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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 9, 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: Long Island Business Institute
Report 2005-T-4

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 Long Island Business Institute (LIBI) for those students who received TAP awards for the 2002-2003 through 2004-2005 academic years.

Summary Conclusions

In accordance with Article 14, Section 665(3)(b) of the New York State Education Law (Law), we determined that LIBI was overpaid \$327,421 because school officials incorrectly certified numerous students as eligible for TAP awards. We tested the accuracy of the 4,121 TAP certifications the school awarded for the three-year period that ended on June 30, 2005, by reviewing a sample of 200 randomly-selected awards, and evaluating the results using statistical methods. From our random sample, we disallowed 13 awards totaling \$28,716. A projection of these audit disallowances to the entire population, using a 95 percent single-sided confidence level, results in an audit disallowance of \$327,650. We also disallowed five awards totaling \$7,525 based on our review of awards from outside the statistical sample. These awards were not projected to the population. Also, LIBI officials decertified three awards totaling \$5,833 and subsequently refunded

to students three awards totaling \$1,921 that were not credited previously to the students' accounts. Therefore, we recommend that HESC recover a total of \$327,421, plus applicable interest, from LIBI.

Background

LIBI a proprietary degree granting school has campuses in Suffolk and Queens counties, New York. LIBI began in 1968 as a court reporting school in Commack, Long Island and was certified as an occupational college in 1995 by the New York State Board of Regents. The Regents authorized LIBI to award the Associate in Occupational Studies under the guidance of the Office of Higher Education of the New York State Education Department (SED). LIBI is accredited by the Accrediting Council of Independent Colleges and Schools. LIBI also offers diploma and certificate programs. The Flushing Branch, located in Queens, opened in 2001.

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 the matters discussed in this report to HESC, SED and LIBI officials for their review and comments. We have considered their comments in preparing this audit report.

Audit Scope, Objective, and Methodology

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

According to HESC records, LIBI officials certified 4,121 TAP awards totaling \$8,795,792 that were paid on behalf of 2,014 students during the three academic years that ended on June 30, 2005. We reviewed a sample of 200 randomly-selected TAP awards totaling \$426,242 that were made to 192 students during that period and evaluated the results using statistical sampling methods. 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 LIBI that are included within our audit scope. These standards also require that we review and report on LIBI's internal control system and its compliance with those laws, rules, and regulations that are relevant to LIBI'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 LIBI, we reviewed management's internal control system. Our work 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 supporting claims for student financial aid.

LIBI's management is responsible for complying with the Law and the Regulations. In connection with our audit, we performed tests of LIBI'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 LIBI's overall compliance with such provisions. Our audit found that, for the transactions and records tested, LIBI 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 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:			
Students Not Meeting Matriculation Requirements	9	\$21,305	
Students Not in Good Academic Standing	2	4,078	
Student Not Meeting Residency Requirements	1	2,500	
Student Receiving Excess TAP Award	<u>1</u>		833
Total Disallowances from the Statistical Sample	<u>13</u>	<u>\$28,716</u>	
Projected Amount			<u>\$327,650</u>
Disallowances from outside the Statistical Sample:			
Students Not Meeting Matriculation Requirements	3	\$7,342	
TAP Awards Not Credited to a Student's Account	<u>2</u>	<u>183</u>	
Total Disallowances from Outside the Sample Period	<u>5</u>		<u>7,525</u>
Less: Decertified Awards from our Statistical Sample		(5,833)	
Awards Subsequently Credited to Students' Accounts		<u>(1,921)</u>	
			<u>(7,754)</u>
Total Audit Disallowance			<u>\$327,421</u>

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

Students Not Meeting Matriculation Requirements

Criteria - Section 661 of the Law requires students to be matriculated in an approved program to be eligible for financial aid. It also requires students who received their first financial aid payment in the 1996-97 academic year or thereafter, to have a certificate of graduation from a high school or its recognized equivalent; or to have achieved a passing score, as determined by the United States Secretary of Education (Secretary), on a federally approved examination referred to as an Ability-to-Benefit (ATB) test.

According to Title 34 of the Code of Federal Regulations, a student who does not have a high school diploma, or its recognized equivalent, is eligible to receive funds under Title IV, Higher Education Act programs only if the student takes an independently administered test. SED officials have advised us that the Secretary's requirements for administering ATB tests apply to ATB tests used to determine TAP eligibility.

On October 11, 2002, SED issued Chief Executive Officers (CEO) Memorandum No. 6. This memorandum, known as CEO No. 6, was addressed to chief executive officers of New York State degree-granting institutions and described the types of documents that would be considered acceptable as evidence of high school graduation. CEO No. 6 state that "affidavits will be acceptable to substantiate high school completion when there is documented evidence that an effort has been made to obtain a credential but extenuating circumstances such as a natural disaster, fire, closing of a school, or inaccessible foreign documents made it impossible." CEO No. 6 further stated that SED planned to develop and issue guidelines for degree-granting institutions concerning the proper procedures for using affidavits. It added that "until the guidelines are available, institutions must assure that affidavits are obtained at the time of admission and are signed by the student, dated, and notarized."

Section 52.2 of the Regulations further states, "The admission of students shall be determined through an orderly process using published criteria which shall be uniformly applied." Compliance with this requirement is demonstrated when students meet the institution's admission criteria as published in its catalog. LIBI requires applicants to provide proof of high school graduation or its equivalent. In addition, students are required to take an ATB test for admittance.

Audit Determination - We disallowed 12 awards that had been paid on behalf of 9 students who were not properly matriculated (9 awards from our statistical sample and 3 from outside the sample). One of the nine students was admitted to LIBI and received two TAP awards even though he had received a failing score on the ATB test.

According to documents provided by LIBI officials, the eight remaining students had attended high schools in foreign countries. These students did not take an independently administered ATB test. Instead, school officials provided us with copies of either foreign secondary education certificates and/or affidavits to show that the students had graduated from high school. However, six of the eight students attended foreign high schools that have an English-derived

education system. This system requires students to pass an independently administered national examination to be considered high school graduates and thus eligible for post-secondary school study. None of the six students indicated or provided documentation that would show that they had passed the required examination.

The remaining two students had submitted affidavits to substantiate high school completion because they reported that they had lost their high school diplomas. However, the affidavits were incomplete and the request for transcripts mailed by LIBI officials, using the addresses provided by these students, were returned as undeliverable.

School Officials' Position - School officials agree with the disallowance for the student who failed the ATB test. They disagree with our determination for the other eight students. School officials contend that SED has never issued guidelines for requesting or obtaining results for nationally administered examinations from foreign schools that have an English-derived education system. They also contend that it is their understanding that a student who does not take the nationally administered exam is still considered to be a high school graduate.

School officials added that request for transcripts are mailed to the high schools at the addresses recorded on the students' affidavits. They added that they make a diligent effort to obtain and verify addresses of foreign high schools prior to mailing requests for transcripts. Such efforts include internet searches.

Despite their disagreement, school officials indicate they have implemented a new procedure that will require all foreign applicants be given an independently administered ATB test

Auditors' Comment - SED has informed us that a foreign student who attended high school under the English-derived school system must possess the appropriate Certificate of Education, based on passing a nationally administered examination, to be considered a high school graduate. The affidavits provided by the students, whose TAP awards were disallowed, did not comply with SED's requirements.

Students Not in Good Academic Standing

Criteria - Section 665(6) of the Law requires that students to be in good academic standing to be eligible to receive TAP awards. To maintain such standing, a student is required by Section 145-2.2 of the Regulations to maintain satisfactory academic progress toward 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 accrue a certain minimum number of credits and earn a specified minimum cumulative grade point average, as required on the chart of satisfactory academic progress published by the school and approved by SED. A student is pursuing the approved program of study if, during each term of study for which an award is received, he or she 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 two sample term awards paid on behalf of two students who did not 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. One of these students also had not earned the cumulative grade point average required on LIBI's chart of satisfactory academic progress to maintain his/her TAP eligibility.

School Officials' Position - School officials do not agree with one of the findings. They contend that one student's file contained the paperwork for the waiver, that would allow the student to regain good academic standing, but it was not recorded. They added that this was an oversight and attributed it to human error. School officials claim they have since rectified this oversight by informing HESC of the waiver. School officials concur with the other disallowance.

Auditors' Comment - Students who fail good academic standing could only be certified for a TAP award once they regain eligibility by one of the four prescribed methods. By failing to record the waiver in a timely manner, school officials did not comply with SED's requirements.

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 to be a legal resident of New York State (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 the State and have been a legal resident during the final 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 State awards for any student whose State residency is suspect.

Audit Determination - We disallowed one award from our statistical sample that had been paid on behalf of a student who was not a legal resident of New York for the year prior to the semester for which the TAP award was disallowed. The student indicated on his financial aid application that he became a legal resident of the State in September 2002. This was eight months prior to the student starting at LIBI.

School Officials' Position - School officials indicated they had decertified the student during an internal audit and had refunded the award to HESC.

Auditors' Comment - The award that was decertified was used in determining the projected disallowance amount. It has been subtracted in determining the total audit disallowance.

Student Receiving Excess TAP Award

Criteria - Section 665 of the Law states that the annual award to each recipient shall be paid in separate installments on a prorated basis, for each semester, quarter, or other term of attendance during the academic year. Moreover, Section 2205.3 of the Regulations requires institutions to accurately report their term structure to HESC. Term payments are based on the institution's

academic calendar. LIBI students who are enrolled as court reporting majors are certified on a four-point semester-based term structure while students in the other programs are certified on a six-point semester-based term.

Audit Determination - We partially disallowed one award from our statistical sample that had been paid on behalf of a student. This student received a TAP award based on the higher six-point term rather than on the four-point term under which the student was enrolled. We disallowed the difference between the award amounts for the term.

School Officials' Position - School officials agree with this finding. They have since changed the certification of this student from a six-point term to a four-point term.

TAP Awards Not Credited to a Student's Account

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.

Audit Determination - We disallowed two awards from outside the sample period which the school had not credited to the account of a student.

School Officials' Position - School officials attribute the issue to human error and, upon discovery, immediately corrected the issue by posting the TAP awards to the students' account. In addition, they indicated that they have implemented new procedures that will improve the process of posting TAP awards to students' accounts.

Auditors' Comment- LIBI posted the TAP award as a result of our audit. Awards subsequently credited to students have been subtracted in determining the total audit disallowance.

Recommendations to the Higher Education Services Corporation

1. *Recover the \$327,421, plus applicable interest, from Long Island Business Institute for its incorrect TAP certifications.*
2. *Ensure that Long Island Business Institute officials comply with the Higher Education Services Corporation requirements relating to New York State residency, crediting of TAP awards to students' accounts, and certification of TAP awards.*

Recommendation to the State Education Department

Ensure that Long Island Business Institute officials comply with State Education Department requirements relating to good academic standing and matriculation cited in this report.

Major contributors to this report were Karen Bogucki, Erica J. Zawrotniak, Orin Ninvalle, Rita Verma and Natalie Gordon.

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

Very truly yours,

Kenrick Sifontes
Audit Manager

cc: Philip Stander, Long Island Business Institute
Lisa Ng, Division of the Budget