Report Highlights

Louisiana Stadium and Exposition District - Superdome/Arena Management Agreement

May 2006

Louisiana Legislative Auditor

LOUISIANA STADIUM & EXPOSITION DISTRICT
LOUISIANA SUPERDOME
SUGAR BOWL DRIVE
NEW ORLEANS, LA 70112
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The Louisiana Stadium and Exposition District (the district) owns the Louisiana Superdome and the New Orleans Arena, among other properties. Act 541 of the 1976 Regular Legislative Session transferred all power and authority for the management of the district's properties to the state through the governor's office. The act also authorized the governor to contract with an experienced professional management organization to manage the district's properties. In June 1977, the governor contracted with HMC Management Corporation (the predecessor in interest of SMG) for the management of the Superdome. In June 1998, the state amended the agreement to include the management of the New Orleans Arena.

Audit Results

We compared the management agreement between the State of Louisiana and SMG with similar agreements in other states and found the following:

- **Contract Provisions Are Not Clear and Concise.** The agreement contains vague language in some cases and complex language in others.

- **Management Fee Calculations Should Be Simplified**. The current management fee structure involves numerous complicated calculations, thus making the structure cumbersome and difficult to understand. The revised fee structure that takes effect July 1, 2006, is less complex. However, the number of calculations is inconsistent with other similar agreements, which continues to make the fee structure difficult to understand.

- **Incentive Fee Is Not Performance-based.** The incentive fee does not require SMG to meet or exceed any clear, measurable performance standards, and the fee does not include penalties for poor performance.

- **Management Fees Paid to SMG Are Higher Than Management Fees Paid in Other States.** The management fees paid to SMG in Louisiana over the last three fiscal years are significantly higher than those paid in other states for similar services.

- **Management Agreement Does Not Provide Sufficient Oversight Authority.** The management agreement does not provide for specific oversight functions to ensure that the Superdome and the Arena are properly managed. While the agreement contains some oversight provisions for the Arena, there are little to no oversight provisions for the Superdome.

- **Board's Oversight Practices Are Limited.** The board exercises some oversight over SMG, but this oversight is limited by the lack of oversight provisions in the management agreement, the information received from SMG, and the lack of expertise or staff needed to provide necessary oversight.

Steve J. Theriot, CPA

Legislative Auditor

How Does the Management Agreement Compare to Similar Agreements in Other States in Terms of Compensation and Oversight?

Contract Provisions Are Not Clear and Concise

- The Louisiana/SMG management agreement contains language that is vague and often complex. Similar agreements in other states are more straightforward than the Louisiana/SMG agreement.
- For example, the agreement does not specify which state entity is responsible for overseeing the relationship between SMG and Louisiana.
- Also, the agreement gives broad authority to the state regarding budget approval, and there are no specific provisions identifying to what extent the state is to be involved in the approval of the budget.
- In addition, the number of calculations required to determine SMG's total management fee is excessive when compared to similar agreements in other states.
- These problems make the agreement confusing, cumbersome, and difficult to manage.

Recommendation

✓ The district should work with the Office of the Governor and SMG to renegotiate the management agreement so that it is clear and concise.

Management Fee Calculations Should Be Simplified

- The current management fee structure involves numerous complicated calculations, thus making the structure cumbersome and difficult to understand. This fee structure is not comparable to the other agreements we reviewed.
- The revised management fee structure, which takes effect July 1, 2006, contains base fees for the Superdome and the Arena and an incentive fee. However, the total management fee contains numerous calculations when compared to the other agreements.
- With such a complex management fee, the state and the district may not be able to determine if the financial interests of the state are being protected.

Recommendation

✓ The district should work with the Office of the Governor and SMG to renegotiate the management fee structure to simplify the calculations that are required to determine the total management fee.

Incentive Fee Is Not Performance-Based

- Unlike similar agreements in other states, the incentive fee is calculated based on a percentage of revenues generated and does not require SMG to meet or exceed any clear, measurable performance standards.
- Also, the incentive fee does not include penalties for poor performance. As a result, SMG is guaranteed to receive an incentive fee each year.

Recommendation

✓ The district should work with the Office of the Governor and SMG to renegotiate the incentive fee to include clear, measurable performance expectations and standards. The incentive fee should be structured so that SMG is rewarded only when it has met the standards.

Management Fees Paid to SMG Are Higher Than Management Fees Paid in Other States

- The management fees paid to SMG in Louisiana over the last three fiscal years are significantly higher than those paid in other states for similar services.

- Over the last three fiscal years, the state has paid SMG a total of $7,770,918 in management fees, in addition to the $6,927,353 SMG paid to the Superdome Marketing and Promotional Fund. These fees do not include any operating expenses.

- SMG has projected that its fee will be no more than $1,085,000 under the revised fee structure that takes effect July 1, 2006, adjusted annually for inflation. However, the projected fee is higher than the fees paid in other states.

Recommendation

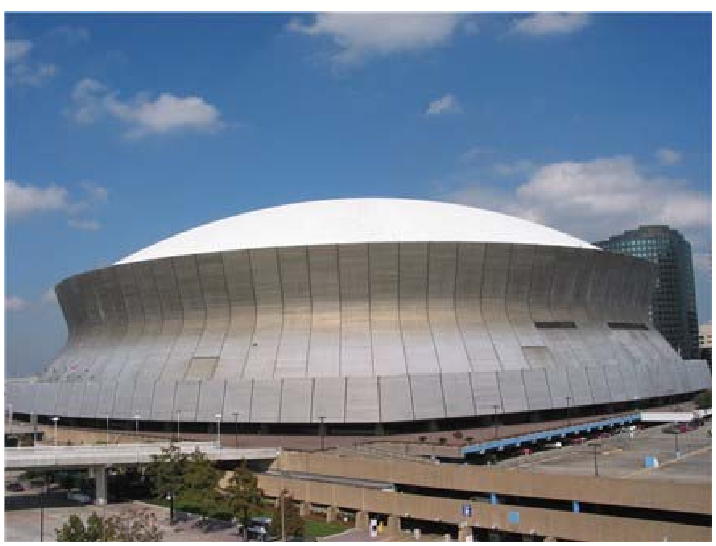
✓ The district should work with the Office of the Governor and SMG to determine why the fees paid in Louisiana are higher than those in other states with similar agreements. They should then work to renegotiate the compensation paid to SMG.

Management Agreement Does Not Provide Sufficient Oversight Authority

- The Louisiana/SMG management agreement does not provide for specific oversight functions to ensure that the Superdome and the Arena are properly managed.

- Other agreements we reviewed provide specific governing entities with more authority and more detail concerning procedures to perform their responsibilities.

- **Governing Entity.** The Louisiana/SMG agreement does not identify the specific entity within the governor's office that is responsible for overseeing SMG's management and operation of the Superdome and the Arena. The majority of the other agreements we reviewed clearly identify those entities that have oversight responsibilities.



Recommendation

✓ The district should work with the Office of the Governor to renegotiate the management agreement so that responsibility for oversight is assigned to a specific individual or entity with the necessary expertise and authority to assess service quality and enforce contract provisions.

- **General Management.** The Louisiana/SMG agreement does not contain comparable oversight provisions related to the general management of the facilities. For example, the agreement does not require the governor's office to limit SMG's authority through policies and procedures. Also, the agreement does not require SMG to have a performance bond or to meet performance benchmarks.

Recommendation

✓ The district should work with the Office of the Governor to develop and implement general management provisions that are similar to those found in other agreements.

- **Financial Management.** The Louisiana/SMG agreement does not provide for oversight of financial information as compared to other states. For example, the agreement does not give the governor's office the authority to require SMG to make requested changes to the budget.

Recommendation

✓ The district should work with the Office of the Governor to develop and implement financial management provisions that are similar to those found in other agreements.

- **Reporting.** The Louisiana/SMG agreement does not require SMG to submit any reports for the Superdome and only requires a monthly operating income and expense statement for the Arena. Other agreements we reviewed require that the management company submit detailed monthly reports.

Recommendation

- ✓ The district should work with the Office of the Governor to develop and implement reporting provisions that are similar to those found in other agreements.

- **Contract Management.** The Louisiana/SMG agreement does not give the governor's office similar authority over contracts related to the Superdome as found in other states. Specifically, the agreement does not require approval for contracts with affiliates, major or material contracts, and contracts for concessions, advertising, etc. However, the agreement does require the governor's approval for such contracts related to the Arena.

Recommendation

- ✓ The district should work with the Office of the Governor to develop and implement contract management provisions that are similar to those found in other agreements.

Board's Oversight Practices Are Limited

- The board exercises some oversight over SMG, but this oversight is limited by the lack of oversight provisions in the management agreement.

- Also, the board may not be receiving from SMG the information it needs to make sound management decisions.

- Some board members said that they feel the information they receive from SMG is incomplete, not always accurate, and sometimes untimely.

- As a result, the board may be basing important decisions on poor or incomplete data.

- Unlike three other states we contacted, the board does not have a permanent, full-time professional staff to provide oversight in the areas of administration, operations, accounting, and finance.

Recommendations

- ✓ The district should work with the Office of the Governor to renegotiate the agreement to include specific requirements related to oversight roles and responsibilities.

- ✓ The district should work with the Office of the Governor to determine if a full-time professional staff is needed to ensure that proper oversight is provided by the state and/or the district.

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Questions? Call Steve J. Theriot at
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LOUISIANA STADIUM AND EXPOSITION DISTRICT - SUPERDOME/ARENA MANAGEMENT AGREEMENT STATE OF LOUISIANA

LOUISIANA LEGISLATIVE AUDITOR

PERFORMANCE AUDIT
ISSUED MAY 3, 2006

LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge and New Orleans offices of the Legislative Auditor.

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May 3, 2006

The Honorable Donald E. Hines,
President of the Senate
The Honorable Joe R. Salter,
Speaker of the House of Representatives

Dear Senator Hines and Representative Salter:

This report provides the results of our performance audit of the management agreement between the State of Louisiana and SMG for the management and operation of the Louisiana Superdome and the New Orleans Arena. The audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

The report contains our findings, conclusions, and recommendations. Appendix C contains the response from the Office of the Governor. Appendix D contains the Louisiana Stadium and Exposition District Board of Commissioners' response. Appendix E contains SMG's response. I hope this report will benefit you in your legislative decision-making process.

Sincerely,

Steve J. Theriot, CPA
Legislative Auditor

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EXECUTIVE SUMMARY

When compared with similar agreements in other states, the management agreement between the State of Louisiana and SMG provides for a more generous fee arrangement and does not clearly provide for oversight of management operations. The following findings describe the problems we identified related to the management agreement and oversight exercised by the Louisiana Stadium and Exposition District.

Performance Audit Findings

- **Contract Provisions Are Not Clear and Concise.** The agreement contains vague language in some cases and complex language in others. (See page 13.)

- **Management Fee Calculations Should be Simplified**. The current management fee structure involves numerous complicated calculations, thus making the structure cumbersome and difficult to understand. The revised fee structure that takes effect July 1, 2006, is less complex. However, the number of calculations is inconsistent with other similar agreements, which continues to make the fee structure difficult to understand. (See pages 14-18.)

- **Incentive Fee Is Not Performance-based.** The incentive fee does not require SMG to meet or exceed any clear, measurable performance standards, and the fee does not include penalties for poor performance. (See pages 19-20.)

- **Management Fees Paid to SMG Are Higher Than Management Fees Paid in Other States.** The management fees paid to SMG in Louisiana over the last three fiscal years are significantly higher than those paid in other states for similar services. (See pages 20-21.)

- **Management Agreement Does Not Provide Sufficient Oversight Authority.** The management agreement does not provide for specific oversight functions to ensure that the Superdome and the Arena are properly managed. While the agreement contains some oversight provisions for the Arena, there are little to no oversight provisions for the Superdome. (See pages 21-32.)

- **Board's Oversight Practices Are Limited.** The board exercises some oversight over SMG, but this oversight is limited by the lack of oversight provisions in the management agreement, the information received from SMG, and the lack of expertise or staff needed to provide necessary oversight. (See pages 33-34.)

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INTRODUCTION

Audit Initiation and Objectives

The Louisiana Stadium and Exposition District Board of Commissioners (the board) requested that the Legislative Auditor conduct a performance audit of the management agreement between the State of Louisiana and SMG for the management and operation of the Louisiana Superdome and the New Orleans Arena. Our audit objective was to answer the following question:

> *How does the management agreement compare to similar agreements in other states in terms of compensation and oversight?*

Appendix A contains our audit scope and methodology. Appendix B contains information on all NFL Stadiums. Appendix C contains the response from the Office of the Governor. Appendix D contains the board's response. Appendix E contains SMG's response.

Overview of Louisiana Stadium and Exposition District

The Louisiana Stadium and Exposition District (the district) was created in 1966 by Article XIV Section 47 of the Louisiana Constitution of 1921.[1] The district, composed of the territory within Jefferson and Orleans parishes, was created to construct and operate a covered multi-purpose stadium and related facilities. Among the specific powers granted to the district were to:

- Incur bonded debt
- Authorize the issuance of refunding bonds
- Lease its land and facilities to the state
- Levy a tax on hotel occupancy in Jefferson and Orleans parishes

In February 1969, the district executed a lease agreement with the state for the Louisiana Superdome (the Superdome), which opened in August 1975. Initially, the district managed and operated the Superdome on behalf of the state. However, Act 541 of the 1976 Regular Legislative Session transferred all power and authority for the management of the district's properties to the state, through the Office of the Governor. The act also authorized the governor to delegate the management of the district's properties to an executive director or to a professional management organization having experience, expertise, and specialization in the management and operation of sports, entertainment, or convention facilities.

[1] Article XIV Section 47 was continued as statutory law by Article XIV Section 16(A)(10) of the Louisiana Constitution of 1974.

In accordance with Act 541, the governor executed a management agreement in June 1977 with HMC Management Corporation (the predecessor in interest of SMG) for the management and operation of the Superdome to expire on June 30, 1982. The agreement, in part, sets forth SMG's powers and functions, the compensation paid to SMG for services performed, and the state's funding of the Superdome's operations. The Louisiana Legislature approved the agreement in Act 64 of the 1977 Regular Legislative Session. The agreement has been amended six times by the governor and SMG or its predecessors. Five of the amendments included a recommendation for adoption from the board's chairman. Relevant portions of the amendments are summarized in Exhibit 1 below.

Exhibit 1 Summary of Amendments to Louisiana/SMG Management Agreement
July 1983
▪ Added a prohibition against the district's solicitation of any services, contributions, gifts, favors, tickets, or gratuities from Superdome lessees, tenants, etc. ▪ Added a prohibition against the district's intervention in negotiations with Superdome lessees, tenants, etc. ▪ Extended the term of the agreement to June 30, 1992 and provided for a second 10-year extension. ▪ Established the Louisiana Superdome Marketing and Promotional Fund, to be controlled, managed, and supervised by a board of managers consisting of an officer of HMC, the chairman of the district's board of commissioners, and the Executive Vice President of the Greater New Orleans Tourist and Convention Commission. ▪ Required HMC to contribute a certain percentage of its management fee to the marketing fund.
June 1984
▪ Replaced the name HMC Management Corporation with Facility Management of Louisiana, Inc. (FML).
March 1986
▪ Extended the term of the agreement to June 30, 2006. ▪ Required FML to divert 50% of its contributions to the marketing fund to the New Orleans Saints.
June 1998
▪ Included the management and operation of the New Orleans Arena (the Arena), which opened in October 1999. ▪ Provided for a contract administrator to monitor SMG's performance in the management of the Arena and to act as a liaison between SMG and the state and the district. ▪ Set forth SMG's responsibilities, powers and functions, and compensation with respect to the Arena. ▪ Established an operating fund for deposit of operating revenues. Granted complete control and authority of the fund to SMG, subject only to the contract provisions.
May 2002
▪ Revised portions of the Arena management fee.
July 2003
▪ Extended the term of the agreement to June 30, 2012 and provided for an additional five-year extension. ▪ Revised the Superdome and Arena management fees effective July 1, 2006. According to an SMG official, SMG was involved in the restructuring of the management fee with the governor's office and to some extent with the district. ▪ Replaced the name Facility Management of Louisiana, Inc. with SMG.
Source: Prepared by the legislative auditor's staff using the amendments to the Louisiana/SMG management agreement.

The district is governed by a seven-member board of commissioners (the board) appointed by and serving at the pleasure of the governor. The board is responsible for issuing and servicing the district's bonded debt, serving as advisor to the governor and to the manager of the district's properties, and assisting the governor in all matters relating to the performance of the management agreement. The district may employ an executive director and personnel to provide administrative assistance to the board. However, the board may not employ any staff without the approval of the governor. Governor Foster issued Executive Order MJF 98-14 creating the offices of administrative assistant and deputy administrative assistant to the board. The positions are appointed by the board and serve at the pleasure of the governor.

Overview of Louisiana/SMG Management Agreement

SMG, as an independent contractor, has full authority over the operation of the Superdome and the Arena and their related facilities. SMG also has complete discretion and authority over employees of the Superdome and the Arena, expenditures (subject to the Arena budget), leases, and other contracts.

Compensation. The management agreement provides for the state to pay a management fee to SMG for services performed. Through June 30, 2006, the fee is computed as a percentage of the deficit reduction realized in each fiscal year over the deficit in the last year before the management agreement took effect (1977), adjusted for inflation. SMG's fee for the Arena is fixed at $250,000, annually adjusted for inflation. Although there is no fixed fee for the Superdome, SMG's total management fee cannot exceed an aggregate cap equal to SMG's 1997 management fee plus $150,000, annually adjusted for inflation.

Through June 30, 2006, SMG pays 45% of its management fee to the Superdome Marketing and Promotional Fund. If the remaining 55% exceeds $2,000,000, annually adjusted for inflation, then SMG also pays 75% of the excess amount to the fund. One-half of the monies in the fund are paid each year to the New Orleans Saints and the remainder is used to market and promote the Superdome and the Arena. As stated previously, the fund is administered by a board of managers including representatives from the district and SMG.

Beginning July 1, 2006, SMG will receive base fees for the Arena and the Superdome, subject to annual adjustments, an incentive fee, and a bonus fee. SMG's total management fee cannot exceed an aggregate cap, which is subject to annual adjustments.

Oversight. The management agreement provides for a contract administrator to oversee the Arena's budget and material contracts. The contract administrator's responsibility does not extend to SMG's operation of the Superdome. The district contracted with the Cajundome Commission to provide a contract administrator, and the commission's chairman appointed an industry professional with over 20 years of experience to the position. This individual resigned from the position in January 2006.

Comparison with Other States. During our audit work, we determined how each National Football League (NFL) stadium is owned and managed, as shown in Appendix B. We identified five NFL stadiums in addition to the Superdome that are publicly owned and privately managed. The remaining stadiums are managed by the facility's owner or by the NFL team's owner. We obtained and analyzed copies of the management agreements for the five other publicly owned and privately managed stadiums for comparison with the Louisiana/SMG agreement. Four of these other agreements are with SMG. Exhibit 2 on the following page presents details from the Louisiana/SMG agreement and the five other agreements we reviewed. Exhibit 3 on page 10 presents the revenues and expenses for the last three fiscal years for the facilities included in the management agreements.

Exhibit 2

Description of Private Management Agreements for Publicly Owned NFL Stadiums

Contractual Parties	Effective Date	Expiration Date	Facilities Included in Management Agreement	Stadium Seating Capacity
State of Louisiana and SMG	07/01/1977	06/30/2012	▪ Louisiana Superdome ▪ New Orleans Arena	69,028
City of Jacksonville (FL) and SMG	10/01/2002	09/30/2008	▪ Alltel Stadium ▪ Veterans Memorial Arena ▪ Times-Union Center for the Performing Arts ▪ Prime F. Osborn III Convention Center ▪ Baseball Grounds	75,000
Chicago Park District (IL) and SMG	01/01/2003	12/31/2005	▪ Soldier Field	66,944
Harris County (TX) Sport and Convention Corporation (HCSCC) and SMG	03/01/2004	02/29/2012	▪ Reliant Stadium ▪ Reliant Astrodome ▪ Reliant Center ▪ Reliant Arena ▪ Reliant Hall	69,500
Arizona Tourism and Sports Authority (ATSA) and Global Spectrum	05/10/2004	Three years after opening date*	▪ Cardinals Stadium	63,400
Oakland-Alameda County (CA) Coliseum Authority (OACCA) and Oakland Coliseum Joint Venture (OCJV) (SMG and William Pacific Ventures, Inc.)	03/01/2005	06/30/2012	▪ McAfee Coliseum ▪ Oakland-Alameda County Arena	62,500

* Cardinals Stadium is scheduled to open in 2006.

Source: Prepared by the legislative auditor's staff using information obtained from the other states' management agreements and from Internet research.

Exhibit 3 Revenues and Expenses Fiscal Years 2003-2005			
	FY 2003	FY 2004	FY 2005
Revenues			
Louisiana/SMG	$32,002,321	$30,537,357	$25,069,485
Jacksonville/SMG	$8,189,811	$13,517,661	$16,066,816
HCSCC/SMG	$19,781,702	$20,202,369	$22,139,091
OACCA/OCJV	$7,987,812	$6,663,881	$4,962,126
Expenses			
Louisiana/SMG	$47,978,989	$45,503,330	$43,429,990
Jacksonville/SMG	$14,333,402	$20,030,895	$22,377,314
HCSCC/SMG	$13,128,329	$16,213,740	$16,043,989
OACCA/OCJV	$12,124,020	$12,592,245	$12,188,756
Note: Cardinals Stadium is not yet open; therefore, there have been no revenues generated and expenses incurred. Also, we did not receive financial statements for Soldier Field to determine the revenues and expenses.			
Source: Prepared by the legislative auditor's staff using information provided by the governmental bodies.			

Funding Sources

The district funds its operations with fees and self-generated revenues derived from event rentals, admissions, concessions, parking, and advertising, as well as hotel occupancy tax proceeds. The district also receives statutory dedications from the Sports Facilities Assistance Fund and the New Orleans Sports Franchise Fund.

Hotel Occupancy Tax. The district imposes a four percent tax on the occupancy of hotel rooms located within the district as authorized by Article XIV Section 47(M) of the Louisiana Constitution of 1921. The tax proceeds are used to fund the district's debt service needs and operations.

Sports Facilities Assistance Fund. The district receives proceeds from a tax on the income of nonresident professional athletes and sports franchises that was earned in Louisiana, in accordance with Louisiana Revised Statute (R.S.) 39:100.1. The tax proceeds are used for renovation of the Superdome, stadium development, development and promotion of the district, and payment of the district's contractual obligations.

New Orleans Sports Franchise Fund. The district receives proceeds from a sales tax levied in Orleans Parish, in accordance with R.S. 47:322.38(B). The tax proceeds are used to fund the state's contractual obligations to the New Orleans Saints and the New Orleans Hornets. The district's board has administrative responsibility and authority for the funds.

Exhibit 4 presents the district's general appropriations by revenue source for fiscal year 2006.

Exhibit 4

Louisiana Stadium and Exposition District
General Appropriations
Fiscal Year 2006

Revenue Source	Appropriation
Fees and Self-generated Revenues	$41,182,801
Sports Facilities Assistance Fund	1,500,000
New Orleans Sports Franchise Fund	6,700,000
TOTAL	**$49,382,801**

Source: Prepared by the legislative auditor's staff using Act 16 of the 2005 Regular Legislative Session.

Any surplus revenues remaining at the end of each fiscal year are distributed in accordance with Article XIV Section 47(P) of the Louisiana Constitution of 1921 as follows:

- 1.13% of the annual hotel occupancy tax proceeds to Jefferson Parish for tourism promotion
- $2,200,000 to the city of New Orleans for the New Orleans Recreation Department or its successor
- $250,000 to Xavier University
- $250,000 to Southern University - New Orleans for the small business center
- $500,000 to the Westbank Sports and Civic Center
- $250,000 to the University of New Orleans for the Louisiana School for Excellence in Hospitality Education
- $350,000 to the New Orleans Visitors and Information Center

The district's revenues are distributed on a pro rata basis if they are not sufficient to fully fund the distributions above. Any surplus revenues remaining after these distributions are placed in the Economic Development Fund for the district's marketing, promotional, and economic development activities; the development of special projects benefiting the district and the state; and facility planning and expansion programs. According to the chairman of the district's board, the district has not had any surplus revenues since 2001.

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HOW DOES THE MANAGEMENT AGREEMENT COMPARE TO SIMILAR AGREEMENTS IN OTHER STATES IN TERMS OF COMPENSATION AND OVERSIGHT?

Report Conclusions

The management agreement between the State of Louisiana and SMG provides for a more generous fee arrangement and does not provide for sufficient oversight when compared to similar management agreements in other states. The following sections of this report provide the information used to draw these conclusions.

Contract Provisions Are Not Clear and Concise

The management agreement between the State of Louisiana and SMG contains language that is vague and often complex. These problems make the agreement confusing, cumbersome, and difficult to manage. We reviewed similar agreements in other states and found that they are more straightforward than the Louisiana/SMG agreement.

Vague Provisions. In certain cases, the agreement contains language that is vague. For example, the agreement does not specify which state entity is responsible for overseeing the relationship between SMG and Louisiana. Also, the contract gives broad authority to the state regarding budget approval. However, there are no specific provisions identifying to what extent the state is to be involved in the approval of the budget. The other agreements we reviewed provide more detail regarding the responsibilities of oversight entities.

Complex Provisions. Some provisions are unnecessarily complex as compared to other agreements we reviewed. For example, the number of calculations required to determine SMG's total management fee is excessive when compared to similar agreements in other states.

Recommendation 1: The district should work with the Office of the Governor and SMG to renegotiate the management agreement so that it is clear and concise.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG.

SMG's Response: Agree. SMG has no objection to simplifying the terms of the management agreement so that the language is more clear and concise.

Management Fee Calculations Should Be Simplified

The current management fee structure involves numerous complicated calculations, thus making the structure cumbersome and difficult to understand. Exhibit 5 on page 16 illustrates the current management fee structure and its complexity. This fee structure is not comparable to the structures in the other contracts we reviewed. For example, each of the other contracts contains a simple base fee and a performance-related incentive fee, whereas the Louisiana/SMG management fee is computed as a percentage of the deficit reduction realized in each fiscal year over the deficit in the last year before the management agreement took effect (1977), adjusted for inflation.

The revised management fee structure, which takes effect July 1, 2006, is comparable to the other contracts we reviewed in that it contains base fees for the Superdome and the Arena and an incentive fee. However, the total management fee contains numerous calculations when compared to the other agreements. The following factors contribute to the complexity of calculating the total fee in the Louisiana/SMG agreement:

- <u>Manager's Capital Adjustment</u>: The base fees may be adjusted to include a percentage of any outstanding manager's capital contribution provided for in the agreement. During fiscal year 2004, SMG paid $2,000,000 to the state at the governor's request to meet the state's expenses related to the Superdome and the Arena. If this contribution is repaid by June 30, 2006, the base fee will not be adjusted for manager's capital.
- <u>Fee Increment Adjustment</u>: The base fees are reduced by a fee increment based on the management fees paid in prior years compared to what the fees would have been had the revised fee structure been in place during that time.
- <u>Consumer Price Index</u>: The base fees are adjusted for increases in the Consumer Price Index (CPI).
- <u>Dark Period Adjustment</u>: The incentive fee may be adjusted to include revenues generated in prior years if the Superdome is closed for renovations for three continuous months or more.
- <u>Bonus Fee</u>: A separate bonus fee must be calculated and factored in to the total management fee.
- <u>Aggregate Cap</u>: The total management fee cannot exceed an aggregate cap that is subject to the same adjustments as the base fees.

Exhibit 6 on pages 17-18 illustrates the revised management fee structure and its complexity as compared to the management fee structures in the other contracts we reviewed.

Because of the complexity of the current and revised fee structures, the board has relied on its financial consultant to help them understand the calculation of SMG's management fees. Also, an SMG official told us that the fee structures are complex and could be simplified. With such a complex management fee, the state and the district may not be able to determine if the financial interests of the state are being protected.

Recommendation 2: The district should work with the Office of the Governor and SMG to renegotiate the management fee structure to simplify the calculations that are required to determine the total management fee.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG.

SMG's Response: Agree. SMG has no objection to making the management fee structure less complex.

<table>
<tr><th colspan="2">Exhibit 5
Current Louisiana/SMG Management Fee Structure
Through June 30, 2006</th></tr>
<tr><td colspan="2">Base Deficit Improvement</td></tr>
<tr><td colspan="2">Current Year’s Adjusted Income (as explained below)</td></tr>
<tr><td colspan="2">Less Adjusted Base Deficit (as explained below)</td></tr>
<tr><td>Management Fee:</td><td>Base Deficit Improvement:</td></tr>
<tr><td>30% of first</td><td>$1,000,000</td></tr>
<tr><td>40% of next</td><td>$1,750,000</td></tr>
<tr><td>25% of excess</td><td>> $2,750,000</td></tr>
<tr><td colspan="2">Components of Base Deficit Improvement</td></tr>
<tr><td rowspan="5">Current Year’s Adjusted Income</td><td>Current Surplus or (Deficit)</td></tr>
<tr><td>Plus Insurance Expenses</td></tr>
<tr><td>Plus Imputed Revenues</td></tr>
<tr><td>Plus Saints' Inducement Payments</td></tr>
<tr><td>Less Depreciation of Fixed Assets</td></tr>
<tr><td rowspan="9">Adjusted Base Deficit</td><td>1977 Deficit</td></tr>
<tr><td>Less Insurance Expenses</td></tr>
<tr><td>Less Other Adjustments Required by Management Agreement</td></tr>
<tr><td>Plus Consumer Price Index (CPI) Adjustment:</td></tr>
<tr><td>(1977 Deficit - Insurance Expenses - Other Adjustments - 1977 Utility Expenses) X [(Current Year’s Average CPI - 1977 Average CPI) /1977 Average CPI]</td></tr>
<tr><td>Plus Utility Rate Adjustment:</td></tr>
<tr><td>[((Current Year’s Cost Per Unit - 1977 Cost Per Unit) /1977 Cost Per Unit) X 1977 Utility Expense for Electricity, Gas and Water]</td></tr>
<tr><td>Plus Repair and Maintenance Hours Adjustment:</td></tr>
<tr><td>(Current Year's Total Hours - 1977 Total Hours) X 1977 Hourly Rate, for each of the following trades:
Asbestos & Electricians, Painters, Plasters, Carpenter & Millwrights, Sheet Metal Mechanic, Laborers, Equipment Operators, Elevator Operators, HVAC Refrigeration & Plumbers, and STAT Engineers & Control Room Operators</td></tr>
<tr><td colspan="2">Source: Prepared by the legislative auditor’s staff using the Louisiana/SMG management agreement and information prepared by the board’s financial consultant.</td></tr>
</table>

Exhibit 6

Comparison of Louisiana / SMG Revised Management Fee Structure With Fee Structures in Similar Agreements

	Adjusted Base Fee	Incentive Fee		Bonus Fee		Aggregate Cap
Louisiana and SMG	Base Fee = $700,000 (Superdome) + $300,000 (Arena)	SMG Receives:	Adjusted Net Income:*	Adjusted Base Fee X Bonus Fee Percentage (as explained below)		$1,500,000
	Plus Manager's Capital Adjustment (as explained on page 14): Manager's Capital Contribution X 10%	10% of first	$10,000,000**			Plus Manager's Capital Adjustment (as explained on page 14): Manager's Capital Contribution X 30%
	Less Fee Increment Adjustment (as explained on page 14): Actual Fees Paid in 2004, 2005, and 2006 Less Fees Paid in 2004, 2005, and 2006 if calculated using amended fee structure Multiplied by 1/6	5% of excess	> $10,000,000**			Plus Fee Increment Adjustment (as explained on page 14): Actual Management Fees Paid in 2004, 2005, and 2006 Less Management Fees Paid in 2004, 2005, and 2006 if calculated using revised fee structure Multiplied by 1/6
		* May be subject to a dark period adjustment (as explained on page 14).		If [Budgeted Profit (Deficit) + (|Actual Profit (Deficit) | - |Budgeted Profit (Deficit) |)] / Budgeted Profit (Deficit) equals:	Then Bonus Fee Percentage is:	
	Plus Consumer Price Index (CPI) Adjustment (as explained on page 14): For Fiscal Year 2007: ((June 2006 CPI - June 2003 CPI) / June 2003 CPI) X (Base Fees + Manager's Capital Adjustment + Fee Increment Adjustment) For Remainder of Term: Annual Increase in CPI, not to exceed 4%	** Adjusted annually for inflation.		90% to 95%	5%	Plus CPI Adjustment (as explained on page 14): For Fiscal Year 2007: ((June 2006 CPI - June 2003 CPI) / June 2003 CPI) X (Base Fees + Manager's Capital Adjustment + Fee Increment Adjustment) For Remainder of Term: Annual Increase in CPI, not to exceed 4%
				95% to 100%	10%	
				100% to 105%	12.5%	
				105% to 110%	15%	
				110% and above	20%	

Exhibit 6

Comparison of Louisiana/SMG Revised Management Fee Structure With Fee Structures in Similar Agreements

	Adjusted Base Fee	Incentive Fee	Bonus Fee	Aggregate Cap
HCSCC and SMG	Base Fee = $477,405 Plus increase in CPI, not to exceed 3% per year	Up to $100,000, based on subjective evaluation of SMG's performance conducted by Harris County Sport and Convention Corporation	None	None
OACCA and OCJV	Base Fee = $200,000	OCJV Receives: / Revenues less Operating Expenses in excess of budget 10% of first / $5,000,000 12% of next / $1,000,000 15% of excess / > $6,000,000	None	$750,000
Jacksonville and SMG	Base Fee = $550,000 Plus increase in CPI, not to exceed 4% per year	Building Incentive Fee up to $150,000, plus increase in CPI, as follows: (Gross Building Operating Revenues + City Rent Credits – predetermined benchmark) X 25%, if ratio of building revenues to building expenses ≥ 53% Marketing Incentive Fee up to $50,000, plus increase in CPI, as follows: (Gross Marketing Operating Revenues – predetermined benchmark) X 25%	None	None
ATSA and Global Spectrum	Base Fee = $200,000 Plus $30,000 per year	Not to exceed 100% of the adjusted base fee as follows: 50% derived from 5% of adjusted operating revenues for certain events 25% based on Authority's discretion 20% based on primary user's discretion 5% based on Fiesta Bowl's discretion	None	None
Chicago Park District and SMG	Base Fee = $420,000 Plus increase in CPI, not to exceed 5% per year	Up to 75% of adjusted base fee as follows: / Adjusted Operating Revenues, if actual operating income ≥ budgeted operating income 3% of first / $5,000,000 4% of excess / > $5,000,000 Up to 25% of adjusted base fee, based on customer satisfaction survey scores	None	None

Source: Prepared by the legislative auditor's staff using the Louisiana/SMG management agreement and other similar agreements.

Incentive Fee Is Not Performance-Based

The incentive fee in the revised management fee structure is calculated based on a percentage of revenues generated and does not require SMG to meet or exceed any clear, measurable performance standards. However, similar agreements in other states require that certain benchmarks be met before an incentive fee is rewarded. For example, the Jacksonville agreement requires SMG's ratio of revenues to expenditures to exceed 53%. This means that if expenditures total $100, then revenues must total at least $53 before SMG is eligible to receive an incentive fee. However, the agreement also requires SMG's revenues to meet or exceed a benchmark of $9,312,500, annually adjusted for increases in the Consumer Price Index. The Louisiana/SMG incentive fee also does not include penalties for poor performance. As a result, SMG is guaranteed to receive an incentive fee each year.

Although we could not identify any standards specifically addressing private management of public stadiums, we were able to find some general principles that could apply. According to the Code of Federal Regulations, performance-based contracting is the preferred method for acquiring services for federal executive agencies. Performance-based contracting methods should ensure that required performance quality levels are achieved and that total payment is related to the degree that services performed or outcomes achieved meet contract standards. Performance-based contracts:

- Describe the requirements in terms of results required rather than methods of performance of the work
- Use measurable performance standards (i.e., in terms of quality, timeliness, quantity, etc.) and quality assurance surveillance plans
- Specify procedures for reductions of fee when services are not performed or do not meet contract requirements
- Include performance incentives where appropriate

Also, statements of work must define requirements in clear, concise language identifying specific work to be accomplished. Statements of work must describe the work in terms of what is to be the required output, enable assessment of work performance against measurable performance standards, and rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing the work.

In addition, federal standards for privatization of government services say that performance-based contracts have several key components including:

- Performance contracts clearly spell out the desired end result expected of the contractor, but the manner in which the work is to be performed is left to the contractor's discretion.
- Incentive-based contracts should shift much of the risk onto the contractor, who is rewarded for productivity improvement and penalized for poor performance or rising costs.

Recommendation 3: The district should work with the Office of the Governor and SMG to renegotiate the incentive fee to include clear, measurable performance expectations and standards. The incentive fee should be structured so that SMG is rewarded only when it has met the standards.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG.

SMG's Response: Disagree. SMG believes the current fee structure has measurable standards and is performance based.

Management Fees Paid to SMG Are Higher Than Management Fees Paid in Other States

The management fees paid to SMG in Louisiana over the last three fiscal years are significantly higher than those paid in other states for similar services, as shown in Exhibit 7 below. SMG received a total of $7,770,918 in management fees over the last three fiscal years, in addition to the $6,927,353 SMG paid to the Superdome Marketing and Promotional Fund. These fees were calculated under the current management fee structure.

Exhibit 7
Total Management Fees
Fiscal Years 2003-2005

	FY 2003	FY 2004	FY 2005
Louisiana/SMG	$2,526,643	$2,579,955	$2,664,320
Jacksonville/SMG	$750,000	$750,000	$788,922
HCSCC/SMG	$481,200	$563,500	$586,405
OACCA/OCJV	$725,468	$697,436	$703,634

Note: Cardinals Stadium is not yet open; therefore, Global Spectrum has not yet received any management fees. Also, we did not receive financial statements for Soldier Field to determine the management fees.

Source: Prepared by the legislative auditor's staff using information provided by the governmental bodies.

SMG has projected that its total management fee will be about $500,000 in fiscal year 2006 considering the effects of Hurricane Katrina. At this time, SMG does not know how this amount will be impacted by factors such as utilities, inflation, and business interruption insurance. For fiscal year 2007, SMG has projected that its total management fee will be no more than $1,085,000 under the revised fee structure that takes effect July 1, 2006. The fee will be adjusted for inflation each year thereafter. When compared to the fees paid in other states, SMG's projected fee for fiscal year 2007 is higher.

The Louisiana/SMG management agreement states that SMG is not obligated to advance or apply its own funds to perform its responsibilities. Similarly, the Jacksonville and OACCA agreements state that the public entity must provide the manager with the necessary funds to pay for all operating expenses. Also, the HCSCC agreement states that SMG is not obligated to apply the management fees to operating expenses. Therefore, the management fees listed above do not include any operating expenses.

Recommendation 4: The district should work with the Office of the Governor and SMG to determine why the fees paid in Louisiana are higher than those in other states with similar agreements. They should then work to renegotiate the compensation paid to SMG.

District's Response: Agree. The district is aware that the duties and responsibilities of SMG in Louisiana may differ significantly from the duties and responsibilities required of SMG in other states concerning management of other facilities. Once that analysis has been completed, then the district is willing to work with the Office of the Governor and SMG to implement this recommendation.

SMG's Response: Disagree. SMG believes the revised fees paid are competitive with other similar facilities.

Management Agreement Does Not Provide Sufficient Oversight Authority

The Louisiana/SMG management agreement does not provide for specific oversight functions to ensure that the Superdome and the Arena are properly managed. Other agreements we reviewed provide specific governing entities with more authority and more detail concerning procedures to perform their oversight responsibilities. While the Louisiana/SMG agreement contains some oversight provisions for the Arena, there are little to no oversight provisions for the Superdome. The lack of clear oversight responsibilities can be an impediment to effective oversight.

According to the Louisiana/SMG management agreement, the district is responsible for approving the Arena's annual operating budget and receiving monthly reports from SMG. The governor's office, through the contract administrator, has more responsibility in that the contract administrator approves the Arena's annual operating and capital expenditures budgets and material contracts. There are no similar oversight provisions in the Superdome portion of the current agreement.

The following sections compare the oversight provisions in the Louisiana/SMG agreement with those found in the other agreements we reviewed.

Governing Entity. The Louisiana/SMG management agreement does not identify the specific entity within the governor's office that is responsible for overseeing SMG's management and operation of the Superdome and the Arena. The majority of the other agreements we reviewed clearly identify those entities that have oversight responsibilities, as shown in Exhibit 2 on page 9. Without a clear line of authority, the state, the district, and SMG may have difficulty understanding their roles and responsibilities. Also, the state may have difficulty measuring or assessing SMG's compliance with the provisions of the management agreement.

Recommendation 5: The district should work with the Office of the Governor to renegotiate the management agreement so that responsibility for oversight is assigned to a specific individual or entity with the necessary expertise and authority to assess service quality and enforce contract provisions.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG.

SMG's Response: Agree. SMG has no objection to including a more formalized reporting structure in the agreement.

General Management. The Louisiana/SMG management agreement does not contain comparable oversight provisions related to the general management of the facilities. All of the other agreements we reviewed grant the management company authority over the operations and management of the facilities. However, each agreement clearly states that this authority is limited by the governing entity's policies and procedures as well as detailed provisions contained in the agreement itself. For example, the Chicago agreement limits the authority of the management company to the specific responsibilities contained within the agreement and allows for no others. Most of the other agreements also require that the governing entity has some oversight related to what events are held at the facilities and how the facilities are maintained, that managers must have performance bonds, and that the management company must meet performance benchmarks. The Louisiana/SMG agreement does not include similar provisions. Exhibit 8 on pages 23-24 compares the general management provisions found in the Louisiana/SMG agreement and the other agreements we reviewed.

Recommendation 6: The district should work with the Office of the Governor to develop and implement general management provisions that are similar to those found in other agreements.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG to make certain that the general management provisions for both the Superdome and the Arena are consistent with sound management principles so that the success of the district's facilities is maximized.

SMG's Response: Agree. SMG has no objection to the development of general management provisions.

Exhibit 8
Comparison of General Management Provisions

Provision	Louisiana / SMG		HCSCC / SMG	OACCA / OCJV	Jacksonville / SMG	ATSA / Global Spectrum	Chicago Park District / SMG
	Superdome	Arena					
Management company has authority over day-to-day operations	Yes, but not limited by policies and guidelines	Yes, but not limited by policies and guidelines	Yes, county *may* establish policies and procedures	Yes, subject to Coliseum's policies and guidelines	Yes, subject to City's policies and guidelines	Yes, subject to Authority's policies and guidelines	Yes, but shall not exceed authority granted by agreement
Government entity requires a performance or surety bond	No	No	No	Yes, requires a $300,000 performance bond	Yes, requires a $150,000 performance bond	Yes, requires a $1,000,000 surety bond	Yes, requires a $1,000,000 surety bond
Management company's authority to book events is limited by government entity	No	No	No	No	Yes, management company must follow city's booking policies	Yes, Authority must approve the booking policy; management company must also use "best efforts" to provide notice prior to booking major events	Yes, District must approve the booking policy and has event disapproval rights; management company must provide notice prior to booking any event
Contract includes performance goals and/or benchmarks	No	No	No	No	Yes, management company must sell 80% of suites, club seats, advertising, signage, pouring rights, and naming rights every year	Yes, first year goal is 100 events and 1.3 million in total attendance	Yes, management company must use its "best efforts" to meet events and attendance projections contained in its RFP response; specific factors for qualitative incentive fee; District may require meetings with management company to discuss and address performance issues

Exhibit 8
Comparison of General Management Provisions

Provision	Louisiana/SMG		HCSCC/SMG	OACCA/OCJV	Jacksonville/SMG	ATSA/Global Spectrum	Chicago Park District/SMG
	Superdome	Arena					
Management company has complete control over employees	Yes, but governor's office must approve change of General Manager	Yes, but governor's office must approve change of General Manager	Yes, but Corporation may require that management company reassign employees with major responsibilities and must approve General Manager	Yes, but Authority must approve General Manager	Yes, but City may have the General Manager removed	Yes, but management company must provide an employee handbook and Authority must approve General Manager	No, District retains some supervision
Management has full discretion in the maintenance of facilities	Yes	Yes	Yes, subject to terms of major contracts	Yes	Yes	No, Authority has strict guidelines on how to maintain the facilities	No, District has strict guidelines on how to maintain the facilities

Source: Prepared by the legislative auditor's staff using information obtained from other states' management agreements.

Financial Management. The Louisiana/SMG management agreement does not provide for oversight of financial information as compared to other states. For the most part, similar agreements we reviewed contain extensive oversight provisions. While the Louisiana/SMG agreement requires that the governor's office review and approve budgets for the Superdome and Arena, the agreement does not give the governor's office the authority to require SMG to make requested changes to the budget. Most of the other contracts we reviewed give this authority to the oversight entity.

Also, three contracts that we reviewed provide for an independent audit of the management company. If the audit finds any misstatements above or below a certain percentage, the management company must pay for the cost of the audit and return a portion of the incentive fee. The Louisiana/SMG agreement does not provide for repayment. Exhibit 9 on pages 26-27 compares the financial management provisions found in the Louisiana/SMG agreement and the other agreements we reviewed.

Recommendation 7: The district should work with the Office of the Governor to develop and implement financial management provisions that are similar to those found in other agreements.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG to make certain that the operations of the Superdome and the Arena are consistent with sound financial management principles so that the success of the district's facilities is maximized.

SMG's Response: Agree. SMG has no objection to the inclusion of financial oversight provisions.

Exhibit 9
Comparison of Financial Management Provisions

Provision	Louisiana/SMG		HCSCC/SMG	OACCA/OCJV	Jacksonville/ SMG	ATSA/Global Spectrum	Chicago Park District/SMG
	Superdome	Arena					
Government entity prepares budget	No	No	No	No	No	No	Yes, in conjunction with management company
Government entity reviews and approves budgets (includes capital and operating budgets)	Yes, but only for capital expenditures	Yes, for capital expenditures and operating budgets	Yes, for capital and operating budgets	Yes, for capital, operating, and cash flow budgets	Yes, for capital and operating budgets	Yes, for capital, operating, and cash flow budgets	Yes, for capital, operating, and cash flow budgets
Government entity has authority to require changes to budget	No	No, but contract allows for comments or suggested revisions	No, but contract allows for comments or suggested revisions	Yes, management company is notified of changes	Yes, management company is notified of changes	Yes, management company is notified of changes	Yes, management company is notified of changes
Agreement has specific timeliness for review of budgets	No	No	Yes, Corporation must review within 30 days	Yes, Authority must review and notify of changes within 30 days	Yes, City must review and notify of changes within 5 days and prior to submission to Mayor and City Council	Yes, Authority must review and notify of changes within 60 days	Yes, District has five months to review and notify of changes
Management company has control over funds	Yes	Yes, subject to budget; contract administrator must approve all expenses if 110% over the amounts in budget	Yes, subject to budget	Yes, subject to budget	Yes, subject to budget; the City must give prior approval to all expenses not in the budget or in excess of budgeted amounts	Yes, subject to budget; the Authority and the management company decide who has signature authority	Yes, but with many restrictions; subject to budget and/or prior approval; the management company holds all accounts in trust; and all employees with signature authority must be bonded

Exhibit 9
Comparison of Financial Management Provisions

Provision	Louisiana/SMG		HCSCC/SMG	OACCA/OCJV	Jacksonville/SMG	ATSA/Global Spectrum	Chicago Park District/SMG
	Superdome	Arena					
Management company has a separate account for ticket sales revenue	No	No	No	Yes, and may request a full settlement report for each event	Yes, and may request copies of all bank statements for the account	Yes, must provide a full settlement report for each event	Yes, must provide a bank statement with reconciliation analysis for account and provide a tentative settlement report within 5 days of each event
Government entity can request an independent audit of financial information	No	No	No	Yes, management company must pay for cost of audit and a portion of the incentive fee if misstated by more than 2.5%	No	Yes, management company must pay for cost of audit and a portion of the incentive fee if misstated by more than 5.0%	Yes, management company must pay for cost of audit and a portion of the incentive fee if misstated by more than 10.0%
Management company has complete authority to rent, lease, and purchase all non-capital equipment, materials, and supplies	Yes	Yes	Yes	Yes	Yes	No, Authority must approve certain purchases	No, District must approve certain purchases
Management company has complete authority to purchase capital improvements and equipment	No, subject to capital budget	No, governor's office must approve non-budgeted capital expenditures totaling more than $50,000 in a fiscal year	No, subject to capital budget; Also for emergencies and with prior written consent	No, subject to capital budget; Authority pays upon presentation of invoices marked payable	No, subject to capital budget	No, Authority retains the right to pay for, perform, direct and supervise all capital improvements	No, District must give prior written consent

Source: Prepared by the legislative auditor's staff using information obtained from other states' management agreements.

Reporting. With the exception of an annual year-end audit, the Louisiana/SMG management agreement does not require SMG to submit any reports for the Superdome and only requires a monthly operating income and expense statement for the Arena. However, SMG provides the board with detailed monthly reports for both the Superdome and the Arena, according to board officials. Other agreements we reviewed require that the management company submit detailed monthly reports. For example, the Arizona and Chicago contracts require their management companies to submit monthly reports that include, among other things, cash flows, monthly invoices, bid awards, remittances and settlements, anticipated events, and prior year comparisons. Other contracts we reviewed require additional reports, such as marketing plans, management, operations and maintenance plans, and customer satisfaction surveys. Exhibit 10 on the following page compares the reporting provisions found in the Louisiana/SMG agreement and the other agreements we reviewed.

Recommendation 8: The district should work with the Office of the Governor to develop and implement reporting provisions that are similar to those found in other agreements.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG to make certain that the general management provisions for both the Superdome and the Arena are consistent with and include sound reporting principles so that the success of the district's facilities is maximized.

SMG's Response: Agree. SMG has no objection to the inclusion of reporting provisions.

Exhibit 10
Comparison of Reporting Provisions

Provision	Louisiana / SMG		HCSCC / SMG	OACCA / OCJV	Jacksonville / SMG	ATSA / Global Spectrum	Chicago Park District / SMG
	Superdome	Arena					
Government entity requires monthly report	No	Yes, report includes "SMG activities" and monthly operating income and expense statements	Yes, report includes financial performance from prior month (i.e., revenues, expenses, marketings, bookings, etc.)	Yes, report form must be approved by the Authority	Yes, a report on the operation, management and maintenance; a report on receipts and expenditures for all events; and a report on monthly gross operating revenues and expenses	Yes, a report on cash flows, monthly invoices, bid awards, remittances and settlements, anticipated events, prior year comparisons, etc.	Yes, a report on cash flows, monthly invoices, minority compliance information, remittances and settlements, anticipated events, prior year comparisons, etc.
Government entity requires annual year-end audit	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Government entity requires additional reports	No	No	Yes, requires submission of a marketing plan	Yes, requires an annual plan that includes the budget, purchases, events, advertising, maintenance, etc.	Yes, requires quarterly financial reports and a Stadium Operating Plan	Yes, requires a Management, Operations and Maintenance Plan	Yes, requires an Operations and Procedures Manual, a Management Plan, a quarterly summary and analysis of concessionaires, and customer satisfaction surveys

Source: Prepared by the legislative auditor's staff using information obtained from other states' management agreements.

Contract Management. The Louisiana/SMG management agreement does not give the governor's office similar authority over contracts related to the Superdome as found in other states. The only contracts that must be approved by the governing entity for the Superdome are those that extend beyond the term of the management agreement. In other states, the governing entity must approve contracts with affiliates, contracts that are considered major or material, and certain other types of contracts (i.e., contracts for concessions, advertising, etc.). The provisions for the Arena are similar to those contained in the management agreements in other states. Exhibit 11 on pages 31-32 compares the contract management provisions found in the Louisiana/SMG agreement and the other agreements we reviewed.

Recommendation 9: The district should work with the Office of the Governor to develop and implement contract management provisions that are similar to those found in other agreements.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG to make certain that the management provisions for both the Superdome and the Arena are consistent with sound contract management principles so that the success of the district's facilities is maximized.

SMG's Response: Agree. SMG has no objection to limiting SMG's contracting authority.

Exhibit 11

Comparison of Contract Management Provisions

Provision	Louisiana / SMG		HCSCC / SMG	OACCA / OCJV	Jacksonville / SMG	ATSA / Global Spectrum	Chicago Park District / SMG
	Superdome	Arena					
Government entity must approve contracts that extend beyond terms of management agreement	Yes, with an exception for single event agreements or those that may be terminated with one year's notice	Yes	Yes	Yes	Yes	Yes	Yes, the contracts must be approved and executed by the District
Government entity must approve major or material contracts	No	Yes	Yes, Corporation must give prior approval and express written direction	Not specified in contract	No	Not specified in contract	Yes, District may review all contracts and at any time take over management of such contracts
Government entity must approve contracts with affiliates	No, but management company must obtain two competitive bids from non-affiliates	Yes, and management company must obtain two competitive bids that are made available	No, but management company must obtain two competitive bids from non-affiliates	No, but must obtain approval if management company directly promotes an event	Yes, management company may not bid or negotiate with affiliates without prior written approval	Yes, require prior written consent and two competitive bids from non-affiliates	Yes, District may review all contracts and at any time take over management of such contracts

Exhibit 11
Comparison of Contract Management Provisions

Provision	Louisiana/SMG Superdome	Louisiana/SMG Arena	HCSCC/SMG	OACCA/OCJV	Jacksonville/SMG	ATSA/Global Spectrum	Chicago Park District/SMG
Government entity must approve other types of contracts	No	Yes, must approve concessions, sponsorship, and sales marketing contracts	Yes, including concessions and concurrent or bulk contracts	Yes, including concession, advertising, and pre-existing licenses	No	Yes, contracts for elevator or escalator repair maintenance and security services during events require prior written consent; contracts for same or similar users to use more than 15 days in a fiscal year	Yes, District may review all contracts and at any time take over management of such contracts
Government entity requires adherence to public bid law	No	No	No	No, but contract requires bids or estimates depending on the total dollar amount	Yes	Yes	Yes

Source: Prepared by the legislative auditor's staff using information obtained from other states' management agreements.

Board's Oversight Practices Are Limited

As stated previously, the board exercises some oversight over SMG, but this oversight is limited by the lack of oversight provisions in the management agreement. Also, the board may not be receiving from SMG the information it needs to make sound management decisions. Finally, some board members said that they do not have the expertise or the staff needed to provide necessary oversight.

According to an SMG official, SMG involves the board members in major decisions. However, some board members told us that there have been times when SMG has solicited its input after decisions have been made. To ensure that oversight is exercised, some board members would like to see a contractual arrangement with SMG that requires more accountability. They suggested that the contract should include specific requirements related to oversight roles and responsibilities. Such a contract would formalize the practices that are currently exercised at board meetings but are not contractually required.

During the monthly board meetings, SMG presents information on finances, bookings, contracts, and other matters. SMG presents some of this information to the board, its committees, and/or its consultants for review and approval. Although in practice SMG appears to be allowing for board input and oversight on budgets and other decisions, some board members said that they feel the information they receive from SMG is incomplete, not always accurate, and sometimes untimely. For example, they said that they have experienced delays in getting certain information or have not been allowed to review certain reports prior to their submission. As a result, the board members may be basing important decisions on poor or incomplete information.

The board relies on its financial consultant to help them understand the financial information provided by SMG. Board officials suggested that the board or district hire a permanent accounting staff to provide financial oversight of SMG's management and information to the board. Three other states we contacted have a permanent, full-time professional staff. For example, the Reliant Park oversight entity has seven permanent full-time staff members. These professional positions provide oversight in the areas of administration, operations, accounting, and finance.

Recommendation 10: The district should work with the Office of the Governor to renegotiate the agreement to include specific requirements related to oversight roles and responsibilities.

District's Response: Agree. The district is willing to work with the Office of the Governor and SMG to make certain that the operations of the Superdome and the Arena are consistent with clearly articulated oversight roles and responsibilities so that the success of the district's facilities is maximized.

SMG's Response: Agree. SMG has no objection to the board's oversight role.

Recommendation 11: The district should work with the Office of the Governor to determine if a full-time professional staff is needed to ensure that proper oversight is provided by the state and/or the district.

District's Response: Agree. The district believes that a full-time professional staff and an Executive Director may be needed to assure proper oversight by the State and/or the district, and also to allow the district to meet its statutory responsibilities for the successful operation of all of the district's facilities.

SMG's Response: Partially agree. SMG has no objection, but feels the decision is not SMG's responsibility.

AUDIT SCOPE AND METHODOLOGY

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We followed the applicable generally accepted government auditing standards as promulgated by the Comptroller General of the United States.

Audit Scope

This audit focused on the management fees paid to SMG and the oversight of SMG's activities. The audit covered fiscal years 2003, 2004, and 2005. Our audit objective was to answer the following question:

How does the management agreement compare to similar agreements in other states in terms of compensation and oversight?

Methodology

To accomplish our objective, we performed the following:

- Conducted a detailed analysis of the Louisiana/SMG management agreement
- Interviewed appropriate board members and SMG officials concerning their responsibilities and activities
- Researched relevant state laws
- Analyzed board minutes for calendar years 2003, 2004, and 2005
- Attended a monthly board meeting
- Reviewed information and documentation submitted by SMG officials to the board
- Determined how each NFL stadium is owned and managed, as shown in Appendix B
- Obtained and analyzed similar agreements for the management and operation of five other publicly owned and privately managed NFL stadiums
- Compared the provisions of the Louisiana/SMG management agreement to the other agreements

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Ownership and Management of NFL Stadiums				
NFL Team	**Stadium Name**	**Stadium Owner**	**Stadium Manager**	**Owner/Manager Relationship**
Arizona Cardinals	***Cardinals Stadium***	***Arizona Tourism and Sports Authority***	***Global Spectrum***	***Public owner/Private manager***
Atlanta Falcons	Georgia Dome	State of Georgia	Georgia World Congress Center	Public owner/Public manager
Baltimore Ravens	M + T Bank Stadium	Maryland Stadium Authority	Maryland Stadium Authority	Public owner/Public manager
Buffalo Bills	Ralph Wilson Stadium	Erie County	Erie County	Public owner/Public manager
Carolina Panthers	Bank of America Stadium	Carolinas Stadium Corporation	Carolinas Stadium Corporation	Public owner/Public manager
Chicago Bears	***Soldier Field***	***Chicago Park District***	***Spectacor Management Group***	***Public owner/Private manager***
Cincinnati Bengals	Paul Brown Stadium	Hamilton County	Paul Brown Ltd. Corporation (hybrid)	Public owner/Private manager (lease agreement)
Cleveland Browns	Cleveland Browns Stadium	City of Cleveland	Cleveland Browns	Public owner/Team manager
Dallas Cowboys	Texas Stadium	City of Irving	Texas Stadium Corporation	Public owner/Private manager (lease agreement)
Denver Broncos	Invesco Field	Denver Metropolitan Football Stadium District	Stadium Management	Public owner/Private manager (lease agreement)
Detroit Lions	Ford Field	Detroit/Wayne County Stadium Authority	Detroit Lions	Public owner/Team manager
Green Bay Packers	Lambeau Field	City of Green Bay	Green Bay Packers	Public owner/Team manager
Houston Texans	***Reliant Stadium***	***Harris County***	***Spectacor Management Group***	***Public owner/Private manager***
Indianapolis Colts	RCA Dome	Capital Improvement Board	Capital Improvement Board	Public owner/Public manager
Jacksonville Jaguars	***Alltel Stadium***	***City of Jacksonville***	***Spectacor Management Group***	***Public owner/Private manager***
Kansas City Chiefs	Arrowhead Stadium	Jackson County Sports Complex Authority	Kansas City Chiefs	Public owner/Team manager
Miami Dolphins	Dolphins Stadium	Wayne Huizenga	Dophins Enterprises LLC	Private owner/Private manager
Minnesota Vikings	Hubert Humphrey Metrodome	Metropolitan Sports Facilities Commission	Metropolitan Sports Facilities Commission	Public owner/Public manager

Ownership and Management of NFL Stadiums				
NFL Team	**Stadium Name**	**Stadium Owner**	**Stadium Manager**	**Owner / Manager Relationship**
New England Patriots	Gillette Stadium	Robert Kraft	New England Patriots and New England Revolution	Private owner/Private manager
New Orleans Saints	***Louisiana Superdome***	***Louisiana Stadium and Exposition District***	***Spectacor Management Group***	***Public owner/Private manager***
New York Giants	Giants Stadium	New Jersey Sports and Exposition Authority	New Jersey Sports and Exposition Authority	Public owner/Public manager
New York Jets	Giants Stadium	New Jersey Sports and Exposition Authority	New Jersey Sports and Exposition Authority	Public owner/Public manager
Oakland Raiders	***McAfee Coliseum***	***Oakland – Alameda County***	***Spectacor Management Group***	***Public owner/Private manager***
Philadelphia Eagles	Lincoln Financial Field	City of Philadelphia	Philadelphia Eagles	Public owner/Team manager
Pittsburgh Steelers	Heinz Field	Sports and Exhibition Authority	Pittsburgh Steelers, University of Pittsburgh	Public owner/Team manager
San Diego Chargers	Qualcomm Stadium	City of San Diego	City of San Diego	Public owner/Public manager
San Francisco 49ers	Monster Park	City and County of San Francisco	City and County of San Francisco, Recreation and Park Department	Public owner/Public manager
Seattle Seahawks	Qwest Field	Washington State PSA	First and Goal Inc.	Public owner/Private manager (lease agreement)
St. Louis Rams	Edward Jones Dome	St. Louis Regional Sports Authority	St. Louis Convention/Visitors Bureau	Public owner/Public manager
Tampa Bay Buccaneers	Raymond James Stadium	Tampa Sports Authority	Tampa Sports Authority	Public owner/Public manager
Tennessee Titans	The Coliseum	City of Nashville	City of Nashville	Public owner/Public manager
Washington Redskins	FedEx Field	Daniel Snyder	Washington Redskins	Private owner/Team manager
Source: Prepared by the legislative auditor's staff using information obtained from Internet research.				

Office of the Governor's Response

KATHLEEN BABINEAUX BLANCO
GOVERNOR

State of Louisiana
OFFICE OF THE GOVERNOR
Baton Rouge
70804-9004

POST OFFICE BOX 94004
(225) 342-7015

RECEIVED
LEGISLATIVE AUDITOR
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April 26, 2006

Mr. Steve J. Theriot
Office of Legislative Auditor
PO Box 94397
Baton Rouge, LA 70804-9397

Dear Steve,

Governor Kathleen Babineaux Blanco has asked that I express her appreciation to you and your staff for the conduct of a performance audit of the management agreement between the state of Louisiana and Spectacor Management Group (SMG) for the management and operation of the Louisiana Superdome and the New Orleans Arena. She also asked that I commend the Louisiana Stadium and Exposition District (LSED) Board of Commissioners (Board) for requesting the audit in the first instance. It is not often enough that our state agencies welcome outside scrutiny, let alone request it. Thus, we also commend the members of the Board for their dedication, hard work and sincere interest in representing the citizens of Louisiana.

As recited in the audit report, the primary agreements at issue have been in place for many years and any such agreements should be reviewed periodically to ensure their relevance and appropriateness given the dynamic nature of commerce. Certainly, we would have been surprised to learn that you and your staff were unable to suggest any changes that would cause the relationship to better serve the people of Louisiana.

After reviewing the various recommendations contained in the report and having reviewed the LSED Board response thereto, it is clear that you and your staff have worked very hard to identify important issues which should be addressed. The Governor concurs with the LSED Board that the recommendations will prove quite instructive and helpful to the successful management and maintenance of the LSED facilities.

As mentioned by the LSED response, SMG has provided outstanding management services for many years. Nevertheless, improvements can be made in the management agreement to benefit all parties and as such the Governor is directing the LSED Board to provide specific recommendations to her to implement appropriate improvements in an orderly and business-like manner.

Again, on behalf of Governor Blanco, I want to thank you and your staff for its hard work and valuable recommendations.

Sincerely,

James S. Clarke

James S. Clarke, Ph.D.
Chief of Staff

c: Chairman Tim Coulon, LSED Board of Commissioners

LSED Board of Commissioners' Response

ROEDEL PARSONS KOCH
BLACHE BALHOFF & MCCOLLISTER

A LAW CORPORATION

WRITER'S E-MAIL
LRoedel@RoedelParsons.com

April 20, 2006

VIA ELECTRONIC MAIL
AND HAND DELIVERY
Steve J. Theriot
Office of the Legislative Auditor
1600 N. Third Street
Baton Rouge, LA 70802

Re: LSED – Performance Audit Response

Dear Mr. Theriot:

We respectfully submit the LSED Board of Commissioners' Response to the Findings Conclusions and Recommendations of the Legislative Auditor regarding the Performance Audit of the Management Agreement between the State of Louisiana and Spectator Management Group. Thank you for the professional courtesy shown to the LSED throughout this process. If you have any questions, please contact me at any time.

Sincerely,

Larry M. Roedel

LMR:tk
Enclosure
cc: Mike Battle
Shawn Dietrich

8440 JEFFERSON HIGHWAY, SUITE 301 • BATON ROUGE, LA 70809-7652 • TELEPHONE 225-929-7033 • FAX 225-928-4925
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*Also licensed in Pennsylvania ∆Also licensed in Virginia †Of Counsel

REPORT TO THE LEGISLATIVE AUDITOR

APPENDIX ________:

LSED BOARD OF COMMISSIONERS' RESPONSE

The following information and commentary represents the Louisiana Stadium & Exposition District ("LSED") Board of Commissioners' Response, through its Legal Counsel and Financial Consultant, to the Findings, Conclusions and Recommendations of the Legislative Auditor which conducted a performance audit of the Management Agreement between the State of Louisiana and Spectator Management Group ("SMG").

PERFORMANCE AUDIT FINDINGS

Contract Provisions Are Not Clear and Concise

The agreement contains vague language in some cases and complex language in others.

LSED Response: The LSED generally agrees, but adds:

- Specific duties should be included in the agreement which define the level of oversight and the parties or entities to perform that oversight.

- The LSED should become a party to the agreement in order to better define its role in the process or consideration should be given to an agreement between the LSED and SMG to define the responsibilities of each.

Management Fee Calculations Should be Simplified

The current management fee structure involves numerous complicated calculations, thus making the structure cumbersome and difficult to understand. The revised fee structure that takes effect July 1, 2006 is less complex. However, the number of calculations is inconsistent with other similar agreements, which continues to make the fee structure difficult to understand.

LSED Response: The LSED generally agrees, but adds:

- Amounts in the calculations should be readily determined from the monthly and annual financial reports received from SMG.

- This calculation should include incentive benchmarks that are based on both activity and event statistics and financial results.

- Statistics should be clearly defined in the agreement and provided with the monthly financial reports to the LSED. These statistics should be agreed upon in form, content, and presentation by all parties.

- Financial results to be used should be "GAAP based" and on the full accrual basis of accounting. The presentation of working capital results in monthly reports further confuses the idea of which financial reports contain the results to be used calculating the management fee.

- Budget and actual amounts upon which the financial results are determined should be the same basis of accounting. Therefore, budget amounts should be based upon the full accrual basis of accounting.

- Incentive and Bonus Fee should be combined into a single category "Incentive". This fee component could contain both a financial and event results calculation.

Incentive Fee Is Not Performance-based

The incentive fee does not require SMG to meet or exceed any clear, measurable performance standards, and the fee does not include penalties for poor performance.

LSED Response: The LSED generally agrees, but adds:

- The LSED readily acknowledges that SMG's performance has been more than satisfactory despite the challenges of the contractual and statutory relationships and the impact of Hurricane Katrina on the LSED facilities.

- The incentive fee cannot go below zero. However, there should not be a minimum amount which is payable regardless of performance.

- The statistical and financial components of the Incentive Fee should each be able to lower the benefits of the other when benchmarks are not achieved on either.

Management Fees Paid to SMG are Higher Than Management Fees Paid in Other States

The management fees paid to SMG in Louisiana over the last three fiscal years are significantly higher that those paid in other states for similar services.

LSED Response: The LSED generally agrees, but adds:

- One obvious issue is the CPI adjustment to the Fee Cap. This cap began to be adjusted in the initial contract year.

- The cap increases should be agreed upon each year rather than linked to the CPI.

- The use of the CPI should be limited to short-term agreements. The uncertainty of the percent increase in the CPI over a 10-15 year term has resulted in unexpected cost increases in the agreement.

- SMG may have explanations as to why its fees are higher in Louisiana for managing the Superdome and the Arena than in other states where facility management responsibilities may differ.

Management Agreement Does Not Provide Sufficient Oversight Authority

The management agreement does not provide for specific oversight functions to ensure that the Superdome and the Arena are properly managed. While the agreement contains some oversight provisions for the Arena, there are little to no oversight provisions for the Superdome.

LSED Response: The LSED generally agrees, but adds:

- SMG does provide additional detailed monthly reports for both the Superdome and the Arena beyond that which is required by the current agreement.

- There are currently established procedures for SMG to provide the LSED Board with financial information. However, the LSED does not have the specific contractual authority to require the information and to grant its approval of the information.
  - Monthly financial reports.
  - Budget vs. actual reports.
  - Annual budget preparation and approval.

- It is important that the LSED Board is able to provide an independent review of the financial results since they are the basis for the fee calculation. Otherwise, SMG is preparing the financial results to be used to determine its own fee without regular oversight except an annual audit.

Board's Oversight Practices Are Limited

The Board exercises some oversight over SMG, but this oversight is limited by the lack of oversight provisions in the management agreement, the information received from SMG, and the lack of expertise or staff needed to provide necessary oversight.

LSED Response: The LSED generally agrees, but adds:

- Direction is needed from the Office of the Governor regarding the roles and responsibilities of both the LSED and SMG on a going-forward basis.

- The LSED should be made a party to the agreement between SMG and the State.

- The State has the right and authority to designate oversight of the agreement, the application of its financial impact operationally and the capital costs be handled by the LSED.

- Two other considerations are important. Should the current LSED functions and responsibilities be handled by or transferred to another Division or Department of State government? Also, should staff and/or an Executive Director be added to the LSED to perform certain oversight functions? Currently, the LSED Board has neither the time nor the funding to fully perform all its statutory responsibilities.

Report Conclusion

The management agreement between the State of Louisiana and SMG provides for a more generous fee arrangement and does not provide for sufficient oversight when compared to similar management agreements in other states. The following sections of this report provide the information used to draw this conclusion.

Page 11 - Recommendation 1: *The district should work with the office of the governor and SMG to renegotiate the management agreement so that it is clear and concise.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG concerning this Recommendation.

Page 12 – Recommendation 2: *The district should work with the office of the governor and SMG to renegotiate the management fee structure to simplify the calculations that are required to determine the total management fee.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG concerning this Recommendation.

Page 16 – Recommendation 3: *The district should work with the office of the governor and SMG to renegotiate the incentive fee to include clear, measurable performance expectations and standards. The incentive fee should be structured so that SMG is rewarded only when it has met the standards.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG concerning this Recommendation.

Page 17 – Recommendation 4: *The district should work with the office of the governor and SMG to determine why the fees paid in Louisiana are higher than those in other states with similar agreements. They should then work to renegotiate the compensation paid to SMG.*

LSED Response: The LSED is aware that the duties and responsibilities of SMG in Louisiana may differ significantly from the duties and responsibilities required of SMG in other states concerning management of other facilities. Once that analysis has been completed, then the LSED is willing to work with the Office of the Governor and SMG to implement this Recommendation.

Page 18 - Recommendation 5: *The district should work with the office of the governor to renegotiate the management agreement so that responsibility for oversight is assigned to a specific individual or entity with the necessary expertise and authority to assess service quality and enforce contract provisions.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG concerning this Recommendation.

Page 18 – Recommendation 6: *The district should work with the office of the governor to develop and implement general management provisions that are similar to those found in other agreements.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG to make certain that the general management provisions for both the Superdome and the Arena are consistent with sound management principles so that the success of the LSED facilities is maximized.

Page 21 – Recommendation 7: *The district should work with the office of the governor to develop and implement financial management provisions that are similar to those found in other agreements.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG to make certain that the operations of the Superdome and the Arena are consistent with sound financial management principles so that the success of the LSED facilities is maximized.

Page 24 – Recommendation 8: *The district should work with the office of the governor to develop and implement reporting provisions that are similar to those found in other agreements.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG to make certain that the operations of the Superdome and the Arena are consistent with and include sound reporting provisions so that the success of the LSED facilities is maximized.

Page 26 – Recommendation 9: *The district should work with the office of the governor to develop and implement contract management provisions that are similar to those found in other agreements.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG to make certain that the management provisions for both the Superdome and the Arena are consistent with sound contract management principles so that the success of the LSED facilities is maximized.

Page 29 – Recommendation 10: *The district should work with the office of the governor to renegotiate the agreement to include specific requirements related to oversight roles and responsibilities.*

LSED Response: The LSED is willing to work with the Office of the Governor and SMG to make certain that the operations of the Superdome and the Arena are consistent with clearly articulated oversight roles and responsibilities so that the success of the LSED facilities is maximized.

Page 29 - Recommendation 11: *The district should work with the office of the governor to determine if a full-time professional staff is needed to ensure that proper oversight is provided by the State and/or the district.*

LSED Response: The LSED believes that a full-time professional staff and an Executive Director may be needed to assure proper oversight by the State and/or the LSED, and also to allow the LSED to meet its statutory responsibilities for the successful operation of all LSED facilities including the Superdome, the New Orleans Arena, Zephyr Stadium, the New Orleans Saints Training Facility, and the Alario Center.

GENERAL CLOSING COMMENTS

The LSED acknowledges and thanks the Legislative Auditor for its work in identifying issues that need to be addressed. The LSED believes that its Response does provide additional commentary that is instructive and helpful to future LSED Boards and Governors as they seek to successfully manage and maintain the LSED facilities.

The current LSED Board believes that SMG provides excellent management services for the Superdome and the Arena pursuant to its Management Agreement with the State; however, with any long-term contractual relationship, improvements can be made for the future to benefit all parties who have a role to play with respect to the LSED facilities. The current LSED Board stands ready to confer with the Office of the Governor and SMG to implement these improvements in an orderly and business-like fashion for the benefit of all concerned.

Sincerely,

Larry M. Roedel

Larry M. Roedel, Legal Counsel
For the Louisiana Stadium & Exposition District

SMG's Response

Private Management for Public Facilities

J. Douglas Thornton
Regional Vice President

April 18, 2006

Mr. Steve Theriot, Auditor
Office of the Legislative Auditor
State of Louisiana
1600 North Third Street
Baton Rouge, LA 70802

Re: Legislative Audit Report – SMG Response

Gentlemen:

The Louisiana Stadium and Exposition District (LSED) Chairman recently provided SMG with a copy of the preliminary draft report issued by the Legislative Auditor, which examines the current SMG management agreement and structure of the LSED. While the report is thorough and comprehensive in its content, SMG does not believe the final conclusions drawn represent an accurate judgment of the contract terms.

We offer the following information and commentary in response to the findings, conclusions and recommendations of the Legislative Audit report:

1. Contract Provisions Are Not Clear and Concise:

The original agreement was drafted in 1977 and has been amended several times. At the time it was drafted, private management of public facilities was in its embryonic stage. We would agree that some of the provisions are cumbersome and could be modernized. SMG has no objection to simplifying the terms of the management agreement so that the language is more clear and concise.

2. Management Fee Calculations Should be Simplified:

The SMG management agreement was amended in June 2003 to provide for a revised fee structure beginning July 1, 2006. As referenced in the report the provisions associated with

Stadiums ◆ Arenas ◆ Convention Centers ◆ Theatres

Louisiana Superdome ◆ 1500 Sugar Bowl Drive ◆ New Orleans, LA 70112 ◆ Voice: 504.587.3827 ◆ Fax: 504.587.3584
E-Mail: dthornton@superdome.com

SMG's $2,000,000 capital contribution contribute to the complexity of calculating the fee total. However, the LSED's recently returned SMG's $2,000,000 capital contribution in accordance with the terms of the agreement. The complex provisions relating to the fee calculation will have no application going forward, but SMG is happy to discuss further simplification of the fee structure if desired by the State.

3. Incentive Fee Is Not Performance-based:

We disagree with the report's conclusion that SMG's fees are not performance-based. The revised SMG agreement has a fixed fee, incentive fee and bonus fee component. The incentive portion of the fee specified in the revised management agreement is entirely performance-based. The incentive is calculated as a percentage of "Adjusted Net Income", which includes activities within SMG's control (e.g. non-Saints, non-Hornets events). This provision places the burden squarely on the management company to perform and generate business for the facility. The bonus fee provision relates to achieving or exceeding budgeted financial goals, which again, is performance based.

Management agreements are usually structured by municipal entities to meet the specific objectives related to their facilities that may not be transported to facilities in other jurisdictions. However, we think that you will find the baseline criteria for incentive fee compensation in most management contracts to be related to revenue generation for the facility, which is the case at the Superdome and New Orleans Arena.

4. Management Fees Paid to SMG are Higher than Fees Paid in Other States:

The revised management fee calculation contains base and incentive fees for both the Superdome and New Orleans Arena and is comparable to other management agreements that contain a similar scope of services. The audit report compares fees paid to SMG over the last three years to fees paid at other comparable facilities. We do not believe this is a fair comparison, given the nature of the revised fee structure that take effect July 1, 2006. When examining fees paid over the last three years, consideration must also be given to the interest-free capital contribution of $2,000,000 provided to the State. Now that the capital advance has been returned by the State, the revised fees will be considerably lower than the earnings over the three (3) previous years. Also, please consider that SMG's management responsibilities at the Superdome and New Orleans Arena are very comprehensive and exceed the scope of other facilities.

Each management agreement is unique and is structured to take into account existing circumstances and issues. SMG believes that the management fees paid under the revised fee structure that becomes effective July 1, 2006 are reasonable when compared to facilities requiring a similar scope of services for the manager.

5. Management Agreement Does Not Provide Sufficient Oversight Authority:

Section 2.4 of the management agreement (part of the original contract authorized by Act 64) expressly makes the Governor or his designee the administrator of the contract. As a matter of practice, the Governor has generally assigned this responsibility to his Executive Counsel, or Chief of Staff. SMG has always involved the Chairman of the LSED and, at his direction, individual Commissioners, in all major decisions affecting the facility even though there may be no contractual requirement to do so.

SMG submits all operating budgets, capital expenditure request, material contracts (including professional sports tenants) and other similar items for the LSED's approval. In addition, SMG provides an operating report, statement of income for the Superdome, New Orleans and a consolidated financial report for the District at each monthly meeting. We are in constant communication with the Legal Advisor, Chairman and Financial Advisor to discuss matters affecting the District. Finance Committee meetings are held monthly to review results and activities. SMG does not object to incorporating more specific reporting and oversight procedures into the management agreement.

In summary, SMG has enjoyed a successful partnership with the State of Louisiana for nearly 30 years, serving as the private manager of the Superdome and now the New Orleans Arena. That partnership has led to great achievements over the years, including thousands of successful events, generating millions for the local economy. Management accountability and performance have been SMG hallmarks during this period, which have contributed greatly to the success of the facilities.

We appreciate the opportunity to respond to the preliminary findings trust that you find our commentary and response helpful when drafting your final report.

Sincerely,

J. Douglas Thornton
Regional Vice President

JDT:ca

Cc: Tim Coulon
Larry Roedel
Wes Westley
Glenn E. Mon
John Burns

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Louisiana Legislative Auditor
Performance Audit Division

Checklist for Audit Recommendations

Instructions to Audited Agency: Please check the appropriate box below for each recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

RECOMMENDATION(S)	AGREE	PARTIALLY AGREE	DISAGREE
Recommendation 1: The district should work with the office of the governor and SMG to renegotiate the management agreement so that it is clear and concise. **(p. 11 of the report)**	SMG has no objection to terms more clear and concise		
Recommendation 2: The district should work with the office of the governor and SMG to renegotiate the management fee structure to simplify the calculations that are required to determine the total management fee. **(p. 12 of the report)**	SMG has no objection to making the management fee structure less complex		
Recommendation 3: The district should work with the office of the governor and SMG to renegotiate the incentive fee to include clear, measurable performance expectations and standards. The incentive fee should be structured so that SMG is rewarded only when it has met the standards. **(p. 16 of the report)**			SMG believes the current fee structure has measurable standards and is performance based.
Recommendation 4: The district should work with the office of the governor and SMG to determine why the fees paid in Louisiana are higher than those in other states with similar agreements. They should then work to renegotiate the compensation paid to SMG. **(p. 17 of the report)**			SMG believes the revised fees paid are competitive with other similar facilities

Recommendation 5: The district should work with the office of the governor to renegotiate the management agreement so that responsibility for oversight is assigned to a specific individual or entity with the necessary expertise and authority to assess service quality and enforce contract provisions. **(p. 18 of the report)**	No objection to including a more formalized reporting structure in the agreement.		
Recommendation 6: The district should work with the office of the governor to develop and implement general management provisions that are similar to those found in other agreements. **(p. 18 of the report)**	No objection to development of general management provisions		
Recommendation 7: The district should work with the office of the governor to develop and implement financial management provisions that are similar to those found in other agreements. **(p. 21 of the report)**	No objection to inclusion of financial oversight provisions		
Recommendation 8: The district should work with the office of the governor to develop and implement reporting provisions that are similar to those found in other agreements. **(p. 24 of the report)**	No objection to inclusion of reporting provisions		
Recommendation 9: The district should work with the office of the governor to develop and implement contract management provisions that are similar to those found in other agreements. **(p. 26 of the report)**	No objection to limitation of contracting authority		
Recommendation 10: The district should work with the office of the governor to renegotiate the agreement to include specific requirements related to oversight roles and responsibilities. **(p. 29 of the report)**	No objection to Board's oversight role		
Recommendation 11: The district should work with the office of the governor to determine if a full-time professional staff is needed to ensure that proper oversight is provided by the State and/or the district. **(p. 29 of the report)**		No objection; but not SMG's decision to make	