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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 10, 2006

Mr. Richard P. Mills
Commissioner
State Education Department
Education Building
Albany, NY 12234

Mr. James C. Ross
President
Higher Education Services Corporation
99 Washington Avenue
Albany, NY 12255

Re: Roberts Business Institute
Report 2005-T-1

Dear Messrs. Mills and Ross:

According to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, Article II, Section 8 of the State Finance Law, and a Memorandum of Agreement dated December 1, 1989, involving the State Comptroller, the Commissioner of Education, the President of the Higher Education Services Corporation (HESC), and the Director of the Budget, we audited the records and procedures used in administering the Tuition Assistance Program (TAP) at Roberts Business Institute (RBI) for those students who received TAP awards in the fall 2003 and/or spring 2004 academic terms.

Summary Conclusions

In accordance with Article 14, Section 665(3)(b) of the New York State Education Law (Law), we determined that RBI was overpaid \$622,601 because school officials incorrectly certified 130 students as eligible for 275 TAP awards. Therefore, we recommend that HESC recover a total of \$622,601, plus applicable interest, from RBI.

Background

RBI was a not-for-profit registered business school located in Manhattan, New York. It was incorporated in October 2002 and began accepting students in Summer 2003. RBI offered the following four programs which were registered with the New York State Education Department (SED): a Medical Office Specialist program, a Computer Office Specialist program, Travel and Tourism and Legal Secretary with Internship. These TAP eligible programs were 1,500-hours long and offered over four 15-week terms, with the last term offered as an internship. A typical student's

program consists of 25 hours of instruction per week. RBI was never eligible for Federal student aid (Pell Grants).

TAP is the largest of the various student grant and scholarship programs administered by HESC. It is an entitlement program designed to provide tuition aid to eligible full-time students who are enrolled in a variety of eligible programs.

We provided draft copies of this report to HESC, SED and RBI officials for their review and comments. RBI officials did not respond to the report. SED and HESC agree with the conclusions in this report.

Audit Scope, Objective, and Methodology

The objective of our performance audit was to determine whether RBI's management complied with the Law and the Commissioner of Education's Rules and Regulations (Regulations) for certifying students as eligible for TAP awards. The scope of our audit did not include reviews of the process HESC follows in determining the amount of such awards.

According to HESC records, RBI certified and received 406 TAP awards totaling \$920,150 on behalf of 201 students who received TAP awards during the fall 2003 and/or spring 2004 academic terms. We reviewed 315 awards totaling \$707,557 made to 150 students during this period. We also reviewed 11 other awards totaling \$25,638 that came to our attention during the audit. These awards were paid on behalf of RBI students who were certified as eligible for TAP awards on an American Center for Career Training (ACCT) roster. ACCT, which ceased operations in October 2004, was a not-for-profit business school headed by the President of RBI. ACCT operated from the same location using identical staff and administrators. We previously audited ACCT (Report number 2004-T-5). The 11 awards were not previously disallowed.

As is our practice, we notify school officials at the start of each audit that we will be requesting a representation letter in which school management provides assurance, to the best of their knowledge, concerning the relevance, accuracy, and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors and to reduce the likelihood of misunderstandings. In the representation letter, school officials assert that, to the best of their knowledge, all relevant financial and programmatic records and related data supporting the eligibility of students for TAP awards have been provided to the auditors. School officials affirm that these records are original, complete, and unaltered, and were prepared during the appropriate periods of the students' attendance. They also affirm either that the school has complied with all required procedures established by HESC and SED to ensure that students are properly certified for TAP awards, or that any exceptions have been disclosed to the auditors.

However, an RBI official has informed us that he is awaiting advice from his legal counsel before providing a representation letter in connection with this audit. As a result, we lack assurances from school officials that all relevant information was provided to us during the audit.

We conducted our audit according to generally accepted government auditing standards. Such standards require us to plan and perform our audit to adequately assess those operations of RBI that are included within our audit scope. These standards also require that we review and report on RBI's internal control system and its compliance with those laws, rules, and regulations that are relevant to RBI's operations and are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records, and applying such other auditing procedures as we consider necessary. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations.

In planning and performing our audit of RBI, we reviewed management's internal control system. Our audit was limited to a preliminary review of this system to obtain an understanding of the environment and the flow of transactions through the accounting system and other systems that would support claims for student financial aid.

RBI's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of RBI's compliance with certain provisions of the Law and Regulations. Our objective in performing these tests was to obtain reasonable assurance that the students who received TAP awards were eligible for them. Our objective was not to provide an opinion on RBI's overall compliance with such provisions. Our audit found that, for the transactions and records tested, RBI was generally not in compliance with these provisions, as noted in the following sections of this report.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Audit Disallowances

The following table summarizes the disallowances that resulted from our audit.

<u>Reason for Disallowance</u>	<u>Number of Awards</u>	<u>Amount</u>
Graduates Not Provided Program As Approved:		
1,500 Hour Requirement	144	\$ 328,379
Students Not Meeting Full-Time Requirements	190	435,409
Students Not in Good Academic Standing	76	170,575
Over-certified Tuition	<u>3</u>	<u>3,790</u>
Total Disallowances	413	\$ 938,153
Less: Disallowances for More Than One Reason	<u>138</u>	<u>\$ 315,552</u>
Net Disallowance	<u>275</u>	<u>\$ 622,601</u>

The disallowances are discussed in the following paragraphs. Students' names and related information were provided separately to RBI's officials.

General Requirements

Registered business schools must follow requirements established in the Law, the Regulations, and SED guidelines to ensure that their course hours are taught in an educationally sound manner. These requirements include:

- Sections 5001(1)(b) and 5002(6)(a) of the Law require registered business schools to employ teachers who are licensed by SED.
- Section 5002(1)(b)(3) of the Law requires SED to establish standards governing the maximum enrollment that a registered business school's equipment and physical plant will accommodate. SED's Policy Guideline (PG) No. 11-0301 established the methodology for determining the maximum student capacity for approved classrooms. SED has examined and set a maximum capacity for each classroom at RBI.
- Section 126.4(a) of the Regulations requires that SED approve the student-to-teacher ratio for each course or curriculum, and states that schools shall ensure that student enrollment does not exceed the approved ratio after the first week of instruction.
- Section 126.4(e)(1) of the Regulations requires that schools maintain an attendance register for each course. The register is to include, among other things, the name of the course, the room number, the time and date of each class session, a daily record of attendance for each student, the name and signature of the instructor, and verification by instructor that the attendance register is accurate.

SED has advised us that hours not taught in accordance with these requirements are not considered educationally sound, therefore such hours do not count toward determining whether students who graduated were offered a program meeting the approved minimum program requirements of 1,500 or more instructional hours, were taught the core course requirements of the program in which they were enrolled, or met the full-time attendance requirement for their TAP awards.

Graduates Not Provided Program As Approved

Criteria - Section 604 of the Law requires that students, including those attending registered business schools be enrolled in approved programs and demonstrate the ability to complete such courses to be eligible for TAP awards. Section 145-2.3(b)(2)(iii) of the Regulations defines an approved two-year program as one that provides at least 1,440 instructional hours. Section 126.4 of the Regulations provides that proprietary schools shall conduct only those curricula or courses that have been approved by the Commissioner. Students become ineligible for TAP awards if the total number of instructional hours offered is less than the amount registered with SED, or courses were not offered or had not been offered in an educationally sound manner.

Audit Determination - We disallowed 144 awards that had been paid on behalf of 36 students who graduated from RBI but were not provided the minimum number of approved instructional hours, as required.

- Twenty-six students were taught by teachers who were not licensed to teach the courses they taught.
- Seven students were enrolled in classes where the instructor did not sign the attendance register and/or the attendance register was not completed, as required.
- Twenty-one students were enrolled in courses in which the class size exceeded the classroom capacity for those courses.
- Thirty-one students were enrolled in courses in which the number of registered students exceeded the student-teacher ratios for those courses.

The status of several of these students who graduated without being provided the program as approved was disallowed for multiple reasons. Duplicate disallowances were subtracted out when determining the net audit disallowance.

School Officials' Position - School officials did not respond to this finding. RBI ceased operations in November 2005.

Students Not Meeting Full-Time Requirements

Criteria - Section 661(4)(b) of the Law requires in relevant part, that a student be in full-time attendance, as defined by the Commissioner of Education, to be eligible for a TAP award. Section 145-2.1(b) of the Regulations states that, in non-collegiate programs that measure study in terms of instructional hours, full-time study requires a minimum of 24 instructional hours a week. Section 126.4 of the Regulations states that schools shall conduct only those courses that have been approved by the Commissioner, and shall conduct such courses in accordance with Section 5002(4) and (5) of the Law. As described in the general requirements above, course hours not offered in an educationally sound manner are not counted toward determining a student's full-time status.

Audit Determination - We disallowed 190 awards that had been paid on behalf of 128 students who did not meet the full-time attendance requirements. These students were not offered at least 24 hours of instruction a week in an educationally sound manner, as detailed below:

- Thirty-six students were taught by teachers who were not licensed to teach the courses they taught.
- One student was enrolled in courses for which the school could not provide an attendance register.
- Eighty-four students were enrolled in courses in which the class size exceeded the classroom capacity for those courses.

- One-hundred nine students were enrolled in courses where the number of registered students exceeded the SED approved student-teacher ratios for those courses.
- Twenty-one students were enrolled in courses where the instructor did not sign the attendance register and/or the register was not completed, as required.
- One student received two TAP awards. However, the student was not enrolled in any classes.
- One student repeated a previously passed course.

The full-time status of most of these students was disallowed for multiple reasons. Duplicate disallowances were subtracted out when determining the net audit disallowance.

School Officials' Position - School officials did not respond to this finding. RBI ceased operations in November 2005.

Students Not in Good Academic Standing

Criteria - Section 665(6) of the Law requires students to be in good academic standing to be eligible for TAP awards. To maintain such standing, a student is required by Section 145-2.2 of the Regulations to maintain satisfactory academic progress towards completion of a program and to pursue the program of study in which he or she is enrolled. To maintain satisfactory academic progress, a student must complete a portion of the curriculum with a minimum cumulative passing average. A student is pursuing the approved program of study if, during each term of study for which an award is received, the student receives a passing or failing grade in a predetermined percentage of the minimum full-time course load required to qualify for the appropriate level of TAP payment.

A student who fails to maintain good academic standing loses TAP eligibility. However, good academic standing can be regained if the deficiencies are made up without additional State awards, a TAP waiver is obtained, or the student remains out of school for at least one calendar year or transfers to another institution.

Audit Determination - We disallowed 76 awards that had been paid on behalf of 33 students who failed to maintain good academic standing. Thirty-two of these students received awards after failing to meet the pursuit of program requirements. The remaining student had not met the pursuit of program requirement, did not earn the cumulative grade point average required on the school's chart of satisfactory academic progress, and did not meet the required attendance percentage to maintain TAP eligibility. The 33 students had not received waivers, had not made up the deficiencies without additional State awards, or had not remained out of school for one year. Therefore, they were not eligible for their TAP awards.

School Officials' Position - School officials did not respond to this finding. RBI ceased operations in November 2005.

Over-certified Tuition

Criteria - Section 665(3) of the Law requires that participating institutions certify to HESC the actual amount of tuition liability incurred by each student receiving a TAP award. Section 667 of the Law requires that the amount of the TAP award be based on the amount of tuition a student is charged. Section 2205.3(b) of the HESC Regulations states that institutions shall be responsible for the accuracy of information reported to HESC concerning the tuition charged the applicant. PG 16-0301 states that TAP funds may be collected only for each full term or quarter in which the student is in full-time attendance.

Audit Determination - We fully or partially disallowed three awards that had been paid on behalf of three students whose tuition liability had been reported inaccurately to HESC. These three students should have been charged a lower tuition than the amount reported to HESC. Recalculation of the award amounts by HESC, based on the actual tuition each student was charged, resulted in a reduction in the students' TAP awards.

School Officials' Position - School officials did not respond to this finding. RBI ceased operations in November 2005.

Recommendation to the Higher Education Services Corporation

Recover the \$622,601, plus applicable interest, from Roberts Business Institute for its incorrect TAP certifications.

Since the school closed, we have no recommendations for SED.

Major contributors to this report were Karen Bogucki, Harold Maher, Kezia Chacko, Yelena Feldman and Danielle Marciano.

We wish to express our appreciation to the management and staff of Roberts Business Institute for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Kenrick Sifontes
Audit Manager

cc: Robert Berger
John F. Cape, Division of the Budget