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OFFICE OF THE STATE COMPTROLLER

September 27, 2010

Dr. David Steiner
Commissioner
State Education Department
State Education Building, Room 408
89 Washington Avenue
Albany, New York 12234

Ms. Elsa Magee
Acting President
Higher Education Services Corporation
99 Washington Avenue
Albany, New York 12255

Re: Bramson ORT
Report 2009-T-2

Dear Dr. Steiner and Ms. Magee:

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 Bramson ORT (Bramson) for the 2005-2006 through 2007-2008 academic years.

Summary Conclusions

In accordance with Article 14, Section 665(3) (b) of the New York State Education Law (Law), we determined that Bramson was overpaid \$338,371 because school officials incorrectly certified 16 students as eligible for 18 TAP awards. We tested the accuracy of the 2,793 TAP certifications the school awarded for the three-year period ended June 30, 2008, by reviewing a statistical sample of 200 randomly-selected awards. From our statistical sample, we disallowed 17 awards totaling \$38,650. A statistical projection of these audit disallowances to the entire population, using a 95 percent single-sided confidence level, results in an audit disallowance of \$337,146. We also disallowed one award made for \$1,225 based on our review of other awards, from outside the statistical sample period, for these students. This award was not projected to the population. Therefore, we recommend that HESC recover a total of \$338,371 (\$337,146 and \$1,225) plus applicable interest, from Bramson.

Background

Bramson is a not-for-profit institution of higher and professional education that offers undergraduate and graduate programs in education, business, health sciences and information systems. Established as a college in 1977, Bramson's main campus is located in Forest Hills, Queens County, New York. Currently, Bramson has an enrollment of approximate 700 students who attend classes in Forest Hills and Brooklyn. The college is accredited by the Board of Regents of the University of the State of New York. The majority of Bramson's programs are approved by the State Education Department (SED) for TAP eligibility.

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 preliminary audit findings to HESC, SED and Bramson officials for their review and comments. We have considered their comments in preparing this draft audit report.

Audit Scope, Objective, and Methodology

The objective of our performance audit was to determine whether Bramson'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 a review of the process HESC follows in determining the amount of such awards.

According to HESC records, Bramson officials certified 2,793 TAP awards totaling more than \$6 million that were paid on behalf of 1,286 undergraduate students during the three academic years that ended June 30, 2008. We reviewed a statistical sample of 200 awards totaling \$444,412 that were made to 187 undergraduate students during that period. We also reviewed other awards that came to our attention during the audit.

In planning and performing our audit of Bramson, 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 college's accounting system and other systems that would support claims for student financial aid.

Bramson's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of Bramson'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 Bramson's overall compliance with such provisions. Our audit found that, for the transactions and records tested, Bramson generally complied with these provisions, except as noted in the following sections of this report.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 management 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>Reasons for Disallowance</u>	<u>Number of Awards</u>	<u>Amount</u>	<u>Total</u>
Disallowances from the Statistical Sample:			
Students Not Matriculated	15	\$33,650	
Students Not Meeting Residency Requirements	<u>2</u>	<u>5,000</u>	
Total Disallowances from the Sample Period	<u>17</u>	<u>\$38,650</u>	
Projected Amount			\$337,146
Disallowances from Outside the Statistical Sample Period:			
Students Not Matriculated	1	1,225	
Total Disallowances from Outside the Statistical Sample Period	<u>1</u>		<u>\$ 1,225</u>
Total Audit Disallowance			<u>\$338,371</u>

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

Students Not Matriculated

Criteria - Section 661 of the Education Law requires students who received their first financial aid payment in the 1996-97 academic year to the 2006-07 academic year to have a high school diploma or its equivalent, or to have achieved a passing score, as determined by the United States Secretary of Education, on a federally approved examination - referred to as Ability-to-Benefit (ATB) test. Beginning in the 2007-08 academic year, students without a high school diploma or

a General Education Diploma (GED) from the United States must pass an approved ATB exam to be eligible for state aid.

Bramson requires applicants to submit evidence of high school graduation or its equivalent, or to demonstrate their ability to benefit from higher education by passing an ATB test. An "equivalent" generally means a GED which is described in the Commissioner of Education's Rules and Regulations section 100.7(a)(2)(iii) as amended in 1999 and then in 2004. Where we found that students did not have the actual GED but complied with the GED requirements, we determined they met their matriculation requirement. With regard to the ATB test, Bramson administers and grades three federally-approved ATB tests; the Career Programs Assessment test (CPAt), the Combined English Language Skills Assessment (CELSA) test and the ASSET test provided by ACT Inc. Prior to November 16, 2006, Federal guidelines required a passing score of 90 on the CELSA test. Effective November 16, 2006, the passing score was increased to 97. Passing scores of 42, 43, and 41 on the language usage, reading and numerical components, respectively, are required to pass the CPAt. Passing scores of 35, 35 and 33 on the writing, reading and numerical components, respectively, are required to pass the ASSET test. Students not achieving a passing score on these exams would not qualify for TAP awards.

Section 661 also states that students must have a certificate of graduation from a school providing secondary education. Therefore, students with foreign high school diplomas or transcripts must have a copy of a diploma or transcript from the school they graduated from.

SED's CEO 05-04 states that when a student has graduated from high school in another state, to be acceptable, the high school or its program of study must be recognized, authorized, or approved by the state educational entity having jurisdiction.

Section 100.09 of the Commissioner's Regulation addresses issues related to the acceptability of an Individualized Education Program (IEP) high school diplomas as a basis for admission. An IEP diploma signifies that the recipient attended high school and met the goals stated in his or her individualized education program. According to SED and HESC officials, IEP students need to obtain a high school diploma or its equivalent, or pass an ATB test to qualify for TAP awards. IEP diplomas do not qualify students for such aid.

Audit Determination - We disallowed 16 awards (15 from the statistical sample period and one from outside this period) paid to 15 students that were not properly matriculated. Additional details are given below:

- Seven students did not show valid proof of completing high school, did not have a GED, or did not pass an ATB test. Six of these students took the CELSA exam but did not receive passing scores. Bramson officials admitted the students based on a passing score that was not in place at the time the students took their exams. One of these students earned a diploma from a two-year "occupational" school that was not the equivalent of a United States high school diploma.
- One student (two awards, one from the sample period and one from outside the sample period) submitted a translated copy of a foreign high school transcript without a copy of the original certificate.

- Three students provided affidavits stating that they graduated from high schools in foreign countries. For two of these students the affidavits and letters requesting the students' high school diplomas do not contain valid high school names or addresses or other necessary information. For the other student, the affidavit was not notarized as required.
- One student submitted a diploma from an on-line institution outside of New York State that is not accredited by a local education department and does not have any regional or national accreditation.
- Three students were admitted to Bramson based on IEP diplomas. Since an IEP diploma is not the equivalent of a high school diploma or a GED certificate these students were not eligible for their TAP awards.

School Officials' Position - School officials' comments are as follows:

- Although school officials agree that six of these students were not eligible for their TAP awards since they did not receive passing scores on the ATB exam, the official do not believe they are responsible for the disallowances since the software provided by the test publisher for grading the exam was not updated with the appropriate passing score. For another student school officials believe the diploma they provided is an equivalent of a United States high school diploma.
- For this student school officials believe that a translated copy of the student's transcript is acceptable proof of high school graduation.
- Bramson officials disagree with the disallowances for these three students. The officials do not believe they are required to verify information on the students' affidavits and letters requesting high school credentials.
- School officials agree with the disallowance for the student with the on-line diploma from a non-accredited school.
- School officials agree with the disallowances for the three students admitted with IEP diplomas.

Auditors' Comments - We disagree with school officials' comments as follows:

- School officials are responsible for ensuring that students meet TAP eligibility requirements. These students did not receive a passing score on the ATB exam and therefore, were not eligible for their TAP awards. For one of the other students school officials did not demonstrate that the student's foreign diploma was the equivalent of a high school diploma. School officials provided a translation of the foreign diploma but did not provide an evaluation of the diploma that indicates its equivalency.

- Section 661 of the Education Law states that students must have a certificate of graduation from a school providing secondary education. Since the student only provided a copy of a translated transcript the student did not meet the certification of graduation requirement and therefore, was not eligible for these TAP awards.
- The students' inability to provide accurate information regarding the schools they claim to have attended brings into question whether the students actually attended and graduated from these high schools.

Student Not Meeting Residency Requirements

Criteria - Section 661 of the Law requires that an applicant for a TAP award at the undergraduate level of study be a legal resident of New York State for at least one year immediately preceding the beginning of the semester for which an award is made, or be a legal resident of New York State during the last two semesters of high school. Furthermore, according to HESC's Manual of Programs and Procedures (Manual) "the student must show having established a domicile or permanent place of abode in New York State." The Manual also stipulates that institutions should not certify eligibility for New York State awards for any student whose State residency is suspect.

Audit Determination - We disallowed two sample term awards paid on behalf of one student who did not meet the New York State residency requirement. The student could not establish New York State residency for the summer 2006 and fall 2006 semesters because there was evidence in the student's file that shows the student graduated from a public high school in Philadelphia in June 2005. The student was also not listed as a dependent on his mother's 2005 New York State Resident Income Tax Return.

School Officials' Position - School officials agree with these disallowances.

Recommendations to the Higher Education Services Corporation

1. *Recover the \$338,371 plus applicable interest from Bramson for its incorrect TAP certifications.*
2. *Ensure that Bramson officials comply with the Higher Education Services Corporation requirements relating to New York State residency.*

Recommendation to the State Education Department

Ensure that Bramson officials comply with the State Education Department requirements relating to matriculation.

Major contributors to this report were Dennis Buckley, Harry Maher, Yelena Feldman and Hector Arismendi.

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

Very truly yours,

Steven E. Sossei, CPA
Audit Director

cc: Dr. Ephraim Buhks, Bramson ORT
Tom Lukacs, Division of the Budget