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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 4, 2008

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: Brooklyn Institute of Business Technology
Report 2007-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 the Brooklyn Institute of Business Technology (BIBT) for the 2003-2004 through 2005-2006 academic years.

Summary Conclusions

In accordance with Article 14, Section 665(3)(b) of the New York State Education Law (Law), we determined that BIBT was overpaid \$1,337,581 because school officials incorrectly certified 30 students as eligible for 42 TAP awards. We tested the accuracy of the 1,166 TAP certifications the school awarded for the three-year period that ended on June 30, 2006, by reviewing a sample of 50 randomly-selected awards, and evaluating the results using statistical methods. From our random sample, we disallowed 31 awards totaling \$69,532. A projection of these audit disallowances to the entire population, using a 95 percent single-sided confidence level, results in an audit disallowance of \$1,311,847. We also disallowed 11 awards totaling \$25,734 based on our review of awards from outside the statistical sample. These awards were not projected to the population. Therefore, we recommend that HESC recover a total of \$1,337,581 plus applicable interest, where appropriate, from BIBT.

Background

BIBT, which ceased operations on June 12, 2007 while we were conducting our audit fieldwork, was a two-year not-for-profit registered business school located in Brooklyn, New York. The New York State Education Department (SED) approved 24 of BIBT's programs for State financial aid eligibility. Some of the 24 programs required that students attend 1,536 hours of instruction whereas others required 1,920 hours of instruction.

TAP is the largest of the various student grant and scholarship programs administered by the New York Higher Education Service Corporation (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 BIBT officials for their review and comments. BIBT officials did not fully respond to this report. SED and HESC agree with the conclusions in this audit report.

Audit Scope, Objective, and Methodology

The objective of our performance audit was to determine whether BIBT's management complied with the Law and the Rules and Regulations (Regulations) of the Commissioner of Education, Title 8, NYCRR, for certifying students as eligible for TAP awards. The scope of our audit did not include a review of the process HESC follows in determining the amount of such awards.

According to HESC records, BIBT officials certified 1,166 TAP awards totaling \$2,744,678 that were paid on behalf of 489 students during the three academic years that ended on June 30, 2006. We reviewed a random sample of 50 TAP awards totaling \$115,515 that were made to 49 students during that period and evaluated the results using statistical sampling methodologies. We also reviewed other awards that came to our attention 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 BIBT that are included within our audit scope. Further, these standards also require that we review and report on BIBT's internal control system and its compliance with those laws, rules, and regulations that are relevant to BIBT'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 BIBT, 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 school's accounting system and other systems supporting the claims for student financial aid.

BIBT's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of BIBT'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 BIBT's overall compliance with such provisions. Our audit found that, for the transactions and records tested, BIBT generally did not comply with the provisions referred to in the preceding paragraph. Our exceptions are 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. 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 functions do not affect our ability to conduct independent audits of program performance.

Audit Results

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

<u>Reason for Disallowance</u>	<u>Number of Awards</u>	<u>Amount</u>	<u>Total</u>
Disallowances from the Statistical Sample:			
Graduates Not Provided Program As Approved			
1,536/1,920 Hours Requirement	12	\$24,656	
Core Course Requirements	9	18,905	
Students Not Meeting Full-Time Requirements	18	37,795	
Students Not Meeting Matriculation Requirements	13	31,123	
Student Not in Good Academic Standing	1	1,512	
TAP Awards Not Credited to Students' Accounts	<u>3</u>	<u>5,050</u>	
Total Disallowance from the Statistical Sample	56	\$119,041	
Less: Disallowance for More than One Reason	<u>25</u>	<u>49,509</u>	
Net Disallowance from the Statistical Sample	<u>31</u>	<u>\$69,532</u>	
Projected Amount			\$1,311,847
Disallowances from Outside the Statistical Sample Period:			
Graduates Not Provided Program As Approved			
1,536/1,920 Hours Requirement	7	\$16,075	
Core Course Requirements	7	16,075	
Students Not Meeting Full-Time Requirements	5	11,533	
Students Not Meeting Matriculation Requirements	3	7,450	
Students Not in Good Academic Standing	<u>2</u>	<u>4,709</u>	
Disallowance from Outside the Sample Period	24	\$55,842	
Less: Disallowance for More than One Reason	<u>13</u>	<u>30,108</u>	
Total Disallowance from Outside the Sample Period	<u>11</u>		<u>25,734</u>
Net Audit Disallowance			<u>\$1,337,581</u>

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

General Requirements

Registered business schools must follow requirements established in the Law, the Regulations, and SED's 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 BIBT.
- Section 126.4(a) of the Regulations requires SED to approve the student-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 schools to maintain an attendance register for each course. The register is to include 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 and therefore do not count toward determining whether students who graduated were offered a program which met the approved minimum program requirements of 1,440 or more instructional hours, or met the full-time attendance requirement for their TAP awards.

Graduates Not Provided Program As Approved

Criteria - Section 604 of the Law requires students attending a registered business school to be enrolled in an approved program 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. A component of the approved program is a set of classes called the core requirement. SED has determined that the classes in this core requirement provides the most essential skills or competencies students need to meet the occupational objectives of the program. PG No. 16-0301 states that students in TAP programs must complete all curriculum requirements or pass qualifying examinations in those subject areas in order to receive the completion certificate. Students become ineligible for TAP if the total number of instructional hours offered is less than the amount registered with SED, or courses, including core courses, were not offered or had not been offered in an educationally sound manner.

Audit Determination - We disallowed 35 awards (21 awards from our statistical sample period and 14 from outside the period) that had been paid on behalf of 11 students who graduated from BIBT but had not been provided the minimum number of approved instructional hours, as required. Included in this are 16 awards (9 awards from our statistical sample period and 7 from outside the period) paid on behalf of 9 students who did not complete their programs' core course requirements successfully. These courses were not offered in an educationally-sound manner because they were taught by unlicensed teachers, courses were combined, attendance registers were missing, room

capacities and student-teacher ratios exceeded SED's approved requirements, and/or students did not take certain required courses.

School Officials' Position - School officials disagreed with the findings for 3 of the 11 students whose awards were disallowed because the students were taught by unlicensed teachers or their classes were combined with other classes. They contended that these teachers were licensable and therefore eligible to teach the courses. For example, they pointed out that one teacher had submitted an application for licensure; but subsequently withdrew it, while another teacher could not renew her license because a required course was not available. School officials added that they had combined two classes, Computer Applications (CA) 100 and CA 101, because of low enrollment in each one. They added that this practice did not impact the educational soundness of the courses. School officials have not responded to the disallowances for the remaining students.

Auditors' Comment - SED officials advised us that the teachers were neither licensed nor licensable during the period they taught the courses for which two of the students' awards were disallowed. They added that BIBT officials did not receive SED's approval to combine CA 100 and CA 101 - the reason for which the third student's award was disallowed.

Students Not Meeting Full-Time Requirements

Criteria - Section 661(4)(b) of the Law requires in relevant part, that students be in full-time attendance, as defined by the Commissioner of Education, to be eligible for their TAP awards. 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 Sections 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 23 awards (18 awards from our statistical sample period and 5 from outside the period) that had been paid on behalf of 19 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. Instead, we found the following:

- Six students were taught by teachers who had not been licensed to teach those courses.
- One student was enrolled in a course for which the school could not provide an attendance register.
- One student was enrolled in a course in which the class size exceeded the classroom capacity for that course.
- One student was enrolled in three courses in which the number of registered students exceeded the required student-teacher ratios.
- One student was enrolled in a course for which he/she had previously received a passing grade.

- Three students were enrolled in courses that were not part of their approved program.
- 10 students were enrolled in courses that had been combined with others - a practice that SED deems unacceptable.
- Two students were enrolled in courses whose attendance registers were signed by substitute teachers. We could not determine if these teachers were licensed to teach these courses.

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

School Officials' Position - School officials responded to our disallowances for those students whose courses had been taught by unlicensed teachers and/or that were combined with other courses. They contended that because the teachers had been licensed to teach in similar academic areas, they should be eligible to teach students the courses for which the awards were disallowed. For example, they pointed out that one teacher had submitted an application for licensure; but subsequently withdrew it, while another teacher could not renew her license because a required course was not available. School officials submitted class rosters to show that some classes had not been combined, adding that these classes had been taken on different days and in different locations. They contended that other classes had been combined because of insufficient enrollment.

Auditors' Comments - SED officials advised us that the teachers were neither licensed nor licensable to teach the courses for which the students' awards were disallowed. The class rosters provided by school officials did not show that the classes had been held at different times and in different locations. In addition, school officials did not have SED's approval to combine classes.

Students Not Meeting Matriculation Requirements

Criteria - Section 5002(1)(b)(1) of the Law requires that, to be admitted to a registered business school, students must possess either a high school diploma or its equivalent, or demonstrate the ability to benefit from the instruction, with certain exceptions. Section 126.1(g) of the Regulations defines documentation of entrance requirements as a copy of the student's high school diploma or transcript, General Equivalency Diploma and the original ability-to-benefit (ATB) examination answer sheet indicating a passing score or appropriate student certifications as specified by the approved curriculum or other approved documentation as determined by the commissioner, including but not limited to a college degree. SED Policy Guideline No. 2-0300 states that a student who attended school in a foreign country, but is unable to obtain copies of his/her high school diploma, may submit a sworn statement of the student's education. This statement (SED form BPSS-115), to be completed in English and the student's native language, must include the reason why the diploma is not accessible and the steps taken by the student and the school to obtain the diploma or transcript.

Further, the HESC Manual defines a matriculated student as one who has registered for courses or other academic activity the institute recognizes as contributing toward fulfilling the requirements for that degree, diploma or certificate.

Audit Determination - We disallowed 16 awards (13 awards from our statistical sample period and 3 from outside the period) that had been paid on behalf of 13 students who did not meet the matriculation requirement. School officials provided us with copies of the secondary education certificates, affidavits, and/or Request for Transcripts that these students, who were educated in foreign countries, had submitted as evidence of their graduation from high school. For example:

- Two students had provided copies of secondary school diplomas. However, these diplomas represent the equivalent of a 10th grade education in the United States.
- Three other students had submitted affidavits attesting that they had graduated from high school. However, in their countries, passing a national examination in a number of subjects is evidence of high school graduation and eligibility to pursue post-secondary education. These students' affidavits did not declare that they had completed such examinations.
- Another student submitted an affidavit indicating that she had graduated from high school in Pakistan in 2001. However, information in the student's files showed that she became a United States citizen in 1998 and received a United States passport in 2000. There is no indication that the student had returned to Pakistan to complete her secondary education.
- An additional six students provided affidavits and High School Transcript Request forms attesting that they had graduated from high school. However, these documents contained questionable and conflicting information. For example, three of the documents indicated that the students had graduated from high school before they were 10 years old. Two other students attested that they had graduated from high school before they were 14 years old. The document submitted by the remaining student claimed she had attended high school before she was born. BIBT officials could not explain how these individuals had met the matriculation requirements.
- One student had not registered for any courses during the term for which his award was disallowed.

The matriculation status of some of these students was disallowed for multiple reasons. Duplicate disallowances were subtracted when determining the net audit disallowance.

School Officials' Position - School officials disagree with our disallowances for the two students whose diplomas represented the equivalent of a 10th grade education in the United States. They contend that the students' diplomas should be acceptable for admittance to BIBT. They also disagreed with our disallowances for the three students who we determined had not participated in their countries' national examinations. They contended that these students did not need to pass such examinations to enter college. However, these same officials told us they would attempt to acquire high school transcripts and/or national examination results for this group, and would try to resolve

the questionable and conflicting information provided in the other students' affidavits. They did not respond to our disallowance for the student who had not registered for any courses.

Auditors' Comments - SED advised us that students with a foreign 10th grade diploma are not eligible to receive TAP awards. SED also advised that students need to show evidence that they successfully participated in their national examinations, among other requirements, in order to be eligible for TAP awards.

Students Not in Good Academic Standing

Criteria - Section 665(6)(a) 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 three awards (one award from our statistical sample period and two from outside the period) that had been paid on behalf of three students who failed to maintain good academic standing. These students had not earned passing or failing grades in enough courses, applicable to their designated programs, to meet the pursuit of program requirements. The three students had not received waivers, had not made up the deficiencies without the help of additional State awards, or by remaining out of school for one year. Therefore, they were ineligible for their TAP awards.

School Officials' Position - School officials did not respond to this finding.

TAP Awards Not Credited to Students' Accounts

Criteria - Section 2205.3(e)(iii) of the Regulations requires that each student's account be credited within seven days after the receipt of a TAP award or within seven days from the date the applicant incurred a full tuition liability for the semester, whichever is later.

Audit Determination - We disallowed three awards from our statistical sample period that the school had not credited, or not fully credited to the accounts of three students. This included an award of \$2,485 to one of the students. The school had credited only \$2,435 of this award to the student's account - a difference of \$50. Since BIBT did not distribute the funds properly so the students could benefit from their TAP awards, we are fully and/or partially disallowing these awards.

School Officials' Position - School officials disagreed with our finding. They provided us with financial records to show that an award for \$2,500 was credited to the first student's account for the

fall 2004 term. They contended that they had decertified the second student's award. They also contended that the school had received only \$2,435 from HESC for the third student.

Auditors' Comment - The financial information provided for the first student did not relate to the disallowance. The disallowed award was for the spring 2005 term rather than for the fall 2004 term. School officials could not provide any documentation to show that the spring 2005 award was credited to the student's account. We could find no evidence that the second student's TAP award was decertified. HESC records indicate that BIBT was awarded \$2,485, not \$2,435, on behalf of the third student.

Recommendation to the Higher Education Services Corporation

Recover the \$1,337,581, plus applicable interest, from the Brooklyn Institute of Business Technology for its incorrect TAP certifications.

Since the school closed, we have no recommendations for the State Education Department.

Major contributors to this report were Karen Bogucki, Erica J. Zawrotniak, Mostafa Kamal, Yelena Feldman, Danielle Marciano, and Sara Malkoukian.

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

Very truly yours,

Kenrick Sifontes
Audit Manager

cc: Leith E. Yetman, Brooklyn Institute of Business Technology
Lisa Ng, Division of the Budget