanitation products for workers to clean their workspace, equipment, and tools;
(v) Enhance sanitation as appropriate and disinfect common surfaces regularly;
(vi) Require handwashing or sanitation at appropriate places within the jobsite;
(vii) Prohibit handshaking and unnecessary person-to-person contact; and
(viii) Require workers to wear face masks, face coverings and/or face shields at all times when the worker is inside a facility or building at the jobsite.

(b) While on site, Contractor must require and enforce Social Distancing (as hereinafter defined) among all Contractor Parties to the extent then required by law. If Social Distancing is not then required by law, Contractor must still require and enforce Social Distancing among all Contractor Parties to the extent practicable while on site, until further written notice from the District. As used herein, “Social Distancing” means keeping space between each person and other people. Persons practicing Social Distancing should stay at least six (6) feet from other people and avoid assembling in groups. The Social Distancing requirement does not apply to cohabitating persons, family units, or roommates residing together in private homes, whether inside or outside of their homes or place or residence.

(c) For contact-tracing purposes, Contractor must record the names and telephone numbers of all Contractor Parties who are on site each day; this may be accomplished through a daily sign-in sheet or other such documentation. The daily sign-in sheets or other such documentation must be maintained by Contractor for a period of twelve (12) months after the expiration or earlier termination of this contract, and Contractor shall provide copies of the same to the District promptly upon request. This subsection (c) shall survive the expiration or earlier termination of this agreement.

(d) All known cases of COVID-19 among Contractor Parties and all known cases of exposure to COVID-19 among Contractor Parties must be immediately reported to the District by submitting an email to COVID19reporting@fultonschools.org, reporting a diagnosis and/or exposure to COVID-19. Names and other personally identifiable information of the persons diagnosed or exposed shall not be reported to the District. Contractor will, however, take appropriate action to ensure any person diagnosed does not return to the jobsite until medically cleared to return; and each person exposed to COVID-19 does not return to the jobsite until symptom-free for at least 14 days from the last known exposure to COVID-19.

(e) The District shall have the right to suspend the work or modify protocols applicable to the work, without incurring damages for delay or other liability, due to (i) any known cases of, or exposure to, COVID-19 among the Contractor Parties, and/or (ii) any legal requirements
mandating suspension of the work or modification of protocols applicable to the work due to COVID-19.

Indemnification and Waiver of Liability. By entering into this contract, Contractor acknowledges and agrees that an inherent risk of exposure to COVID-19 exists in any public place where people are present. By entering onto the jobsite, and in consideration of the benefit of this contract, all Contractor Parties voluntarily assume all risks related to exposure to COVID-19 and forever waive and release from liability, discharge, indemnify and hold harmless Fulton County Schools, Fulton County Board of Education, and their respective, officers, board members, employees, agents, contractors, and volunteers (collectively, “District Parties”) against all liabilities, claims, suits, and damages for illness or injury, including death, related to exposure to COVID-19. Contractor further covenants not to sue, agrees not to file, nor cause to be filed, nor participate in, any lawsuit, claim, counterclaim, legal action or threat of legal action against the District Parties as a result of any Contractor Parties or their respective contacts contracting COVID-19 or other illness, including claims for illness or injury, including death. If Contractor Parties or their respective contacts take any steps to make any claim(s) against any District Parties, Contractor shall be obligated to pay all attorneys’ fees and costs incurred by the District Parties as a result of such claim(s). This Section shall survive the expiration or earlier termination of this agreement.

15. CONFLICT OF INTEREST

As part of the negotiation process, the Bidder is required to disclose the name of any officer, director, employee, agent or consultant who is also an employee of FCS and the name of any FCS employee who owns, directly or indirectly, a stock interest in the Bidder's firm or any of its branches. The Bidder is required to disclose any other real or apparent conflict of interest with any FCS employees.

16. DEBARKMENT AND SUSPENSION

FCS shall solicit offers from, award contracts to, and consent to subcontracts with responsible contractors and/or principals only. The serious nature of debarment and suspension requires that sanctions be imposed only in the public interest for the government's protection and not for purposes of punishment. FCS shall impose debarment or suspension to protect the government's interest and only for the causes and in accordance with the procedures set forth in Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4.

By signing this agreement, the bidder is testifying that they are not debarred, suspended or have any ineligible or voluntary exclusions with any Federal or State Agency. All responses will be verified.

Contractor certifies that the Contractor and/or any of its subcontractors or principals have not been debarred, suspended, or declared ineligible by any agency of the State of Georgia or any agency of the Federal government or as defined in the Federal Acquisition Regulation (FAR)
48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify FCS if Contractor is debarred by any Federal or State Agency or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.

17. **RECORD RETENTION**

The successful Bidder agrees to retain all books, records and other documents relative to this agreement for five (5) years after final payment. FCS, its authorized agents and/or Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives and/or state representatives shall have full access to, and the right to examine any books, documents, papers, and or records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. If an investigation or audit is in progress, records shall be maintained until stated matter is closed.

18. **CLEAN AIR ACT AND CLEAN WATER ACT**

The successful Bidder agrees to comply with the applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 7401 et seq., section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations. Contractor certifies that none of the facilities it uses to produce goods provided under the contract are on the Environmental Protection Authority (EPA) List of Violating Facilities; and Contractor will immediately notify FCS of the receipt of any communication indicating that any of Contractor’s facilities are under consideration to be listed on the EPA List of Violating Facilities.

19. **ENERGY POLICY AND CONSERVATION**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the Fulton County Board of Education energy conservation plan issued in compliance with the Energy policy and Conservation Act (Public Law 94-163, 89 Stat.871).

20. **LABOR SURPLUS AREA FIRMS**

It is the intent of FCS to assure that Labor Surplus Area Firms have an equal opportunity to participate in FCS’s Purchasing requirements.

21. **GIFTS AND GRATUITIES**

Acceptance of gifts from Contractors and the offering of gifts by Contractors are prohibited. No employee of the school district purchasing products under provisions of the contract issued as a result of this invitation shall accept, solicit, or receive, either directly or indirectly, from any person, firm or corporation any gift or gratuity.

CONTRACTING DEPARTMENT

6201 Powers Ferry Road, Atlanta, Georgia 30339 • 470-254-8970 • www.fcspurchasingdept.org
22. **SEVERABILITY**

The provisions of this contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the contract.

23. **FULFILLMENT OF ORDERS**

If reimbursement is lost due to failure to meet the terms of this contract or unauthorized substitutions of product, FCS **MAY** require the supplier to pay a dollar amount equal to the cost of the product, the reimbursement lost, and any fines. In addition, FCS may put the distributor on FCS’s debarment lists and restrict the Contractor or any representative of the Contractor from participating in future solicitations by FCS.

24. **COMPLIANCE WITH LAWS AND SECURITY REGULATIONS**

In performing the services called for in this contract, the Contractor shall comply with all applicable laws, including the following:


- Family Educational Rights and Privacy Act (20 U.S.C. § 1232g and implementing regulations) in a manner to assure compliance with the confidentiality requirements thereof.

- Federal laws (including Title VI, VII and IX) prohibiting discrimination based upon race, sex, religion, national origin, marital status and disability.

- Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq. and implementing regulations).
SCOPE OF WORK

FCS is seeking a Contractor to furnish Protective Face Masks for use throughout the School District.

SPECIFICATIONS

1. Non-surgical Mask (known as surgical and/or non-procedural masks – for adults and kids):
   a. Made of non-woven material
   b. Disposable and discarded after each use
   c. Should be three-ply (three layers) and made up of a melt-blown polymer, most commonly polypropylene, placed between non-woven fabric
   d. Able to provide complete protection to face from germs, bacteria, polluted air and other similar unfavorable factors
   e. Should have effective anti-virus, deodorant, filter bacteria, dust resistance, and have high filter efficiency
   f. Are ear-looped face masks with flat elastic or round elastic and should be 100% latex free

2. Reusable Cloth Face Covering Mask - per the CDC guidelines, the link is as follows: [https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html)
   a. Fit snugly but comfortably against the side of the face
   b. Be secured with ties or ear loops
   c. Include multiple layers of fabric
   d. Allow for breathing without restriction
   e. Be able to be laundered and machine dried without damage or change to shape
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<th>Description</th>
<th>Unit</th>
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<th>Unit Cost</th>
<th>Total Cost</th>
<th>Delivery Time (From receipt of Purchase Order)</th>
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**GRAND TOTAL** $
Company: 

IFB No.: 

☐ We have acknowledged receipt of addenda issued.

☐ One (1) original, one (1) copy and one (1) flash drive.

☐ No conditions, restrictions or qualifications have been placed by the company on this bid that would have the bid declared non-responsive.

☐ We acknowledge that Fulton County Schools does not provide Workers’ Compensation to Contractors, Subcontractors or any tier and as such is not responsible or legally liable for Contractor workers’ injuries, including death.

TYPE OR PRINT NAME OF PERSON COMPLETING CHECKLIST 

__________________________________________________________           _____________

SIGNATURE OF PERSON COMPLETING THIS CHECKLIST                DATE 

COMPANY NAME

READ AND COMPLETE THIS CHECKLIST BEFORE SUBMITTING THE BID

RETURN WITH BID

Bidders shall provide the following information on attached sheets; this information shall be submitted with the bid in the format specified. Provide the response, to each section of the information, on a separate sheet of paper, preferably typewritten, and attached to the bid at the time it is submitted. Failure to provide information requested in complete and accurate detail may result in rejection of the bid.
1. **History and Organizational Structure of the Firm**

Provide a cover letter introducing the company and including the corporate name, address and telephone number of the corporate headquarters and local office. The name and phone number of one individual who will be the company’s primary contact with FCS for contract negotiation and the name of the project manager. A brief history of the company and the present organizational structure of the firm describing the management organization, permanent employees by discipline, and this project’s coordination structure; if the firm is a partnership, indicate the name of all partners; if incorporated indicate where and when. If the Contractor has changed names or incorporation status within the last five (5) years, then please list all of such preceding organizations and a brief reason for the change. Contractor shall also provide a business license indicating that the Contractor can conduct business in Fulton County, Georgia. Further, Contractor shall provide documentation showing that the Contractor is properly registered to conduct business in the State of Georgia. Contractor acknowledges and agrees that any business license and registration must remain current for the duration of the contract and such documents are material term to this agreement.

2. **References**

List as references (names, addresses, contact persons, email, and toll-free phone numbers) a minimum of three (3) school boards or other clients of similar size and nature to FCS for which a project comparable to the scope of this project was completed.

3. **Subcontractors**

Indicate the names and addresses and degree of utilization of any and all subcontractors which would be used in the performance of this contract.

4. **Previous Default**

Indicate if you or any predecessor organization have ever defaulted on a contract or denied a bid due to non-responsibility to perform. If so, provide the facts and circumstances. If your firm or any successor organization is now involved in any litigation or in the past ten (10) years have been involved in litigation with owners, please list the parties to the litigation, the civil action number and a brief explanation of the matter.
Please provide as references, the names of at least three (3) local corporate clients you have served for at least two (2) years.

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<tr>
<th></th>
<th>Company Name:</th>
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ACKNOWLEDGEMENT

I, the undersigned, acknowledge that I have read the Bid Document in its entirety and agree to conform with its every requirement. I further acknowledge that failure to prepare, submit, or execute this bid in the exact manner requested will be just cause to reject any or all of my bids.

NAME OF COMPANY: ____________________________________________

BY: ____________________________________________________________

(TYPE OR PRINT - TITLE AND NAME OF PERSON SUBMITTING BID)

SIGNATURE: ____________________________________________________

(COMPANY FEDERAL ID NUMBER) (INDIVIDUAL E-MAIL ADDRESS)

Generic e-mail address is not acceptable

(STREET ADDRESS)

_________________________________________________________________

(CITY) (STATE) (ZIP)

PHONE: ( ) ____________________________ FAX: ( ) ____________________________

PURCHASE ORDER FAX/EMAIL: ______________________________________

The above acknowledgment must be properly signed and firmly attached to your bid. The acknowledgment becomes a part of your Bid and without it your Bid is not complete and will be subject to rejection.

Bidder acknowledges addendum/addenda: No. 1____, No. 2____, No. 3____ (If Applicable)

IFB NO. 123-22

Your bid or reference Number: ____________________________

(IF APPLICABLE)

IF NOT BIDDING, PLEASE COMPLETE ABOVE, CHECK APPLICABLE BOX BELOW AND RETURN THIS PAGE ONLY: (Please indicate No Bid with Bid Number on outside of envelope.)

(A.) □ NO BID - Unable to bid at this time. Would like to receive future bids.

(B.) □ NO BID - Remove from this product/service category.

(C.) □ NO BID - Remove from Bidder’s List.

THIS PAGE MUST BE RETURNED WITH YOUR BID. INSTRUCTIONS AND CONDITIONS ARE FOR YOUR INFORMATION.

It is the policy of the Fulton County School System not to discriminate on the basis of race, color, sex, religion, national origin, age, or disability in any employment practice, educational program or any other program, activity or service. If you wish to make a complaint or request accommodation or modification due to discrimination in any program, activity or service, contact Compliance Coordinator, Ron Wade, 6201 Powers Ferry Rd., Atlanta, Georgia 30339, or phone (470) 254-5502. TTY 1-800-255-0135.