

**Mission:**

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



**Ron DeSantis**  
Governor

**Scott A. Rivkees, MD**  
State Surgeon General

**Vision:** To be the Healthiest State in the Nation

---

June 18, 2021

Scott A. Rivkees, MD  
State Surgeon General  
4052 Bald Cypress Way  
Tallahassee, Florida 32399

Dear Dr. Rivkees:

Enclosed is our internal review report # R-2021-004, *The Department's Contract with Florida's Vision Quest, Inc.* The report provides an independent evaluation of whether Florida's Vision Quest, Inc. (Provider) complied with selected requirements of the Department of Health's *Standard Contract* and attachments related to subcontracts.

The review was conducted by Ashlea K. Mincy, CIGA, Assistant Director of Auditing, and supervised by Mark H. Boehmer, CPA, Director of Auditing.

Management agreed with the findings identified in the report. Management's response can be found in Appendix A of the report. The Provider was offered an opportunity to respond as well. The Provider's response can be found in Appendix B of the report.

If you wish to discuss the report, please let me know.

Sincerely,

Michael J. Bennett, CIA, CGAP, CIG  
Inspector General

MJB/akm  
Enclosure

cc: Melinda M. Miguel, Chief Inspector General, Executive Office of the Governor  
Lisa Norman, CPA, Office of the Auditor General  
Cassandra Pasley, BSN, JD, Interim Chief of Staff  
Louise St. Laurent, General Counsel  
Shamarial Roberson, DrPH, MPH, Deputy Secretary for Health  
Mike Mason, Assistant Deputy Secretary for Health  
Michele Tallent, Deputy Secretary for Operations  
Antonio Dawkins, Assistant Deputy Secretary for Operations  
Melissa Jordan, MS, MPH Director, Division of Community Health Promotion



FLORIDA DEPARTMENT OF HEALTH  
OFFICE OF INSPECTOR GENERAL

PERFORMANCE OF SELECTED REQUIREMENTS OF  
THE DEPARTMENT OF HEALTH'S CONTRACT WITH  
FLORIDA'S VISION QUEST, INC.

Report # R-2021-004 • June 18, 2021

**Purpose of this project:**

During an audit of *The Department's Subcontracts and Related Processes* (Report A-2021-001, published April 5, 2021), we became aware of concerns related to Contract No. COHN2 (Contract) with Florida's Vision Quest, Inc. (Provider), but concluded to separately review for compliance with similar contract requirements.

**What we examined:**

Whether the Provider complied with selected requirements of the Department of Health's (Department, DOH) *Standard Contract* and attachments related to subcontracts. Specifically, did the Provider:

- Report subcontractors to the Department's contract manager (CM);
- Receive approval from the CM to use subcontractors; and
- Include required contract language with subcontractors.

**Summary of results:**

We identified the following issues management should address:

- Agreements between the Provider and its subcontractors did not include the E-Verify system (E-Verify) language.
- The Provider did not ensure subcontractors and subcontractors' staff were timely processed in E-Verify.
- The Provider did not ensure subcontractors and subcontractors' staff were appropriately background screened.

Additional details follow below. Management's response to the issues noted in this report may be found in **Appendix A**. The Provider was given the opportunity to respond with a written comment to be included in the report, pursuant to Florida law<sup>1</sup>. The Provider's response may be found in **Appendix B**.

## BACKGROUND

The Department executed the Contract with the Provider to provide vision care and eyeglass services for eligible students who have failed a school-based vision screening and who are in need of follow-up care. The Contract began July 1, 2017 and ended June 30, 2018. The Department agreed to pay the Provider an amount not to exceed \$1,000,000 upon the completion of deliverables specified in the contract. The contract was subsequently renewed in 2018, 2019, and 2020 under similar terms. The Contract was amended in November 2020 to increase the contract amount by \$250,000 for a total amount not to exceed \$1,250,000.

<sup>1</sup> Section 20.055(6)(e), Florida Statutes

Eligible clients are pre-kindergarten through 12<sup>th</sup> grade students attending a Florida public school, who are referred by their school health staff for services.

Some of the tasks required of the Provider are to:

- ❖ Contact school health coordinators and enter into oral or written agreements with local school districts or county health departments to provide vision care and eyeglass services to students.
- ❖ Create a provider network by entering into written agreements with local optometrists, ophthalmologists, or opticians to maximize the vision related services that are available to eligible students. Ensure that all provider network agreements require compliance with the terms and conditions of this Contract and state the billing rates for services and eyeglasses under the agreement.
- ❖ Create a student file for each student referred by the school health staff including the student's name, date of birth, school name, county, date of referral, doctor's name, referral status, and billable services.
- ❖ Verify student eligibility with the school health staff for each referral received using a set of mandatory criteria.
- ❖ Obtain documentation of permission to perform services prior to treatment and release of student's medical information, from the school health staff.
- ❖ Provide vision care, fitting, and dispensing services to all eligible students via the mobile unit when a local school district or health office has a service request for a minimum of 15 eligible students. For students located in a local school district with less than 15 eligible students, provide service vouchers for students to receive services through the provider network.
- ❖ Perform comprehensive eye exams for all eligible students referred by school health staff.
- ❖ Provide fitting services for eyeglass frames and lenses as prescribed by a licensed optometrist or ophthalmologist.
- ❖ Dispense eyeglasses directly to the student or parent or legal guardian of student.

The Department's CM is assigned to be accountable to ensure providers perform contract activities and/or provide stated contract deliverables. It is the CM's responsibility to monitor a provider's administrative, fiscal, and programmatic performance relative to the terms of the contract; process, inspect, review, and approve a provider's deliverables and authorize invoices for payment; and ensure a provider has met all contract terms, conditions, and requirements specified in the *Standard Contract*.<sup>2</sup>

The CM for this Contract works in the Division of Community Health Promotion, Bureau of Family Health Services.

The Department defines subcontracting as when a provider makes a written agreement with another entity to perform part of the tasks or work covered in a Department contract.<sup>3</sup>

A provider must receive Department approval to utilize a subcontractor, is precluded from subcontracting 100% of the work, and remains responsible for all contract performance. The Department may not approve any subcontractor with an unacceptable history with either the

---

<sup>2</sup> Section III(3)(B), DOHP 25-14-19, *Contractual Services*

<sup>3</sup> Section IV(ZZ), DOHP 25-14-19, *Contractual Services*

Department or the Department of Management Services. The CM must review a provider's *Subcontracting Request Form* to determine if the subcontractor should be approved to work on the contract based on the contract's terms and conditions.<sup>4</sup>

## DETAILED RESULTS AND RECOMMENDATIONS

Our review identified the following issues related to the Provider's compliance with the Department's *Standard Contract*. These issues relate to the Provider's use of subcontractors.

During the review, the Provider explained its position that contract terms related to subcontractors do not apply to the Provider since independent contractors are not subcontractors. The Department's Office of the General Counsel (General Counsel) provided a legal opinion<sup>5</sup> clarifying that the Provider's "independent contractors" are subcontractors and the Provider is required to abide by the terms in the Contract related to subcontractors.

The General Counsel's opinion stated, "Pursuant to contract number COHN2, section I.B.2.f states 'Provider must use the U.S. Department of Homeland Security's E-Verify System...Provider must also include a requirement in subcontracts that the subcontractor must use the E-Verify system'... As evidenced by the contract itself, the term 'subcontractor' is meant to include and incorporate 'independent contractors'. ...An independent contractor will either fall under a categorical 'employee' or as a 'subcontractor'. ...For all individuals who are employees, subcontractors, or independent contractors of the Provider who are providing services under the contract, and cannot provide the required verification, employment eligibility must be verified through the E-Verify system as required by the contract."

The opinion further stated, "Attachment I, section D.2 of the contract requires all Provider staff and subcontractors who have direct service contact with children have background screenings or criminal history background checks pursuant to section 943.0542(2), Florida Statu[t]es... In conclusion, it is the opinion of this office that independent contractors are subject to both the E-Verify and background screening requirements of contract COHN2."

### **1. Agreements between the Provider and its subcontractors did not include E-Verify language.**

- The Contract states, "Employment of unauthorized aliens is a violation of the Immigration and Naturalization Act, 8 U.S.C. section 1324a, and such violation will be cause for unilateral cancellation of this contract by the Department. Provider must use the U.S. Department of Homeland Security's E-Verify system, to verify the employment eligibility of all new employees hired during the contract term by Provider. Provider must also include a requirement in subcontracts that the subcontractor must use the E-Verify system to determine the employment eligibility of all new employees performing work or providing services under this contract who are hired by the subcontractor during the contract term. Providers meeting the terms and conditions of the E-Verify [s]ystem are deemed to be in compliance with this provision."
- None of the 63 agreements between the Provider and optometrists, ophthalmologists, and/or opticians in the contract management file we reviewed included the requirement that the

<sup>4</sup> Section V(B), DOHP 25-14-19, *Contractual Services*

<sup>5</sup> Legal opinion provided electronically by the Department's Office of the General Counsel to the Office of Inspector General on March 16, 2021.

subcontractor must use E-Verify to verify employment eligibility of all new employees performing work or providing services under the subcontract.

- During the review, the Provider explained its position that contract terms related to subcontractors do not apply to the Provider. The Provider explained that independent contractors are not subcontractors.
- As was stated previously, the Department's Office of the General Counsel has issued a legal opinion that the Provider's "independent contractors" are subcontractors. Thus, it is the responsibility of the Provider to ensure the E-Verify language is included in any agreement with a subcontractor.

**We recommend the Division of Community Health Promotion enforce the requirements of the Contract, including that the Provider include the E-Verify requirement in all agreements with subcontractors.**

## **2. The Provider did not ensure subcontractors and subcontractors' staff were timely processed in E-Verify.**

- The Provider did not ensure that all persons assigned by the Provider (including subcontractors' staff) to perform work were eligible, as required by the Contract and DOHP 250-14-19, *Contractual Services (Contractual Services policy)*.
- The Provider agreed when signing the Contract, to use E-Verify to determine employment eligibility of all new employees hired during the contract term. The Provider also agreed to include a requirement in any subcontracts that the subcontractor shall use E-Verify to determine employment eligibility of all new employees hired during the contract term.
- The Department's *Contractual Services* policy requires providers and subcontractors use E-Verify to determine employment eligibility of new employees hired during the contract term, performing employment duties within Florida, and all persons (including subcontractors) assigned by the provider to perform work, pursuant to the Department's contract.
- Upon the Department's request for documentation that verifies subcontractor staff hired during the contract term were eligible, via E-Verify, for employment, the Provider responded, *"Most of our doctors have been with us for 20+years. No, they have not been E-verified since they are independent contractors and E-Verify does not apply to them."*
- As was stated previously, the Department's Office of the General Counsel has issued a legal opinion that the Provider's "independent contractors" are subcontractors. Thus, it is the responsibility of the Provider to ensure the E-Verify language is included in any agreement with a subcontractor.

**We recommend the Division of Community Health Promotion enforce the requirements of the Contract, including that the Provider use E-Verify to determine employment eligibility of all new employees.**

**3. The Provider did not ensure subcontractors and subcontractors' staff were appropriately background screened.**

- Florida law<sup>6</sup> requires the Department to designate those positions that, because of special trust, responsibility, or sensitive location, require security background investigations. All persons and employees in such positions must undergo a level 2 background screening, including fingerprinting, as a condition of employment and continued employment.
- DOHP 60-5-15, *Background Screening*, requires that providers and subcontractors selected for, or assigned to positions of special trust, responsibility, or sensitive location, must undergo a level 2 background screening before being hired. Specifically, contractors and subcontractors performing school health services must undergo background screening, including fingerprinting.
- The Contract<sup>7</sup> requires that the Provider will ensure that its staff and subcontractors' staff who have direct service contact with children have background screening or a criminal history (state and federal) background check as provided in Florida law<sup>8</sup>. The Provider must initiate background screening (including fingerprinting) before an employee, volunteer, or subcontractor, begins work under the Contract. The Provider will ensure that no employee or volunteer will remain in service with Provider or its subcontractors with an unfavorable background screening.
- The Provider was requested to submit a list of all staff and subcontractors' staff who had direct service contact with children between July 11, 2017 and January 31, 2021; their hire date; and background screening documentation. The Provider submitted a list of only eight names, of whom six were the Provider's employees and two were subcontractors. The Provider did not submit information on the 63 optometrists, ophthalmologists, and/or opticians, with which the Provider has agreements to perform services to children in their private facilities.
- While some of the written agreements included an attestation by the optometrists, ophthalmologists, and/or opticians that they had undergone a background screening/criminal history, two of the agreements did not.
- The agreements and attestations only include the signing optometrists, ophthalmologists, and/or opticians, and does not include their staff. As children receive services at their private facilities, the children will be in contact with more than just the individual signing the attestation.
- The Provider did not have a process in place to ensure subcontractors' staff with direct contact with children were appropriately screened, increasing the risk of children having exposure to individuals with an unfavorable history.
- As was stated previously, the Department's Office of the General Counsel has issued a legal opinion that the Provider's "independent contractors" are subcontractors. Thus, it is the responsibility of the Provider to ensure all background screening requirements are included in any agreement with a subcontractor.

***We recommend the Division of Community Health Promotion enforce the requirements of the Contract, including that the Provider ensure subcontractors and staff are appropriately background screened.***

---

<sup>6</sup> Section 110.1127(2)(a), Florida Statutes

<sup>7</sup> Attachment I, Section D

<sup>8</sup> Section 943.0542(2), Florida Statutes

## SUPPLEMENTAL INFORMATION

Florida law<sup>9</sup> charges the Department's Office of Inspector General with responsibility to provide a central point for coordination of activities that promote accountability, integrity, and efficiency in government.

Ashlea K. Mincy, CIGA, Assistant Director of Auditing, conducted the review under the supervision of Mark H. Boehmer, CPA, Director of Auditing.

Our methodology included a review of Florida law; the *Contractual Services* policy; DOHP 60-5-15, *Background Screening*; and an examination of the contract; subcontracts; applicable documentation; and CM files. We interviewed key management, the CM, and the Provider.

This project was not an audit, as industry-established auditing standards were not applied. Internal Audit Unit procedures for the performance of reviews were followed and used during this project. This project was conducted in compliance with Quality Standards for Inspections, Evaluations, and Reviews by Offices of Inspector General as recommended by Principles and Standards for Offices of Inspectors General, Association of Inspectors General.

We want to thank management, staff, and the contract manager for the information and documentation they provided, and for their cooperation throughout the project.

Copies of all final reports are available on our website at [www.FloridaHealth.gov](http://www.FloridaHealth.gov) (search: internal audit). If you have questions or comments, please contact us by the following means:

**Address:**

4052 Bald Cypress Way, Bin A03,  
Tallahassee, FL 32399

**Email:**

[inspectorgeneral@flhealth.gov](mailto:inspectorgeneral@flhealth.gov)

**Phone:**

850-245-4141

---

<sup>9</sup> Section 20.055, Florida Statutes

**APPENDIX A: MANAGEMENT RESPONSE**

	Recommendation	Management Response
1	<p><i>We recommend the Division of Community Health Promotion enforce the requirements of the Contract, including that the Provider include the E-Verify requirement in all agreements with subcontractors.</i></p>	<p>We concur. Management action completed.</p> <p>The CM sent emails to the Provider on January 29, 2021 and February. 8, 2021, requesting the Provider revise their subcontractor's agreements to include the required verbiage. The CM stated "All standard Department of Health contracts include the E-Verify requirement. If you believe you do not have to abide by the requirement, then supporting documentation must be provided and it will be sent to the Office of the Inspector General for review." The Provider has not submitted documentation as of this date. Our Legal Department (in developing the Attachment I) was requiring the Provider to submit subcontractor agreements prior to the execution of a new contract starting July 1, 2021.</p> <p>The Provider's appropriation was recently vetoed from the 2021-2022 state budget. Therefore, this contract will not be renewed.</p>
2	<p><i>We recommend the Division of Community Health Promotion enforce the requirements of the Contract, including that the Provider use E-Verify to determine employment eligibility of all new employees.</i></p>	<p>We concur. Management action completed.</p> <p>The CM sent emails to the Provider on January 29, 2021, February 1, 2021, February 8, 2021, February 15, 2021, May 5, 2021 and May 17, 2021 requesting the Provider complete the E-Verify documentation for staff and subcontractors. A form was attached in the emails requesting the Provider complete it for all subcontractors, including network doctors. On February 19, 2021, the Provider submitted E-Verify documentation for their office staff and the four staff on the mobile units, but not for the network doctors. E-Verify documentation for all network doctors will be required (per Attachment I) prior to the execution of a new contract starting July 1, 2021.</p> <p>The Provider's appropriation was recently vetoed from the 2021-2022 state budget. Therefore, this contract will not be renewed.</p>
3	<p><i>We recommend the Division of Community Health Promotion enforce the requirements of the Contract, including that the Provider ensure subcontractors and staff are appropriately background screened.</i></p>	<p>We concur. Management action completed.</p> <p>The CM sent emails to the Provider on January 29, 2021, February 1, 2021, February 8, 2021, February 15, 2021, May 5, 2021 and May 17, 2021 requesting the Provider complete the E-Verify documentation for staff and subcontractors. A form was attached in the emails requesting the Provider complete it for all subcontractors, including network doctors. On February 19, 2021, the Provider submitted E-Verify for their office staff and the four staff on the mobile units, but not for the network doctors. E-Verify documentation for all network doctors will be required (per Attachment I) prior to the execution of a new contract starting July 1, 2021.</p> <p>The Provider's appropriation was recently vetoed from the 2021-2022 state budget. Therefore, this contract will not be renewed.</p>



## APPENDIX B: PROVIDER RESPONSE



June 15, 2021



Mark H. Boemer, CPA, Director of Auditing  
Department of Health  
Office of Inspector General  
5042 Bald Cypress Way, Bin A-03  
Tallahassee, FL 32399-1704

Dear Mr. Boehmer:

For more than 20 years, Florida's Vision Quest has provided eye exams and, where needed, glasses to children in Florida's schools under agreements with the Florida Department of Health. It has provided these services under a fee-for-service framework through its own physicians and staff as well as through an informal network of physician providers. Throughout the 23 years of its exemplary service to the State, Vision Quest (FVQ) has provided over 240,000 exams and 260,000 pairs of glasses to children, many of whom may have never received such services. The Report of the Inspector General (Report) blindly ignores the history of Florida's Vision Quest relationship with its volunteer physicians, the Department's recent recharacterization of FVQ's contract obligations, and the Department's inconsistent and evolving contractual demands.

To be clear, the "network physicians" are not FVQ's employees, but operate independently of FVQ and provide services to children serviced by the program through referrals from FVQ. Until recently, FVQ's 63 "network physicians" provided services on a volunteer basis, each seeing no more than 4 patients each month. Nearly all of these physicians provided volunteer services over many years, including before the most recent contract between FVQ and the Department was executed in 2017, and subsequently renewed. The practice of using volunteer physicians stopped in 2014 when the Department informed FVQ that it was impermissible for physicians to provide volunteer services to children receiving services, and that FVQ *must* pay the network physicians. Despite issuing this mandate and threatening termination of the contract, the Department provided no legal opinion for its position. To avoid discord and minimize the risk to its contract, FVQ complied with the Department's mandate and began paying its physicians a nominal fee.

Though the Department has never provided the legal opinion to FVQ upon which the Report rests its conclusions and has only made demands concerning the E-Verify requirements and level 2 background screening for the network physicians when it reclassified them as subcontractors within the last four months, the Report never references the fact that for years the physicians provided such services as *volunteers*

who would have never been subject to the E-Verify requirements for the simple fact that they were unpaid volunteers not subject to the provisions of §274A(e) of the Immigration and Naturalization Act (8 U.S.C. 1324a) or § 101 of the Immigration Reform and Control Act of 1986. It was only when the Department demanded FVQ pay physicians who wanted to volunteer their services that a contractual conflict arose.

Moreover, the Report improperly suggests subcontractors and subcontractor staff were not timely processed in the E-Verify system, but fails to identify a single instance of a *new* employee of a subcontractor for which e-verify was not conducted. The standard contract requires FVQ or its subcontractors "to verify the employment eligibility of all new employees hired during the contract term by the provider." Standard Contract, I.C.1.f. As the Report itself recognized, most of FVQ's doctors had partnered with FVQ for 20+ years. Admittedly, the physician's agreements did not include the E-Verify language, but that only became an issue when the Department unilaterally prohibited physicians from volunteering their services and deemed them subcontractors. The Report does not indicate a single instance where an E-Verify check would have been required, yet deceptively suggests there were multiple checks that were not conducted with zero support.

As to the issue of background screening, the Report cites to section 110.1127(2)(a), Florida Statutes, as grounds that background screening of physicians and their staff was required. Just as with E-Verify, there is no reference or analysis as to whether those requirements would apply to volunteer physicians, and the Department never previously demanded background checks for the volunteer physician's services who were providing minimal services and still subject to governance by the various medical boards.

Based upon the Department's recent mandates prohibiting volunteer physicians and demanding E-Verify and level 2 background screening requirements for all physicians and their staff, it became apparent that such requirements were onerous and unjustified in light of the small volume of children seen by the participating physicians. Accordingly, FVQ has decided to terminate its use of outside physicians to perform examinations under the program. The termination of the use of outside network physicians would appear to address and resolve each of the concerns raised in the Inspector General's Report.

We offer this response to set a more complete record that more accurately reflects how these matters developed and FVQ's intention to comply with its obligations going forward.

Sincerely,



Kelly Haynes