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**District of Columbia Sports and Entertainment
Commission's Executive Leadership Failed to
Implement an Effective Governance Structure to Ensure
Sound Financial Management Decisions, Management
Accountability, and Compliance with Applicable
Laws and Regulations**

October 17, 2003

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EXECUTIVE SUMMARY

PURPOSE

Pursuant to a request from Council Chairman Linda W. Cropp and Public Law 93-198, Section 455, the District of Columbia Auditor examined the accounts and operations of the District of Columbia Sports and Entertainment Commission (DCSEC) for fiscal years 1999 through 2003, as of March 31, 2003. This report, which is the first in a series to examine various aspects of DCSEC's operations and finances, focused on governance and management oversight.

CONCLUSION

The Auditor found that the District of Columbia Sports and Entertainment Commission's executive leadership failed to establish a functional governance structure that fostered effective Board policy development, policy implementation, and oversight. Instead, the governance structure used during most of the audit period facilitated ineffective oversight of the Commission's operational and financial performance, and failed to ensure management accountability and sound financial stewardship.

Although all powers of the Commission are vested in and are to be exercised by or under the authority of the Board of Directors, the Auditor found that, between fiscal years 1999 and 2002, standing committees required under the by-laws were not established and convened by the Board's Chairperson. Instead, recommendations for Board action emanated from the Board's Chairperson and Executive Director. By statute, the Board is required to meet only four times annually. In many instances, Board members were asked to respond to or approve transactions and other business-related activities, sometimes by fax, within a short period of time without adequate discussion or analysis. In some cases, Board approval was sought after transactions had been consummated.

During fiscal years 1999 through 2002, DCSEC incurred operating deficits totaling \$9.8 million. To cover these deficits, DCSEC management, with the Board's knowledge and apparent acquiescence, used investment funds to support undisciplined spending that exceeded the approved operating budget. Investment funds were also used to cover the cost of capital improvements. As a result, DCSEC's investment funds decreased from \$19 million to \$7.3 million between 1999 and 2002, and further declined to \$5.8 million by the end of the 2nd quarter of fiscal year 2003. The

Auditor determined that unless drastic cost-cutting measures are immediately implemented or a significant influx of revenue is received, DCSEC may be fast approaching bankruptcy. As a consequence, DCSEC will be placed in the untenable position of having to cease operations, sell assets, borrow funds, receive a cash infusion from the District's General Fund to support operations, or change the fundamental mission, duties, and responsibilities of the Commission.

The Auditor also found that significant personnel decisions were made without full Board approval. For example, the Chairperson, independent of the Board of Directors, negotiated and signed an employment agreement with DCSEC's current Executive Director without the Board's prior review, discussion, or approval. A three-year contract negotiated by the Chairperson, independent of the full Board, made the Executive Director of DCSEC the highest paid non-resident official within the District of Columbia government at an annual salary of \$275,000. The Executive Director's salary represented an increase of approximately \$150,000, or 120%, above the previous Executive Director's salary of \$125,000.

Despite the changing economic climate and increased competition from sports and entertainment venues in the Washington Metropolitan Area, the Auditor found that DCSEC's Board and management failed to develop and implement a strategic and/or business plan. Instead, over the past four years, DCSEC's management and Board leadership narrowly focused their efforts and DCSEC's meager financial resources on two potential business, or economic development, opportunities: (1) the acquisition of a major league baseball team; and (2) the unsuccessful bid for the 2012 Summer Olympic Games.

The financial deterioration of DCSEC can be attributed in important ways to the Board Chairperson's autocratic leadership style coupled with the Board's inability to exercise effective oversight of DCSEC's management and finances.

The Auditor found that DCSEC's management violated the District of Columbia Home Rule Act and the federal Anti-Deficiency Act by failing to obtain supplemental budget authority to spend investment proceeds to fund capital improvements and cover deficit spending.

The District of Columbia's Chief Financial Officer (CFO) serves as an ex-officio member of the DCSEC Board. Having the District's CFO serve on the Board in this capacity appears to have been intended to ensure that there existed independent, specialized Board-level oversight of

DCSEC's financial operation. The Auditor found that, although the CFO served as an ex-officio member of the DCSEC Board of Directors, DCSEC's financial position deteriorated significantly during the period under review.

Finally, the Auditor found that the Executive Director failed to meet goals set forth in his employment agreement which included: (1) the development and implementation of good strategic or business plans; (2) increasing Commission events and activities; (3) increasing Commission revenues; and (4) achieving a good response or measurable progress in efforts to secure major events and sports teams on behalf of the Commission. The Auditor also found that an evaluation of the Executive Director's performance had never been conducted by DCSEC's Board of Directors or a committee thereof.

Irregular financial performance and poor management practices and decisions indicate that DCSEC's present management, including its Chief Financial Officer, lacks the requisite governmental expertise necessary to successfully administer and manage the Commission's financial and procurement operations. The Auditor's review revealed that DCSEC's operations were conducted in a manner that failed to promote confidence and integrity in processes used and decisions made, as well as adherence to laws, regulations, and financial management and ethical standards applicable to this governmental enterprise. Further, the Auditor's examination strongly indicated that DCSEC requires increased monitoring and oversight from the Council, the Mayor, and the District's Chief Financial Officer, and further requires the expertise of a new management team.

MAJOR FINDINGS

1. The DCSEC Chairperson's failure to implement an effective governance structure coupled with an autocratic leadership style weakened the Board's ability to provide effective oversight.
2. DCSEC's management engaged in deficit spending during fiscal years 1999 through 2002.
3. Without a significant cash infusion and the implementation of drastic cost-cutting measures, DCSEC will not be a financially viable entity in fiscal year 2004.

4. DCSEC violated the appropriation process and the Anti-Deficiency Act.
5. The District's Chief Financial Officer failed to provide timely, effective oversight of DCSEC's financial operations and activities.
6. DCSEC's Executive Director failed to meet goals set forth in his employment agreement.

MAJOR RECOMMENDATIONS

1. The DCSEC Board of Directors examine the Board's current structure and identify and implement best practices in Board governance including but not limited to: the development and dissemination of a Board manual that includes all Board policies; the identification of a process to review and approve actions of the Board Chairperson; the implementation of an orderly transition process from one Chairperson to the next; and a mechanism for annually evaluating Board leadership.
2. The DCSEC Budget and Finance Committee must ensure that it meets regularly and works closely with DCSEC management to ensure that spending is adequately controlled in order to eliminate future budget and operating deficits.
3. The DCSEC Personnel Committee must establish and recommend to the full Board a formal performance evaluation process for the Executive Director and must ensure that the Executive Director is evaluated annually and held fully accountable for the achievement of performance goals and objectives.
4. The DCSEC Personnel Committee must immediately require DCSEC management to devise adequate personnel rules and regulations to ensure compliance with D.C. Law 10-152.
5. DCSEC's Board of Directors include a provision in future employment contracts requiring the Executive Director to reside in the District of Columbia.
6. The DCSEC Board of Directors, in conjunction with management, must immediately develop a strategic plan that clearly identifies the organization's mission, vision, values, goals, and priorities.

7. The DCSEC Board of Directors must define a process to monitor and evaluate management activities and initiatives to ensure alignment with the strategic plan and DCSEC's mission.
8. The DCSEC Board of Directors must establish standard financial and performance reports to be regularly submitted by management to all Board members for informational, policy development, and decision making purposes.
9. The use of confidentiality or nondisclosure clauses in employment discrimination settlement agreements such as the one discussed in this report should be voided immediately in that clauses prohibiting the disclosure of public information that do not violate an individual's right to privacy are contrary to public policy.
10. DCSEC's Board and executive management must eliminate future deficit spending by cutting costs in areas of significant growth such as professional services and development.
11. The Board of Directors immediately assess the capital improvement needs of DCSEC and develop a comprehensive facilities improvement plan covering a minimum five-year period.
12. The Board's Budget and Finance Committee immediately develop and implement a policy regarding the circumstances and criteria that must be met in order to justify the use of investment funds to support operations.
13. DCSEC's Executive Director devise and implement a viable plan to successfully increase the number of revenue generating events held at the RFK Stadium and the D.C. Armory.
14. DCSEC's Board of Directors, in cooperation with the Chief Financial Officer of the District of Columbia, must develop a sound financial plan to address DCSEC's financial crisis. The plan should identify substantial expenditure reductions and revenue generating opportunities to eliminate the imbalance between revenues and expenditures in fiscal year 2003 and 2004, at a minimum.

15. DCSEC comply with the Congressional appropriation process including the supplemental budget process and the Reprogramming Policy Act.
16. DCSEC's management adhere to the provisions of the Federal and District Anti-Deficiency Act and immediately discontinue the practice of spending in excess of its Congressionally approved budget.
17. The District's CFO hold DCSEC's Executive Director and CFO and any other DCSEC employee strictly accountable for violations of the District Anti-Deficiency Act, including termination from their position.
18. DCSEC adhere to financial reporting requirements applicable to all District agencies including the submission of the FRP to ensure adequate oversight and control of DCSEC's finances.
19. Consideration should be given to requiring DCSEC's CFO to report directly to the District's CFO to ensure independent supervision and accountability and to eliminate current and future irregular financial management practices.
20. DCSEC's Board of Directors must implement a process for regularly assessing the performance of the Executive Director and holding this official accountable for achieving established performance goals.
21. DCSEC's Board of Directors must increase its oversight of management's selection of events to ensure that they are aligned with the Commission's mission and goals of strengthening DCSEC's revenue generating capacity; promoting the District as an attractive venue for sports and entertainment events; and advancing the District's economic development objectives.

PURPOSE

Pursuant to a request from Council Chairman Linda W. Cropp and Public Law 93-198, Section 455, the District of Columbia Auditor examined the accounts and operations of the District of Columbia Sports and Entertainment Commission (DCSEC) for fiscal years 1999 through 2003, as of March 31, 2003. This report, which is the first in a series to examine various aspects of DCSEC's operations and finances, focused on governance and management oversight.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the audit were to determine whether:

1. DCSEC's Board of Directors operated in accordance with D.C. Code, Sections 3-1401 through 3-1419 (hereinafter referred to as the Sports Commission Law), and applicable by-laws;
2. the Board of Directors and management conducted DCSEC's financial activities and operations consistent with applicable rules, regulations, laws, and sound financial management principles and practices during fiscal years 1999 through 2003, as of March 31, 2003; and
3. the Board of Directors and management successfully pursued DCSEC's mission of promoting the District as a venue for sports and entertainment activities.

The scope of the audit included a review of the accounts and operations of the DCSEC between October 1, 1998 and March 31, 2003.

In conducting the audit, the Auditor reviewed D.C. Law 10-152 entitled, "Omnibus Sports Consolidation Act of 1994"; D.C. Law 10-115 entitled, "Omnibus Sports Consolidation Amendment Act of 1998"; D.C. Code, Sections 3-1401 through 3-1419; Title 19, Chapters 27 through 34 of the District of Columbia Municipal Regulations (DCMR); audited financial statements for the period under audit; event schedules; management reports; District and DCSEC personnel rules and regulations; Board minutes; cash receipts and disbursement journals; contracts; and contract files.

The Auditor interviewed senior DCSEC officials including its Executive Director, Chief Financial Officer (CFO), Armory Manager, Human Resources Director, and Facilities Manager. The Auditor also met with a majority of Board members regarding the period under review. The Auditor performed such tests of the documentation as deemed necessary and appropriate under the circumstances.

BACKGROUND

District of Columbia Law 10-152, the “Omnibus Sports Consolidation Act of 1994,” established the District of Columbia Sports and Entertainment Commission, effective August 23, 1994, to consolidate the non-military functions of the D.C. Armory Board (Armory), the Robert F. Kennedy Memorial Stadium (the Stadium), the District of Columbia Commission on Baseball, and the non-regulatory functions of the District of Columbia Boxing and Wrestling Commission. The D.C. Sports and Entertainment Commission was established as a corporate body and instrumentality within the District of Columbia government. According to the District’s Comprehensive Annual Financial Report for the year ended September 30, 2002 (2002 CAFR), the Sports and Entertainment Commission is a “component unit” within the District of Columbia government. The fiscal year 2002 CAFR states the following regarding component units:

“Component units are legally separate organizations for which the elected officials of the District are financially accountable. Accountability exists because the Mayor, with the consent of the Council, or other District officials, appoints the governing bodies of all of the component units. In addition, the District has an obligation to provide financial support to the Convention Center, the Sports and Entertainment Commission, and the University of the District of Columbia, and certain tax revenues are dedicated to each of these organizations...”

The DCSEC is authorized to perform the following responsibilities, among others:

- # promote the District as a location for holding sporting events to enhance the District’s economic development;
- # provide community outreach and grassroots recreation for all District residents, especially children;
- # coordinate and develop construction and implementation of new facilities and related infrastructure as well as the improvement of existing facilities in the District;
- # manage and maintain facilities in the District which already exist and any new construction by the D.C. Sports and Entertainment Commission; and
- # promote, market, and participate in sports events in the District.

The DCSEC's Board of Directors consists of 11 members, eight (8) of which are appointed by the Mayor with the advice and consent of the Council of the District of Columbia, and three (3) ex-officio members. (See Appendix I for a list of the DCSEC Board of Directors as of March 31, 2003) The three members who serve ex-officio include an official designated by the Mayor, the Chief Financial Officer of the District of Columbia, and the Director of the District's Department of Parks and Recreation. Appointed Board members serve 4-year terms and may be compensated at a rate equivalent to the highest step of a grade 15 in the District service. During fiscal years 1999 through 2003 as of March 31, 2003, none of the Board members received compensation. Although the Board's Chairperson resigned in July 2003, for purposes of this report, all references to the Chairperson or Board Chairperson herein relate to this former official.

D.C. Code, Section 3-1405, states, in relevant part, the following:

- (a) The Board shall appoint an Executive Director who shall serve as the chief executive officer of the Sports and Entertainment Commission. The Executive Director shall be an employee of the Sports and Entertainment Commission...and shall receive such compensation as shall be fixed by the Board. [Auditor's Emphasis]
- (b) In addition to any other duties set forth in this chapter, the Executive Director shall:
 - (1) Direct and supervise the administration and management of the Sports and Entertainment Commission, and direct the affairs and activities of the Sports and Entertainment Commission, in accordance with policies, rules, and regulations of the Sports and Entertainment Commission;
 - (4) Approve all accounts for salaries, per diem payments, and allowable expenses of the Sports and Entertainment Commission and its employees and consultants, and approve all expenses incidental to the operation of the Sports and Entertainment Commission;

Throughout this report, the Auditor will refer to the Chief Executive Officer of the Sports and Entertainment Commission as the Executive Director rather than President and Executive Director in that there is no reference in the Sports Commission Law regarding the position or title of President.

FINDINGS

THE DCSEC CHAIRPERSON'S FAILURE TO IMPLEMENT AN EFFECTIVE GOVERNANCE STRUCTURE COUPLED WITH AN AUTOCRATIC LEADERSHIP STYLE WEAKENED THE BOARD'S ABILITY TO PROVIDE EFFECTIVE OVERSIGHT

The Auditor found that, during the audit period, the Chairperson of DCSEC's Board of Directors failed to establish a functional governance structure that supported and promoted effective Board oversight. It appears that many critical decisions regarding DCSEC financial and operational matters were made without the approval or significant input from a majority of Board members. The Auditor found that the Board Chairperson's leadership style undermined the Board's ability to effectively monitor the Commission's operational and financial performance, ensure management accountability, and provide sound stewardship.

Section 2704.5 of DCSEC's by-laws provide the following regarding the Board Chairperson:

The Chairperson shall preside at the meetings of the Board, shall assure that members are advised on all significant matters of Commission business, shall act as principal spokesperson and representative of the Commission, and shall have such other powers and duties as may be prescribed by the Board or By-Laws. [Auditor's Emphasis]

During the Board Chairperson's tenure, the Auditor found the following:

- # the Chairperson failed to appoint board members to standing committees of the Board to ensure full Board participation in the governance of DCSEC and to ensure the integrity of financial reporting, the necessity for and reasonableness of financial transactions, as well as to assess the overall effectiveness of financial management practices, organizational and management performance, and capital improvement planning;
- # DCSEC's investment funds decreased from \$19 million in fiscal year 1999 to \$ 5.8 million in fiscal year 2003, as of March 31, 2003;

- # DCSEC's management engaged in deficit spending¹ during fiscal years 1999 through 2002 totaling \$9.8 million. Deficit spending is expected to adversely affect financial results in fiscal year 2003;
- # the Chairperson made decisions regarding DCSEC personnel prior to obtaining approval from or notifying the full Board;
- # the Chairperson executed contracts for good and services without Board knowledge and prior approval, and made significant inappropriate contract decisions;
- # the Chairperson failed to establish and convene additional committees as needed to ensure appropriate policy development and implementation, strategic plan development and implementation, and governance of the organization; and
- # the Chairperson failed to develop an effective system of communication to ensure that critical information was clearly articulated and timely disseminated to all Board members.

Board Chairperson Failed to Establish Standing Committees Required by Board By-laws

DCMR 19, Chapter 27, Section 2705.1 states that the standing committees of the Board shall consist of a Budget and Finance Committee and a Personnel Committee. Further, section 2705.2 states that the Board may create one or more additional committees as it deems appropriate to conduct the affairs, or any aspect of the affairs, of the Board. The Auditor found that, between fiscal years 1999 and 2002, standing committees required under the by-laws and any additional committees deemed appropriate and necessary were not established and convened by the Board's Chairperson until compelled to do so by the Council of the District of Columbia.

Matters requiring Board approval did not flow through a committee structure to the full Board. Instead, such matters were routinely presented directly to the Board by the Board's Chairperson or Executive Director. In many instances, the Auditor found that Board members were asked to respond to or approve DCSEC event and other business related activities within a short period of time without adequate discussion or analysis of available information. Board decision making appears to have been executed in this manner until June 18, 2002, when the Council of the

¹Deficit spending as used in this report is defined as an excess of current year's expenses over revenues.

District of Columbia, upon the recommendation of the Committee on Finance and Revenue, passed Bill 14-723, entitled the “D.C. Sports and Entertainment Commission Emergency Amendment Act of 2002,” which required the Board Chairperson to comply with the provisions of DCSEC’s by-laws by establishing standing committees. This action was in response to complaints from Board members about the lack of independent financial oversight, outside reports of DCSEC’s questionable spending practices, among other concerns. Specifically, the purpose of the legislation was:

“To amend, on an emergency basis, subsection 2705.1 of Chapter 27 of Title 19 of the District of Columbia Municipal Regulations to provide for the composition and selection of members of the committees of the D.C. Sports and Entertainment Commission.”

The bill was passed on an emergency basis and expired on October 8, 2002. According to the Auditor’s review of Board minutes and other relevant documentation, the Budget and Finance Committee, Personnel Committee, and a Contract and Procurement Committee were eventually established by the Chairperson.

Generally, Board committees consist of at least two or more members appointed by the Board Chairperson. Committee members are responsible for evaluating information regarding matters or projects within the purview of the Committee and making policy or other relevant recommendations to the full Board. Committees are often seen as a more efficient and effective means of decision making because of the thoroughness and diligence with which issues may be explored by a smaller, less formal group. The failure to convene important committees of the Board over the past four years has had a significant adverse impact on the Board’s ability to provide effective leadership, sound decision-making, and meaningful oversight of DCSEC.

Budget and Finance Committee

Typically, the Budget and Finance Committee is responsible for overseeing the development of the operating and capital budgets and long range financial plan; ensuring funds are monitored, accounted for, and spent only for approved purposes; and ensuring that adequate financial controls are in place to protect and promote the organization’s financial stability. The failure of DCSEC’s Board Chairperson to convene the Budget and Finance Committee, at a minimum, resulted in inadequate financial reporting, oversight, and accountability. For example, the primary responsibility for the development of the budget lies with the Executive Director and Chief Financial Officer, however, the budget should be vetted by a committee of the Board and referred to the full Board for final review and approval. The Auditor found that there was no formal process in place

for committee or Board-level examination and approval of DCSEC's annual budget. Instead, DCSEC's budget was prepared by the Executive Director and CFO and, in most cases, forwarded directly to the District's Office of Budget and Planning without Board review and approval. This practice by-passed any meaningful Board-level evaluation, discussion, and approval. The Auditor found that the majority of budgetary decision-making was determined by DCSEC's Executive Director and Chief Financial Officer without adequate Board-level involvement. As a result, it appears that these officials submitted flawed budgets to the District's Office of Budget and Planning.

Absent the participation of the Board or a committee thereof in the budget evaluation and approval process, there was no assurance that underlying revenue and expenditure assumptions and forecasts adequately and realistically reflected DCSEC's operating needs, financial position, or revenue generating capability.

During fiscal years 1999 through 2002, DCSEC incurred operating deficits totaling \$9.8 million. To cover these deficits, DCSEC management, with the Board's knowledge and apparent acquiescence, used investment funds to support undisciplined spending that exceeded the approved operating budget. Investment funds were also used to cover the cost of capital improvements. As a result, DCSEC's investment funds decreased from \$19 million to \$7.3 million between 1999 and 2002, and further declined to \$5.8 million by the end of the 2nd quarter of fiscal year 2003. Although Board members appear to have been informed of management's use of these funds, the specific details and implication to the Commission regarding the use of these funds were not adequately articulated, examined, or addressed by a committee of the Board or the full Board. In fact, the Board had failed to establish a policy governing the use of investment or reserve funds. Further, the Auditor found no records indicating that the Board met to address the results of annual financial audits which showed that, during the audit period, management engaged in deficit spending.

Personnel Committee

The Auditor found that the lack of a personnel committee had a significant impact on the effectiveness of the Board in ensuring appropriate and effective management direction and control of the Commission. For example, D.C. Law 10-152 required DCSEC to develop its own personnel rules. Although DCSEC adopted personnel rules, they were inadequate and DCSEC continued to rely on the District's personnel rules as guidance for certain aspects of its personnel operation. One responsibility of the personnel committee should have been to ensure the implementation of a fully functioning personnel management system and appropriately developed personnel rules, regulations, and procedures.

The personnel committee's responsibilities may also have included recommending the most qualified candidates to fill the position of Executive Director, establishing performance goals and objectives to be achieved by this official, recommending appropriate compensation, and conducting an annual performance evaluation of the Executive Director.

According to information reviewed by the Auditor, it appeared that the Board Chairperson operated autonomously from the Board of Directors in making two important personnel decisions: (1) hiring and negotiating an employment agreement with the current Executive Director; and (2) hiring DCSEC's current Chief Financial Officer.

The Auditor found that although the Chairperson, negotiated and signed an employment agreement with DCSEC's current Executive Director without the full Board's prior review, discussion, or approval, he did assemble a volunteer interview committee of four Board members and himself to interview candidates for the position of Executive Director. While Board minutes reflect the Chairperson's solicitation of board members to volunteer to sit on the interview committee, the Board's minutes do not reflect any attempts by the Chairperson to establish a personnel committee as prescribed by the by-laws. Further, according to Board minutes dated November 16, 2000, the Board Chairperson presented a summary rather than the Executive Director's actual employment agreement to the Board for its approval 10 days after the Chairperson executed the actual contract with the Executive Director on November 6, 2000. In other words, by the time the hiring recommendation and contract were presented for full Board approval, the Chairperson had already hired the Executive Director, obligated the Commission by executing an employment contract, and the individual had already begun working as DCSEC's Executive Director.

A three-year contract negotiated by the Chairperson, independent of the Board, made the Executive Director of DCSEC the highest paid non-resident official within the District of Columbia government at an annual salary of \$275,000. The Executive Director's salary represented an increase of approximately \$150,000, or 120%, above the previous Executive Director's salary of \$125,000. According to the Executive Director and a review of personnel and payroll records, no bonus compensation has been paid during his nearly three-year tenure with DCSEC. However, the Executive Director received \$18,210 in additional compensation for moving expenses, \$19,175 in housing allowance, \$55,000 in fringe benefits, and reimbursement of costs incurred in the performance of his official duties and responsibilities. The total compensation package afforded the Executive Director is presented in Table I.

TABLE I
Compensation Package for DCSEC's Executive Director

Category	Amount
Annual Salary	\$275,000
Fringe Benefits	55,000
Round-trip Airfare for up to 1 year to include spouse	1,679
Housing Allowance	19,175
Moving & Relocation Expenses	18,210
Automobile	3,339
Total Compensation to DCSEC's Executive Director	\$372,403*

Source: DCSEC Personnel Files and Disbursement Transactions

*The contract also provides for the reimbursement of costs related to the performance of official DCSEC business. These costs are not reflected in Table I.

The Executive Director's overall compensation package approximated \$372,000 during his first year at DCSEC. In addition, based upon a termination clause provided in the employment agreement, in the event of termination for cause, the Executive Director is eligible to receive payment of base salary and any accrued, unused vacation time through the date of termination.² If terminated for any other reason, the terms and conditions of the agreement remain in full force, including the base salary, for the duration of the employment term or until the individual is able to find acceptable employment (for a period of up to 12 months), which ever is longer.

The employment contract negotiated with DCSEC's Executive Director does not require District residency. However, as the highest paid District government official, the Auditor believes the Executive Director should be required to reside in the District of Columbia.

The Auditor also found that the Chairperson entered into a personal services agreement with DCSEC's CFO without the Board's review and approval. A personal services agreement was signed by the Chairperson and the CFO on December 20, 1999. This agreement included a starting salary of \$80,134 and the potential for bonuses. On January 2, 2000, the Auditor found that a personnel action established this individual as DCSEC's CFO under an excepted appointment. The Auditor found that on July 13, 2000, less than one-year of employment with DCSEC, the Chief Financial

²Cause is defined as a consequence of a conviction of a felony crime or a breach of a material obligation under the employment agreement.

Officer was awarded a \$25,000 bonus. Within two years of employment with DCSEC, the CFO's salary was increased by DCSEC's Executive Director from \$84,945³ to \$120,328, even though the CFO's duties and responsibilities did not change. The Auditor found that there was no written performance evaluation conducted by the Executive Director as stipulated in the personal services agreement prior to the award of the \$25,000 bonus and no written justification was prepared to support the \$35,383 pay increase. Although Board minutes for July 13, 2000, reference a personnel action with respect to the CFO that occurred in executive session, there is no record of Board approval of the \$25,000 bonus or the \$35,383 pay increase. Once again, key decisions which should have involved the full Board's review and approval appear to have been made unilaterally by the Board's Chairperson or Executive Director.

Other Board Committees

Although not required by law, DCSEC's Board Chairperson could have established additional committees, other than a Baseball Committee, such as an audit committee, governance committee, strategic/business plan development committee, and facilities committee, as needed. For example, although certain Board minutes show that management advised the Board of capital improvements that needed to be made to DCSEC controlled facilities, it may have been prudent for the Board to convene a facilities committee to work with management to develop a comprehensive capital improvements plan, including cost estimates and an implementation strategy and timetable. The Auditor found no documentation indicating the existence of or the Board's involvement in the development of a comprehensive capital improvements plan and related financial strategy.

The Auditor found that the Board Chairperson and DCSEC management violated Board by-laws in awarding contracts without prior Board review and approval. A procurement and contracts committee may have been instrumental in providing oversight of this activity by ensuring that contracts requiring Board review and approval were in fact presented to the Board. The committee also could have required that it receive regular reports of all DCSEC contracting and procurement activity in order to be fully informed of the nature, cost, and procedures used to acquire goods and services.

The Auditor found several contracts awarded by the Chairperson that were not fully and timely disclosed to the Board prior to obligating the Commission. For example, the Chairperson requested authorization from the Board during an executive session held on January 27, 2000, to hire

³The CFO's annual salary of \$80,134 was increased to \$84,945 as a result of a cost of living increase that became effective April 9, 2000.

the law firm of Hogan & Harts on to represent DCSEC with respect to a draft report issued by the Office of the District of Columbia Auditor regarding DCSEC's accounts and operations. A review of Hogan & Harts on invoices showed that the law firm began billing for services related to the review on January 3, 2000, approximately 24 days prior to the Chairperson requesting authorization from the Board to hire the law firm. The Chairperson appears to have entered into a sole source, noncompetitive oral agreement with the law firm without prior Board knowledge and approval. In total, DCSEC spent \$107,000 for legal services rendered by the law firm in responding to the Auditor's report. This action violated Board rules which required prior Board approval of all contracts exceeding \$50,000.

In another example, the Auditor found that a majority of the Board approved the use of the Chairperson's law firm to defend DCSEC against an EEOC complaint filed by a former employee. The Chairperson forwarded to members of the Board a memorandum requesting a vote by fax on three issues, one of which was the use of a colleague in his firm to participate in mediating the employee's discrimination complaint. The proposal was based on the premise that legal fees would not exceed \$5,000. Ultimately, the Chairperson's law firm was paid \$22,000 during fiscal years 2001 and 2002 in connection with the discrimination case. The Auditor found that the Chairperson abstained from voting on this issue, however, the recommendation by the Chairperson to use his law firm in providing legal services to DCSEC presented, at a minimum, the appearance of a conflict of interest. Had this transaction flowed through an appropriately established governance structure it may have been properly vetted in order to remove even the appearance of a conflict of interest.⁴

⁴ The Auditor found that the EEOC case was eventually settled and the former employee was made to sign a non-disclosure agreement and general release in exchange for the payment of \$33,000, less withholdings for taxes, and \$16,500 in attorney's fees. In exchange for the payment, the agreement stated the following under the Confidentiality Section:

"By signing this Agreement, you acknowledge that during your employment that you had access to confidential information relating to the Commission and you represent that you have and agree that will continue [SIC] to maintain the confidentiality of confidential information, relating to the commission or any of its activities, including any non-public information about its officers, directors and employees, including names, addresses, phone numbers, and compensation and any financial data relating to the Commission, unless compelled by subpoena or court order to disclose such information. You agree that this Agreement is confidential, and you will not disclose directly or indirectly to anyone the existence or terms of this Agreement, except (1) upon obtaining their agreement to keep this information confidential to; (i) your counsel, or tax advisor or preparer; (ii) to your immediate family; or (2) as may be required by law. If you or your immediate family, your counsel or tax advisor or preparer are asked about the status of the Civil Action or your claims against the Commission, the response shall be only that the matter has been resolved and nothing will be said or otherwise communicated that would indicate or characterize the size or amount of the settlement. You agree that you are responsible for any violation of this paragraph. This Confidentiality provision is material inducement for the Commission to enter into this Agreement."

The Settlement Agreement negotiated with the former employee, which was signed by DCSEC's Executive Director on September 14, 2001, is unconscionable and contrary to public policy in that the Agreement prohibited the disclosure of pertinent public information by a government official who possessed important knowledge of DCSEC's financial and operating practices, policies, and procedures. Further, this is but another example of the pervasive culture of secrecy that existed within DCSEC's executive leadership and management ranks. This Agreement must be voided immediately.

DCSEC's Board Failed to Ensure the Development and Implementation of a Strategic Plan

In accordance with 19 DCMR, Chapter 27, Section 2701.1, all powers of the Commission are vested in and exercised by or under the authority of the Board of Directors. The affairs of the Commission are also to be managed under the policy direction of the Board. Although the Board is not responsible for the day-to-day management of DCSEC, it is responsible for establishing policy and determining the strategic direction of the organization. To be effective in performing such duties and responsibilities, the Board must be structured and function in a manner to ensure that its policies are completely implemented by management and that the organization is progressing toward the achievement of its mission and goals as set forth in the organization's enabling legislation and strategic and/or business plan.

The Auditor found that despite the changing economic climate and increased competition from sports and entertainment venues in the Washington Metropolitan Area, DCSEC's Board and management failed to develop and implement a strategic and/or business plan. Instead, within the past four years, DCSEC's management and Board leadership narrowly focused their efforts and DCSEC's meager financial resources on two potential business, or economic development, opportunities: (1) the acquisition of a major league baseball team; and (2) the unsuccessful bid for the 2012 Summer Olympic Games.

A strategic plan provides management and staff, through its mission, vision, and values, a clear understanding of what is most important to the organization's future success and longevity. Additionally, a strategic plan identifies long-range goals and objectives, specific tasks required to accomplish the stated goals and objectives, and focuses all activities of management and staff on accomplishing identified tasks according to organizational priorities.

DCSEC's Board, under the leadership of its Board Chairperson and management, failed to develop, adopt and implement a strategic plan or a business plan. As a result, DCSEC officials were unable to develop, pursue and align projects and initiatives with the mission and the stated goals and objectives of a comprehensive short and long range strategic plan. This, in part, hampered DCSEC management's ability to select or pursue appropriate events, projects, and business opportunities that had a greater chance of advancing the District's economic development objectives; strengthening DCSEC's revenue generating capacity; and promoting the District as an attractive venue for sports and entertainment events. The limited focus on baseball and the Olympic games epitomized the failure of Board and management leadership to apply a broad vision and appropriate efforts to developing and pursuing a viable plan for addressing the short-term and long-term success and future of DCSEC. As a result, DCSEC's Board and management did not:

- # enhance revenues;
- # advance the District's economic development objectives;
- # control expenditures; or
- # effectively market the District as an attractive venue for sports and entertainment events.

Ineffective System for Communicating Information to Board Members

Effective governance requires Board members to have access to information that enhances knowledge and understanding of the organization's needs and status. The Auditor found that the system of communications employed by the Chairperson and Executive Director during the audit period was ineffective and failed to ensure full disclosure of relevant information to all Board members, elected officials, and the public.

The Auditor interviewed several Board members to gain their perspectives on the effectiveness of the Chairperson's style of communication. Some Board members indicated that sufficient information required for informed decision making was generally not presented to all Board members. Instead, information was often sporadic and embedded in documents presented by the Board Chairperson or management for Board-level action. Board members indicated that they often received large quantities of information which was difficult to filter and discern important issues, and information was often received too late for adequate review, evaluation, and discussion. For example, the Auditor noted that the fiscal year 2003 budget for DCSEC was due to the District's Office of Budget and Planning by November 16, 2001, however, the budget and supporting documents were not presented to the Board until November 15, 2001, one day prior to the deadline for submission to the District's Office of Budget and Planning. Another example pointed out by several Board members involved the Chairperson's request that the Board approve the contract with the new Executive Director without being provided an actual copy of the contract. Instead, the Chairperson provided Board members a brief verbal description of the major terms of the contract. The Auditor also found that management failed to provide regular financial and performance-related reports to Board members for informational and decision making purposes.

RECOMMENDATIONS

1. The DCSEC Board of Directors examine the Board's current structure and identify and implement best practices in Board governance including but not limited to: the development and dissemination of a Board manual that includes all Board policies; the identification of a process to review and approve actions of the Board

Chairperson; the implementation of a process for the orderly transition from one Chairperson to the next; and a mechanism for annually evaluating Board leadership.

2. The DCSEC Budget and Finance Committee must ensure that it meets regularly and works closely with DCSEC management to ensure that spending is adequately controlled in order to eliminate future operating deficits.
3. The DCSEC Personnel Committee must establish and recommend to the full Board a formal performance evaluation process for the Executive Director and must ensure that the Executive Director is evaluated annually and held fully accountable for the achievement of stated performance goals and objectives.
4. The DCSEC Personnel Committee must immediately require DCSEC management to devise adequate personnel rules to ensure compliance with D.C. Law 10-152.
5. DCSEC's Board of Directors include a provision in future employment contracts requiring the Executive Director to reside in the District of Columbia.
6. The DCSEC Board of Directors, in conjunction with management, must immediately develop a strategic plan that clearly identifies the organization's mission, vision, values, goals, and priorities.
7. The DCSEC Board of Directors must define a process to monitor and evaluate management activities and initiatives to ensure alignment with the strategic plan and DCSEC's mission.
8. The DCSEC Board of Directors must establish standard financial and performance reports to be regularly submitted by management to all Board members for informational, policy development, and decision making purposes.
9. The use of confidentiality or nondisclosure clauses in employment discrimination settlement agreements such as the one discussed in this report should be voided immediately in that clauses prohibiting the disclosure of public information that do not violate an individual's right to privacy are contrary to public policy.

DCSEC's MANAGEMENT ENGAGED IN DEFICIT SPENDING DURING FISCAL YEARS 1999 THROUGH 2002

The Auditor's examination of financial data pertaining to DCSEC's operations revealed that while revenues from events remained relatively modest during the audit period, expenditures increased significantly above revenue collections. During fiscal years 1999 through 2002, DCSEC's revenues increased from \$5 million to \$7.5 million, or by 49%. Conversely, expenditures during the same period increased from \$6.4 million to \$11.6, or by approximately 80%. As a result, DCSEC experienced significant annual deficits ranging from \$1.4 million to \$4.1 million between fiscal years 1999 through 2002. A large share of the deficit spending, especially in fiscal year 2002, can be attributed to significant increases in expenses associated mainly with events, professional services, outside services, and development activities.⁵ DCSEC management also expended a significant amount of DCSEC funds on unplanned capital improvements. Table II presents DCSEC's operating revenues and expenses during each of the last four fiscal years.

TABLE II

**D.C. Sports and Entertainment Commission's Operating Revenues and Expenses⁶
Fiscal Years 1999 through 2002**

Fiscal Year	Operating Revenues	Operating Expenses	Variance
1999	\$5,050,000	\$6,461,000	(\$1,411,000)
2000	5,889,000	7,966,000	(\$2,077,000)
2001	7,357,585	9,567,542	(\$2,210,000)
2002	7,500,704	11,645,229	(\$4,145,000)
TOTAL	\$25,797,000	\$35,640,000	(\$9,843,000)

Source: DCSEC Audited Financial Statements

Insignificant increases in revenue may be attributed, in part, to management's failure to attract new revenue generating events coupled with a decrease in the number of events booked. For example, according to DCSEC's audited financial statements, DCSEC held 142 events during fiscal year 2001 compared to 88 events in fiscal year 2002. This represented a decrease of 54 events, or

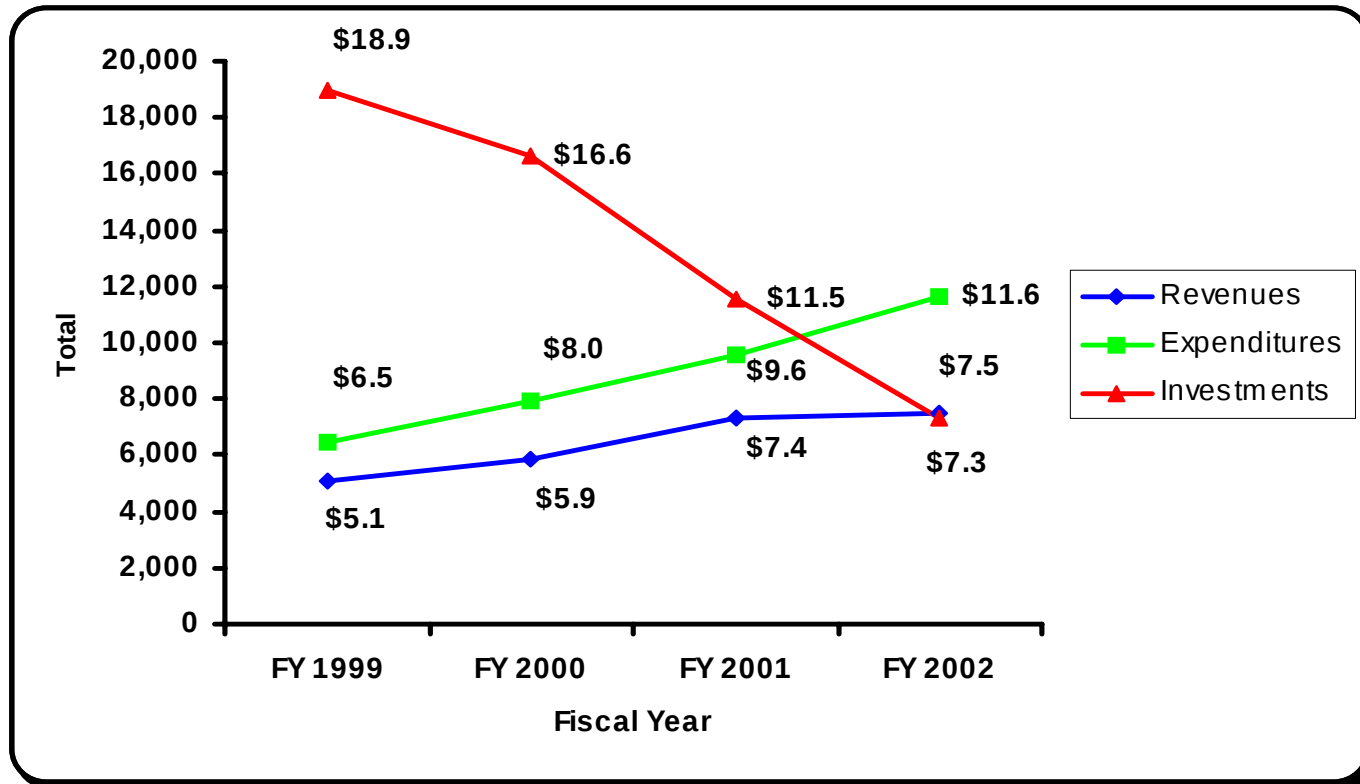
⁵ According to DCSEC, development activities relate to those efforts made to attract Major League Baseball and other events, such as the 2012 Olympic bid, to Washington D.C.

⁶ Rounding affects some calculations in this table.

38%, from fiscal year 2001. On the other hand, during the same time, DCSEC's management significantly increased capital expenditures to address facility improvements. Capital expenditures during fiscal year 2002 totaled \$6 million. The majority of capital improvement expenditures during fiscal year 2002 resulted from DCSEC management's decision to pave parking lots 6 and 7 in preparation for the National Grand Prix. Additionally, DCSEC increased operating expenditures in the areas of personnel, professional services, insurance, advertising and promotion, and development to support special projects and operating activities.

As a result of the imbalance between revenues and expenditures, DCSEC ended fiscal years 1999 through 2002 with significant operating deficits that management failed to appropriately address year after year. To close the spending gap, DCSEC's management cashed out investments totaling approximately \$11.6 million over a four-year period and used the investment proceeds to support significant undisciplined increases in operating and capital expenditures. As a result, DCSEC's investment balances declined from a high of approximately \$19 million as of fiscal year 1999 to approximately \$7.3 million in fiscal year 2002. Graph 1 depicts DCSEC's revenues, expenses, and investments during fiscal years 1999 through 2002. As of March 31, 2003, DCSEC's investment balance had declined even further to \$5.8 million, reflecting a total investment decrease of \$13 million.

Graph 1
Comparative Analysis of DCSEC's Revenues, Expenditures and Investments
Fiscal Years 1999 through 2002
(\$000's)



Source: DCSEC CFO, Office of the D.C. Auditor

RECOMMENDATIONS

1. DCSEC's Board and executive management must eliminate future deficit spending by cutting costs in areas of significant growth such as professional services and development.
2. The Board of Directors immediately assess the capital improvement needs of DCSEC and develop a comprehensive facilities improvement plan covering a minimum five-year period.
3. The Board's Budget and Finance Committee immediately develop and implement a policy regarding the circumstances and criteria that must be met in order to justify the use of investment or reserve funds to support operations.
4. DCSEC's Executive Director devise and implement a viable plan to successfully increase the number of revenue generating events held at the RFK Stadium and the D.C. Armory.

WITHOUT A SIGNIFICANT CASH INFUSION AND THE IMPLEMENTATION OF DRASTIC COST-CUTTING MEASURES, DCSEC WILL NOT BE A FINANCIALLY VIABLE ENTITY IN FISCAL YEAR 2004

In assessing DCSEC's financial position, the Auditor compared revenues and expenditures for fiscal years 2002 and 2003 as of the 2nd quarter. In evaluating interim revenue at March 31, 2003, the Auditor found that the revenue was comparable to revenue earned in fiscal year 2002. However, in evaluating expenditures, the Auditor found that fiscal year 2003 expenditures were far above those incurred in fiscal year 2002. This imbalance suggests that DCSEC will again incur expenditures in excess of revenues in fiscal year 2003.

As previously mentioned, during fiscal years 1999 through 2002, management's financial practices generated operating deficits totaling \$9.8 million. Further, as of March 31, 2003, DCSEC's interim financial statements showed a net loss of \$4 million for fiscal year 2003. The Auditor projects that without a significant infusion of cash, coupled with the implementation of drastic cost-cutting measures, DCSEC may end fiscal year 2003 with a net operating loss of approximately \$8.1 million. If this scenario holds true, under current management and financial practices, DCSEC will not be financially viable in fiscal year 2004 or beyond.

Table III presents an analysis of DCSEC's operating results as of March 31, 2003, and year-end projections through September 30, 2003, as determined by the Auditor.

TABLE III
District of Columbia Sports and Entertainment Commission
Revenues, Expenses, and Net Loss
as of March 31, 2003 and End of Year Projections
(\$000's)

	Revenues and Expenses at March 31, 2003	Year-End Projections September 30, 2003 ⁷
Operating Revenues		
Rental	\$305	\$2,016
Event Services	377	2,283
Ticket Sales	398	477
Commissions	180	1,774
Advertising and Sponsorship	99	467
Parking	327	1,750
Other Income	92	513
Total Operating Revenues	1,778	9,280
Operating Expenses		
Personnel Costs	1,847	6,583
Outside Services	664	2,215
Equipment and Supplies	265	696
Repairs and Maintenance	102	585
Utilities	277	882
Advertising and Promotions	563	863

⁷ Year end projections were determined by adding actual revenues and expenses for the 2nd quarter of fiscal year 2003 to projected revenues and expenditures for the 3rd and 4th quarters of fiscal year 2003. Projections for the 3rd and 4th quarters of fiscal year 2003 were determined by using historical data from the same period in fiscal year 2002. The Auditor assumed that revenues and expenditures would remain at the same level. Further, because DCSEC did not produce 4th quarter statements for fiscal year 2002, the Auditor determined actual 4th quarter expenditures by examining financial statements through the third quarter of fiscal year 2002 and comparing that to the revenues and expenditures for fiscal year 2002 in the audited financial statements. To determine the actual allocation of revenues and expenditures for the 4th quarter, the Auditor used the allocation from fiscal year 2002.

Development	30	286
Professional Services	481	1,068
Administration	208	605
Technology	115	456
Insurance	309	643
Grants	14	179
Depreciation	962	2,375
Other	3	4
Total Operating Expenses	5,840	17,440
Net Operating (Loss)	(4,062)	(8,160)
Investment Income	28	56
Net (Loss)	(\$4,034)	(\$8,104)

Source: DCSEC's Interim Financial Statements, Office of the D.C. Auditor

The projections at September 30, 2003, do not reflect potential DCSEC changes in spending or an influx of unrestricted revenue from unanticipated events. Unless drastic cost-cutting measures are immediately implemented or a significant influx of revenue is received, DCSEC may be fast approaching bankruptcy. As a consequence, DCSEC will be placed in the untenable position of having to cease operations, sell assets, borrow funds, receive a cash infusion from the District's General Fund to support future operations or change the fundamental mission, duties, and responsibilities of the Commission. Although DCSEC is set up to be a financially self-sustaining operation of the District government, should the organization become financially insolvent, it may ultimately become the responsibility of the District government to address this fiscal issue. At that point, the Council of the District of Columbia and the Mayor may have to determine DCSEC's future.

RECOMMENDATION

DCSEC's Board of Directors, in cooperation with the Chief Financial Officer of the District of Columbia, must develop a sound financial plan to address DCSEC's financial crisis. The plan should identify substantial expenditure reductions and revenue generating opportunities to eliminate the imbalance between revenues and expenditures in fiscal year 2003 and 2004, at a minimum.

DCSEC VIOLATED THE APPROPRIATION PROCESS AND THE ANTI-DEFICIENCY ACT

As previously reported, DCSEC officials ended the past four fiscal years with operating deficits totaling \$9.8 million. To address deficit spending, DCSEC's management failed to cut spending and raise revenues. Instead, management used invested funds without seeking approval from the Mayor, Council, or Congress through the supplemental budget process. In other words, DCSEC management circumvented the normal system of financial accountability and control in the District government by failing to obtain supplemental budget authority to use investment proceeds to support capital expenditures and cover deficit spending.

Under the District of Columbia Home Rule Act, the Mayor and Council present a balanced budget to the Congress for review and approval. Once submitted to Congress, the District's budget is subject to the Congressional appropriations process, which includes a detailed line-item review and analysis. The District cannot spend any funds until the budget is approved by Congress, except pursuant to a continuing resolution passed by Congress.⁸

In accordance with the District of Columbia Home Rule Act, D.C. Code, Section 1-204.46:

...no amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act.

Further, in accordance with D.C. Code, Section 47-105, the provisions of the federal Anti-Deficiency Act, 31 U.S.C. Sections 1341, 1342, 1349 through 51, and 1511 through 1519 (1994), apply to all officers and employees of the District government in that these officials are prohibited from making obligations or expenditures in excess of amounts available in an appropriation or fund unless authorized to do so by federal law. Additionally, pursuant to D.C. Law 14-285, the "District Anti-Deficiency Act of 2002," effective April 4, 2003, all District and deputy agency heads, agency CFOs, budget directors, controllers, managers, and other employees are prohibited from making or authorizing an expenditure or obligation exceeding an amount available in an appropriation or fund unless authorized by law. An agency is defined to mean an agency, office, department, board, commission, or independent agency or instrumentality of the District government. [Auditor's Emphasis] The District of Columbia Sports and Entertainment Commission is bound by the provisions of the federal Anti-Deficiency Act and the District Anti-Deficiency Act of 2002.

⁸Exceptions to this requirement include those items exempted in the Home Rule Act, such as the obligation to pay debt service on bonds and short-term borrowing.

Section 47-355.04 of the District's Anti-Deficiency Act requires agency heads and agency CFO's to submit to the District's CFO a monthly spending plan, by source of funds, based on the budget submitted to Congress. If the budget is changed after Congressional submission, a revised spending plan must be submitted to the District's CFO within 15 days of final approval of the budget. Further, under D.C. Code, Section 47-355.06 an agency head, deputy agency head, agency chief financial officer, agency budget director, agency controller, manager, or other employee may be subject to adverse personnel action including removal for violating D.C. Code, Section 47-355.02; allowing an expenditure or obligation to exceed apportioned amounts; failing to submit a required plan or projection in a timely manner; knowingly reporting incorrectly on spending; and failing to adhere to a spending plan.

DCSEC's budget is a component of the Enterprise and Other Funds category of the overall District budget. As such, its annual operating budget is included in the District's budget submission and ultimately approved through the Congressional appropriation process and should be subject to the same budget revision requirements imposed on all other District agencies. Once enacted by Congress, the District's budget cannot be unilaterally changed during the course of the fiscal year. Under certain circumstances, District agencies can request approval to reprogram funds in accordance with the Reprogramming Policy Act. However, any additions to the District's Congressionally approved budget must be submitted to the Congress in the form of a supplemental budget approved by the Council and signed by the Mayor.

DCSEC's executive leadership made a unilateral decision in each of the past four fiscal years to supplement its budget by adding funds from the investment account to cover operating deficits instead of implementing appropriate spending cuts and controls to ensure a balanced budget or seeking supplemental budget authority.

A Corporation Counsel's opinion states, in relevant part, the following:

Generally, only an appropriation may authorize an obligation or expenditure from the District's General Fund or any other fund, like the Sports and Entertainment Commission Fund. Also, section 603(e) of the Home Rule Act, D.C. Official Code sec. 1-206.03(e), confirms the continued applicability of the Antideficiency Act to the District government. Consequently, unless Congress has created an express exemption, the DCSEC cannot obligate or spend any of its funds without an annual or supplemental appropriation.

Past irregular financial performance and poor financial management practices and decisions indicate that DCSEC's present management, including its Chief Financial Officer, lacks the requisite governmental expertise necessary to successfully administer and manage the Commission's financial

operations. Further, operations were conducted in a manner that failed to promote confidence and integrity in processes used and decisions made, and adherence to laws, regulations, and financial management and ethical standards applicable to governmental enterprises. The Auditor's examination strongly indicates that DCSEC requires increased monitoring and oversight from the Council, the Mayor, and the District's Chief Financial Officer, and further requires the expertise of a new management team.

RECOMMENDATIONS

1. DCSEC comply with the Congressional appropriation process including the supplemental budget process and the Reprogramming Policy Act.
2. DCSEC's management adhere to the provisions of the Federal and District Anti-Deficiency Act and immediately discontinue the practice of spending in excess of its Congressionally approved budget.
3. The District's CFO hold DCSEC's Executive Director and CFO and any other DCSEC employee strictly accountable for violations of the District Anti-Deficiency Act, including termination from their position.

THE DISTRICT'S CHIEF FINANCIAL OFFICER FAILED TO PROVIDE TIMELY, EFFECTIVE OVERSIGHT OF DCSEC'S FINANCIAL OPERATIONS AND ACTIVITIES

The District of Columbia's Chief Financial Officer (CFO) serves as an ex-officio member of the DCSEC Board. Having the District's CFO serve on the Board in this capacity appears to have been intended to ensure that there existed independent, specialized oversight of DCSEC's financial operation. In effect, the District's CFO serves as a Board-level "watch dog" over DCSEC's financial operations. The Auditor found that while the CFO served as an ex-officio member of the Board of Directors DCSEC's financial position deteriorated significantly during the period under review.

The District CFO designated a senior government financial manager to represent the CFO on the Board. This financial manager attended board meetings on behalf of the District's CFO and possessed the responsibility of requesting all information regarding DCSEC's finances and operations, scrutinizing and questioning: (1) the validity of information provided by management; and (2) unusual financial practices and resulting transactions. In addition, the CFO's designated representative was responsible for reporting to the CFO information regarding the quality and integrity of DCSEC's finances and operations. The Auditor found that, in this capacity, the District's CFO initiated two audits regarding DCSEC's operations. The first audit on DCSEC's contracting

practices was completed in July 2002. Another audit of DCSEC's financial operations was issued on June 11, 2003. Additionally, according to the designated representative, the District's CFO assisted DCSEC with the implementation of a new financial management system to facilitate improved financial reporting. Despite some of the initiatives identified, the Auditor found that, in this capacity, the District's CFO through the designated representative failed to exercise adequate oversight of DCSEC's financial operation, especially its financial condition and financial management and financial reporting practices.

As a member of the Board, the District's CFO could have encouraged and ensured the implementation of financial controls to eliminate deficit spending. Further, the District's CFO could have been instrumental in analyzing the integrity and validity of DCSEC's budget and underlying assumptions, and performing other analyses that should have set off early alarms that DCSEC's budgets, revenues, and expenditures were out of sync. It should have been abundantly clear that the Board was being systematically excluded from DCSEC's budget review and deliberative process. Further, it should have been a concern that DCSEC management was circumventing the supplemental budget process, developing and presenting flawed budgets, generating deficits year after year, and rapidly using invested funds that it took DCSEC many years to accumulate. The results of DCSEC's annual financial audits should have spurred questions regarding the stability of DCSEC finances. The application of certain financial controls and reporting requirements, such as requiring DCSEC's CFO to submit monthly financial reports to the Board may have ensured the disclosure of financial data to all relevant parties and forced DCSEC management to operate on a more prudent financial basis. Adherence to monthly financial reporting requirements could also have been used to more timely alert the Board of Directors and elected officials to DCSEC's impending financial crisis.

DCSEC's CFO Functioned Outside the Supervisory Authority and Control of the District's CFO

The existing financial condition of the DCSEC may have been avoided or controlled if the DCSEC CFO had been more experienced and knowledgeable about financial management policies, practices, and standards applicable to governmental enterprises, and if he had been required to function under the authority and supervision of the District's CFO.

Public Law 104-8, Section 302, established the Chief Financial Officer of the District of Columbia within the executive branch of the District government. The functions of the CFO under Public Law 104-8 included, but were not limited to, the following:

- # supervising and assuming responsibility for financial transactions to ensure adequate control of revenues and resources, and to ensure that appropriations are not exceeded;
- # maintaining systems of accounting and internal controls designed to provide—(a) full disclosure of the financial impact of the activities of the District government, (b) adequate financial information needed by the District government for management purposes; (c) effective control over, and accountability for, all funds, property, and other assets of the District of Columbia; and (d) reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget;
- # maintaining custody of all investment and invested funds of the District government or in possession of the District government in a fiduciary capacity, and maintaining the safekeeping of all bonds and notes of the District government and the receipt and delivery of District government bonds and notes for transfer, registration, or exchange; and
- # apportioning the total of all appropriations and funds made available during the year for obligation so as to prevent obligation or expenditure in a manner which would result in deficiency or a need for supplemental appropriations during the year, and (with respect to appropriations and funds available for an indefinite period and all authorizations to create obligations by contract in advance of appropriations) apportioning the total of such appropriations, funds, or authorizations in the most effective and economical manner.

Further, in a non-control period, the functions of the District's CFO include, but are not limited to, the following additional responsibilities:

- # governing the accounting policies and systems applicable to the District government;
- # preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government; and
- # no later than 120 days after the end of the fiscal year, preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4) of the District of Columbia Self-Government and Governmental Reorganization Act.

Within the District government's financial management structure, most agency CFOs, including some independent agencies such as the Lottery and Charitable Games Control Board, report directly and are fully accountable to the District's Chief Financial Officer. DCSEC's CFO was not under the authority and supervision of the District's CFO. Although DCSEC was established as an independent self sustaining operation, it appears to be the erroneous position of DCSEC's executive leadership that the Commission is not bound by any financial management principles, practices, and standards applicable to other District government agencies. For example, the D.C. Lottery and Charitable Games Control Board once operated independently of the District's CFO, however, after a significant period of financial and management under performance, the Lottery Board's financial operations and CFO were placed under the supervision of the District's CFO. The Auditor believes that consideration should be given to placing the Sports and Entertainment Commission's CFO and financial operation under the supervisory authority of the District's CFO. With this level of supervision and control in place, deficits should be fully and timely disclosed and a more systematic, financially prudent approach should be developed and implemented to address DCSEC's financial pressures. The lack of accountability of DCSEC's CFO to an independent authority such as the District's CFO coupled with an ineffective, poorly functioning Board of Directors, among other deficiencies, contributed to DCSEC's financial mismanagement and present deteriorated condition.

RECOMMENDATIONS

1. DCSEC adhere to financial reporting requirements applicable to all District agencies including the submission of the FRP to ensure adequate oversight and control of DCSEC's finances.
2. Consideration should be given to requiring DCSEC's CFO to report directly to the District's CFO to ensure independent supervision and accountability and to eliminate current and future irregular financial management practices.

DCSEC'S EXECUTIVE DIRECTOR FAILED TO MEET GOALS SET FORTH IN HIS EMPLOYMENT AGREEMENT

The employment agreement between DCSEC and the Executive Director outlined specific measurable goals that were to be achieved. The achievement of these goals was linked to the Executive Director's eligibility for bonus compensation at the completion of each year of the employment term. The goals included the following:

- (1) the development and implementation of good strategic or business plans;
- (2) an increase in Commission events and activities;
- (3) increased Commission revenues; and
- (4) good response or measurable progress in efforts to secure major events and sports teams on behalf of the Commission.

The Auditor identified the following accomplishments achieved by the Executive Director during his tenure:

- # significant capital improvements to the DCSEC RFK Stadium facility;
- # implementation of a new financial management system that enhanced DCSEC's financial reporting capabilities; and
- # successful renegotiation of a new contract with D.C. United in fiscal year 2003 to keep the soccer franchise in the District for the next two years.

In examining the Executive Director's success in achieving the goals stated above, the Auditor found that an evaluation of the Executive Director's performance had never been conducted by the DCSEC Board of Directors or a committee thereof. According to Board minutes dated April 10, 2002, approximately 17-months after the Executive Director's appointment, the Board Chairperson "announced that the president/executive director's performance review was administered pursuant to his contract." Despite this assertion, the audit team found no written evidence that a valid performance evaluation was ever conducted by the Board, a committee of the Board, or the Chairperson of the Board. The Executive Director's personnel file did not contain any written documentation to support the assertion that a performance evaluation had been conducted by the Board Chairperson, the full Board, or a committee thereof. The audit team made numerous inquiries about this with DCSEC's Director of Human Resources, CFO, and Executive Director and was informed that an informal unwritten evaluation had been completed. Conducting the affairs of the Commission in this manner undermines public confidence and raises questions regarding the integrity of DCSEC's personnel evaluation process. Moreover, the Auditor's examination of the Executive Director's performance indicated that he failed to achieve most of the goals set forth in the employment agreement.

Goal I: The Development and Implementation of Good Strategic or Business Plans

DCSEC's Executive Director failed to develop and implement a strategic or business plan for DCSEC. The Auditor met with the Executive Director to discuss, among other things, the marketing, strategic and/or business plans for DCSEC. According to the Executive Director, he adopted a 5-point mission and action plan for DCSEC which included bringing more events to the District, enhancing and growing community outreach, acquiring a major sports team, and building venues to support sports events. Again, the Auditor was not provided any written documentation which memorialized this 5-point mission and action plan. Thus, there was no written record which specified the plan or strategy that management intended to use to achieve the stated goals. In fact, the Auditor vigorously questioned DCSEC's pursuit of various events and activities absent a clear plan setting forth specific goals, objectives, risks, costs, and marketing strategies. Had a strategic or business plan been developed and implemented, DCSEC's Board of Directors could have determined whether particular events and strategies were viable and appropriately aligned with DCSEC's mission and goals. Moreover, the Auditor found that the Executive Director did not achieve most of the objectives in his unwritten 5-point mission and action plan.

Further, the Auditor found that during fiscal years 2001 through 2003, DCSEC incurred over \$6 million in expenditures promoting two unprofitable events-Grand Prix and Fright House-both of which failed to generate revenues at projected levels. The Auditor found that revenues collected from these events were not significant enough to cover expenditures. Each event was cancelled by DCSEC in fiscal year 2003.

National Grand Prix Holdings

In fiscal year 2002, DCSEC sponsored the District's first and only Grand Prix racing event. The event was held amidst significant controversy including the fact that DCSEC failed to adequately explore the appropriateness of staging this type of event in an inner city urban environment. Further, there was significant concern from community groups about the impact of Grand Prix including: the impact of noise levels on the surrounding community; trash; environmental pollution; parking; and various other issues. According to information reviewed by the Auditor, community groups were also concerned that they were excluded from any of the initial discussions regarding the Grand Prix racing event.

According to a profit and loss statement prepared by DCSEC's CFO, a profit of \$457,384 was reported for Grand Prix. According to the Auditor's analysis of actual costs associated with this event, certain key costs were excluded. To determine the financial outcome of the National Grand Prix, the Auditor used the profit and loss statement prepared by DCSEC and factored in costs that were originally excluded from the financial analysis. If the true costs of the Grand Prix were presented in the profit and loss statement, the Auditor estimates that the outcome would show a net loss of approximately \$4.6 million from the event rather than a profit of \$457,384. Table IV identifies expenditures associated with National Grand Prix that DCSEC officials failed to include in the profit and loss statement.

TABLE IV
National Grand Prix Analysis of Expenditures Excluded from the
Profit and Loss Statement
Fiscal Year 2002

Category	DCSEC's P&L Analysis	D.C. Auditor's Analysis	Variance
Gross Revenue	\$1,295,503	\$1,295,503	-0-
Total Revenue	\$1,295,503	\$1,295,503	-0-
Expenses			
Expenses Included in P&L	838,119	838,119	-0-
Excluded Expenses:			
Aggregate Industries (race track paving)	-0-	\$4,700,004	(\$4,700,004)
Covington & Burling (legal fees)	-0-	120,000	(120,000)
Alpha Corporation (engineering and design services)	-0-	154,442	(154,442)
B Rob Enterprises (consulting services for paving project)	-0-	34,740	(34,740)
Total Expenses	838,119	5,880,305	(5,042,186)
NET PROFIT (LOSS)	\$457,384	(\$4,584,802)	(\$4,127,418)

Source: DCSEC Disbursement Data

The largest cost component excluded from DCSEC's profit and loss statement pertained to race track paving and development. DCSEC's CFO indicated that the payments to Aggregate Industries reflected capital improvements to repair the stadium parking lot to support the National

Grand Prix as well as future events. Therefore, DCSEC officials did not include the total cost of paving the parking lots in the costs of the Grand Prix because the project would support all future events to be held in the parking areas. The CFO also indicated that other expenditures such as legal costs and consulting fees related to the Grand Prix were not easily measured and were also not included. Instead, these expenditures were accounted for as overhead expenditures related to overall DCSEC operations. The Auditor found that expenditures such as legal fees and consulting services are measurable, provided that DCSEC allocates all overhead expenditures to appropriate cost pools.

The Auditor found significant justification for including all of the identified costs in the profit and loss statement of the Grand Prix even if the capital improvements may support the generation of revenue from other events hosted or sponsored by DCSEC. Although the expenditures for the parking lot may benefit other DCSEC events, if the National Grand Prix had not been staged in parking lots 6 and 7 capital improvements to these particular lots would not have been made.⁹ Therefore, it is reasonable to assume that the primary impetus for parking lot improvements was the Grand Prix event.

Additionally, the Auditor found that DCSEC was to be reimbursed by National Grand Prix Holdings a portion of the \$4.7 million it paid to Aggregate Industries to repair the parking lots in anticipation of the Grand Prix race. The agreement between DCSEC and National Grand Prix Holdings specified that DCSEC would be solely responsible for the first \$1 million in costs (the “Base Cost”). Any costs above the base cost of \$1 million, but not exceeding \$1 million, although payable initially by DCSEC, would be reimbursed by National Grand Prix Holdings over a ten-year period. Any costs in excess of \$2 million would be split between DCSEC and National Grand Prix Holdings on a 50/50 basis. According to information provided the Auditor, the agreement with National Grand Prix Holdings was cancelled on March 15, 2003. Subsequent to this, National Grand Prix Holdings filed for bankruptcy. Based on these factors, it appears that DCSEC will not collect any of the approximately \$2.4 million owed by National Grand Prix Holdings.

Fright House

During fiscal years 2001 and 2002, DCSEC promoted the Fright House Event, a Halloween attraction that the Executive Director modeled after a similar production held annually at Madison Square Garden in New York City. The Fright House was a major undertaking for DCSEC because

⁹See District of Columbia Office of the Chief Financial Officer, Office of Integrity and Oversight. *Analysis of the Financial Operations of the District of Columbia Sports and Entertainment Commission*. June 2003, pg. 9

the Commission was responsible for the design and development of sets, hiring of actors, production crews, and support staff, and the promotion of the event. The Auditor found that the contract for the design and development of the Fright House was a sole source, noncompetitive award. The Auditor identified various expenditures related to this contract including:

- # hotel expenditures for consultants, cast, and crew;
- # per diem and other reimbursable expenditures for consultants hired for the development and design of sets as well as advertising and promotion;
- # establishment of a \$5,000 petty cash fund for event expenditures; and
- # expenses for an advertising and promotion consultant for a three month period.

The profit and loss statement generated by DCSEC reflected a \$1 million loss associated with this event. The Fright House event scheduled for October 2001 was cancelled due to the events of September 11, 2001. Attendance at the Fright House event in October 2002 was significantly below expectations. DCSEC management attributed this to the sniper attacks that plagued the Washington area during the time of the scheduled event. As a result of the outcome of the previous two Fright House events, DCSEC officials cancelled the event for October 2003 and future Fright House events are questionable. Nevertheless, DCSEC is still incurring costs associated with Fright House in that it has leased storage trailers and currently maintains all stages and set designs in trailers on Lot 8.

The Auditor estimated that expenditures related to the Fright House totaled \$1.6 million, as reflected in Table V. The Auditor also noted that there were many expenses related to this event that appeared excessive. For example, DCSEC paid a consultant \$29,102 over a three month period in fiscal year 2002 to promote the Fright House event, and paid expenses of \$3,476 for a pumpkin carving, of which \$1,675 related to airfare, meals, and the individual's fee for carving the pumpkin.

TABLE V
Fright House Expenditures

Fright House	FY 01	FY 02	FY03	TOTAL	Purpose
Sudden Impact	\$940,000.00	\$382,587.00	\$119,435.00	\$1,442,022.00	Project design and development in 01, production services in 02 and 03
The Crew Works			114,064.89	114,064.89	Stage Labor
Steven Yaros		29,102.00	\$13,329.76	42,431.76	Advertising and promotion
Petty Cash Fund		5,000.00		5,000.00	Petty Cash
Washington Renaissance Hotel			24,493.95	24,493.95	Hotel expenditures for some production staff and crew.
Miscellaneous		1,000	13,273	14,273.00	Reimbursements for Actors, Sudden Impact Staff, Pumpkin Carving, and Production Related Activities
				\$1,642,285.60	

Source: DCSEC Disbursement Data

Goal II: An Increase in Commission Events and Activities

The number of events held at RFK Stadium and the D.C. Armory have not grown significantly since the Executive Director assumed his position approximately 31-months ago. Between fiscal years 2000 and 2001, events increased by 20, from 122 to 142. However, between fiscal years 2001 and 2002, DCSEC experienced a decline of 54 events, from 142 to 88. Again, the Auditor notes that because DCSEC's management focused narrowly on bringing major league baseball and the 2012 Olympics to the District, opportunities to bring other events to the stadium and Armory may not have been adequately explored or pursued.

Goal III: Increased Commission Revenues

Under the stewardship of the current Executive Director, DCSEC's revenues have been stagnant. Between fiscal years 2000 and 2001 revenues increased modestly from \$5.9 million to \$7.4 million, or 25%. However, as previously noted, between fiscal years 2001 and 2002, DCSEC revenues increased only 2%.

Goal IV: Good Response or Measurable Progress in the Efforts to Secure Major Events and Sports Teams on Behalf of the Commission

Currently DCSEC hosts two major league soccer teams-D.C. United and Washington Freedom-which have been tenants since 1996 and 2001, respectively. Since his tenure, the current Executive Director has devoted most of his time and the Commission's money pursuing a major league baseball team. In discussions with DCSEC's Executive Director, the audit team was told that "every decision made on behalf of DCSEC was made with an eye towards baseball." The Auditor found that the Executive Director hired numerous consultants to work with DCSEC in its efforts to bring major league baseball to the District of Columbia as well as other DCSEC initiatives. According to the Executive Director, Bavasi Sports Partners was retained to provide DCSEC with inside information regarding baseball at \$10,000 per month; Brailsford & Dunlaevy was hired to identify potential baseball stadium sites at a cost of \$259,279; and Brotman-Winter Fried was retained at \$5,000 per month plus expenses for public relations services.

Other than the pursuit of a major league baseball team and the unsuccessful 2012 Olympic bid, there is nothing to suggest that the Executive Director was successful in securing new major events and sports teams on behalf of DCSEC.

RECOMMENDATIONS

1. DCSEC's Board of Directors must implement a process for regularly assessing the performance of the Executive Director and holding this official accountable for achieving established performance goals.
2. DCSEC's Board of Directors must increase its oversight of management's selection of events to ensure that they are aligned with the Commission's mission and goals of strengthening DCSEC's revenue generating capacity; promoting the District as an attractive venue for sports and entertainment events; and advancing the District's economic development objectives.

CONCLUSION

The Auditor found that the District of Columbia Sports and Entertainment Commission's executive leadership failed to establish a functional governance structure that fostered effective Board policy development, policy implementation, and oversight. Instead, the governance structure

used during most of the audit period facilitated ineffective oversight of the Commission's operational and financial performance, and failed to ensure management accountability and sound financial stewardship.

Although all powers of the Commission are vested in and are to be exercised by or under the authority of the Board of Directors, the Auditor found that, between fiscal years 1999 and 2002, standing committees required under the by-laws were not established and convened by the Board's Chairperson. Instead, recommendations for Board action emanated from the Board's Chairperson and Executive Director. By statute, the Board is required to meet only four times annually. In many instances, Board members were asked to respond to or approve transactions and other business-related activities, sometimes by fax, within a short period of time without adequate discussion or analysis. In some cases, Board approval was sought after transactions had been consummated.

During fiscal years 1999 through 2002, DCSEC incurred operating deficits totaling \$9.8 million. To cover these deficits, DCSEC management, with the Board's knowledge and apparent acquiescence, used investment funds to support undisciplined spending that exceeded the approved operating budget. Investment funds were also used to cover the cost of capital improvements. As a result, DCSEC's investment funds decreased from \$19 million to \$7.3 million between 1999 and 2002, and further declined to \$5.8 million by the end of the 2nd quarter of fiscal year 2003. The Auditor determined that unless drastic cost-cutting measures are immediately implemented or a significant influx of revenue is received, DCSEC may be fast approaching bankruptcy. As a consequence, DCSEC will be placed in the untenable position of having to cease operations, sell assets, borrow funds, receive a cash infusion from the District's General Fund to support operations, or change the fundamental mission, duties, and responsibilities of the Commission.

The Auditor also found that significant personnel decisions were made without full Board approval. For example, the Chairperson, independent of the Board of Directors, negotiated and signed an employment agreement with DCSEC's current Executive Director without the Board's prior review, discussion, or approval. A three-year contract negotiated by the Chairperson, independent of the full Board, made the Executive Director of DCSEC the highest paid non-resident official within the District of Columbia government at an annual salary of \$275,000. The Executive Director's salary represented an increase of approximately \$150,000, or 120%, above the previous Executive Director's salary of \$125,000.

Despite the changing economic climate and increased competition from sports and entertainment venues in the Washington Metropolitan Area, the Auditor found that DCSEC's Board and management failed to develop and implement a strategic and/or business plan. Instead, over the past four years, DCSEC's management and Board leadership narrowly focused their efforts and DCSEC's meager financial resources on two potential business, or economic development, opportunities: (1) the acquisition of a major league baseball team; and (2) the unsuccessful bid for the 2012 Summer Olympic Games.

The financial deterioration of DCSEC can be attributed in important ways to the Board Chairperson's autocratic leadership style coupled with the Board's inability to exercise effective oversight of DCSEC's management and finances.

The Auditor found that DCSEC's management violated the District of Columbia Home Rule Act and the federal Anti-Deficiency Act by failing to obtain supplemental budget authority to spend investment proceeds to fund capital improvements and cover deficit spending.

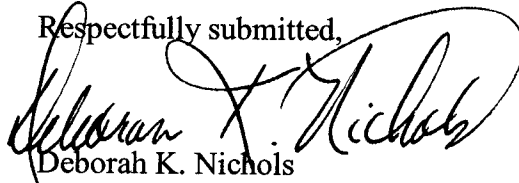
The District of Columbia's Chief Financial Officer (CFO) serves as an ex-officio member of the DCSEC Board. Having the District's CFO serve on the Board in this capacity appears to have been intended to ensure that there existed independent, specialized Board-level oversight of DCSEC's financial operation. The Auditor found that, although the CFO served as an ex-officio member of the DCSEC Board of Directors, DCSEC's financial position deteriorated significantly during the period under review.

Finally, the Auditor found that the Executive Director failed to meet goals set forth in his employment agreement which included: (1) the development and implementation of good strategic or business plans; (2) increasing Commission events and activities; (3) increasing Commission revenues; and (4) achieving a good response or measurable progress in efforts to secure major events and sports teams on behalf of the Commission. The Auditor also found that an evaluation of the Executive Director's performance had never been conducted by DCSEC's Board of Directors or a committee thereof.

Irregular financial performance and poor management practices and decisions indicate that DCSEC's present management, including its Chief Financial Officer, lacks the requisite governmental expertise necessary to successfully administer and manage the Commission's financial and procurement operations. The Auditor's review revealed that, DCSEC's operations were conducted in a manner that failed to promote confidence and integrity in processes used and

decisions made, as well as adherence to laws, regulations, and financial management and ethical standards applicable to this governmental enterprise. Further, the Auditor's examination strongly indicated that DCSEC requires increased monitoring and oversight from the Council, the Mayor, and the District's Chief Financial Officer, and further requires the expertise of a new management team.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deborah K. Nichols", written in a cursive style.

Deborah K. Nichols

District of Columbia Auditor

APPENDIX

APPENDIX I

**D.C. Sports and Entertainment Commission
Board of Directors as of
March 31, 2003**

Board Member	Business or Firm
John L. Richardson, Esq. (Chair)	Crispin & Brenner, PLLC
Joseph B. Gilderhorn, Esq. (Vice Chair)	JBG Company
William Lucy	AFSCME, AFL-CIO
Linda Greenan	Georgetown University
William Hall, Esq. (Baseball Chair)	Winston & Strawn
Natwar Gandhi, Chief Financial Officer	Office of the Chief Financial Officer
Major General Warren L. Freeman	D.C. National Guard
Neil Albert, Director	D.C. Department of Parks and Recreation
Jack Mahoney	Regional Title
Ron Ross	Troutman Sanders, LLP
John Boardman	Local 25

Source: D.C. Sports and Entertainment Commission

AGENCY COMMENTS

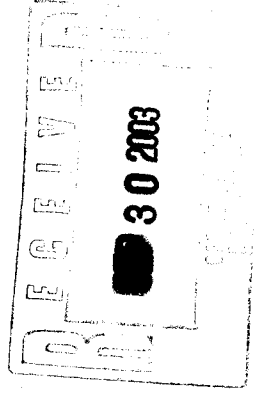
AGENCY COMMENTS

On September 11, 2003, the Office of the District of Columbia Auditor transmitted this report in draft to members of the Board of Directors of the D.C. Sports and Entertainment Commission (DCSEC), the Executive Director of DCSEC, and the Chief Financial Officer of the District of Columbia for review and comment.

An exit conference was held with DCSEC's Interim Board Chairman, Executive Director and Chief Financial Officer on this report on September 25, 2003. Additionally, the Auditor held at least two informal conferences with the Interim Chairman to address issues contained in the draft audit report. Written comments were initially received from the DCSEC Board of Directors on September 30, 2003 and again on October 2, 2003. Comments were received from the Chief Financial Officer of the District of Columbia on September 30, 2003. The comments are appended to this final report in their entirety. Where appropriate, changes to the final report were made to reflect the comments.

DC Auditor's Draft Report-
Sports Entertainment Commission Executive Leadership Failed to Implement an Effective Governance Structure

Recommendation	Function	Commission Response	Full Recommendation
1 Board identify and implement best practices in board governance	Operating structure	The Board has been operating with a set of By-Laws which will be reviewed and Board will develop a policy manual.	1. The DCSEC Board of Directors examine the Board's current structure and identify and implement best practices in Board governance including but not limited to: the development and dissemination of a Board manual that includes all Board policies; the identification of a process to review and approve actions of the Board Chairperson; and the implementation of succession planning and a mechanism for annually evaluating Board leadership.
2 Board and finance committee meet regularly with DCSEC management on finances	Finances - oversight	This already has been implemented. Budget & Finance Committee active since April 2002.	2. The DCSEC Board Budget and Finance Committee must ensure that it meets regularly and works closely with DCSEC management to ensure that Finance Committee active spending is adequately controlled in order to eliminate future budge and operating deficits.
3 Personnel committee create evaluation process for executive director	Personnel - rules and regulations	Personnel Committee will develop and implement an improved evaluation process for the Executive Director.	3. The DCSEC Personnel Committee must establish and recommend to the full Board a formal performance evaluation process for the Executive Director and must ensure that the Executive Director is evaluated annually and held fully accountable for the achievement of performance goals and objectives.
4 Personnel committee require DCSEC to implement personnel rules and regulations	Personnel - rules and regulations	DCSEC will ensure compliance with applicable D.C. law. Personnel Committee will study how to develop and implement a personnel system consistent with the Commission's implementing legislation and harmonized with 10-152.	4. The DCSEC Personnel Committee must immediately require DCSEC management to devise adequate personnel rules and regulations to ensure compliance with D.C. Law 10-152.
5 Board and management develop a strategic plan	Operating structure - planning	Update of DCSEC's current strategic plan underway, due 10/31/03.	5. The DCSEC Board of Directors, in conjunction with management, must immediately develop a strategic plan that clearly identifies the organization's mission, vision, values, goals, objectives, and priorities.



DC Auditor's Draft Report-
Sports Entertainment Commission Executive Leadership Failed to Implement an Effective Governance Structure

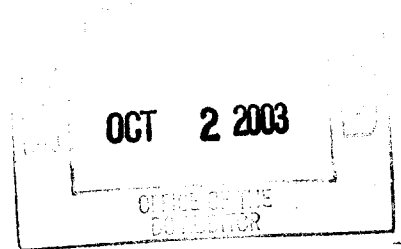
Recommendation	Function	Commission Response	Full Recommendation
6 Board establish a process to monitor management activities and alignment with strategic plan planning and board oversight	Operating structure -	Board's Implementation Committee will oversee.	6. The DCSEC Board of Directors must define a process to monitor and evaluate management activities and initiatives to ensure alignment with the strategic plan and DCSEC's mission.
7 Board establish standard financial reports for management	Finances - rules and regulations	Board has been receiving quarterly operating reports and forecasts and will receive monthly reports submitted to OCFO.	7. The DCSEC Board of Directors must establish standard financial and performance reports to be regularly submitted by management to all Board members for informational, policy development, and decision-making purposes.
8 Board and management cut expenses	Finances	Budget & Finance Committee (which includes CFO representative) and management developing revised budget consistent with DCSEC mission.	8. DCSEC's Board and executive management must eliminate future deficit spending by cutting costs in areas of significant growth such as professional services and development.
9 Board create a capital spending plan	Finances - planning	Management to provide facilities capital plan to the Board by 10/31/03. Will be developed.	9. The Board of Directors immediately assess the capital improvement needs of DCSEC and develop a comprehensive facilities improvement plan covering a minimum five-year period.
10 Board establish a policy to determine use of investment funds	Finances - rules and regulations		10. The Board's Budget and Finance Committee immediately develop and implement a policy regarding the circumstances and criteria that must be met in order to justify the use of investment funds to support operations.
11 Executive director increase amount of revenue generating events at RFK	Finances - planning	Underway as part of development of strategic plan and revised budget.	11. DCSEC's Executive Director devise and implement a viable plan to successfully increase the number of revenue generating events held at the RFK Stadium and the D.C. Armory.
12 Board and DC CFO develop financial plan	Finances - planning	See response to No. 8.	12. DCSEC's Board of Directors, in cooperation with the Chief Financial Officer of the District of Columbia, must develop a sound financial plan to address DCSEC's financial crisis. The plan should identify substantial expenditure reductions and revenue generating opportunities to eliminate the imbalance between revenues and expenditures in fiscal year 2003 and 2004 at a minimum.

DC Auditor's Draft Report-
Sports Entertainment Commission Executive Leadership Failed to Implement an Effective Governance Structure

Recommendation	Function	Commission Response	Full Recommendation
13 Comply with appropriations process	Finances - rules and regulations	Will comply.	13. DCSEC comply with the Congressional appropriation process including the supplemental budget process and the Reprogramming Policy Act.
14 Comply with the Anti-Deficiency Act	Finances - rules and regulations	Will comply.	14. DCSEC's management adhere to the provisions of the Federal and District Anti-Deficiency Act and immediately discontinue the practice of spending in excess of its Congressionally approved budget.
15 Hold DCSEC for violations of the Anti-Deficiency Act	Finances - rules and regulations	Will comply with laws as they are applicable to DCSEC.	15. The District's CFO hold DCSEC's Executive Director and CFO and any other DCSEC employee strictly accountable for violations of the federal and District Anti-Deficiency laws, including termination from their position.
16 DCSEC follow DC financial reporting requirements	Finances - rules and regulations	Will comply with laws as they are applicable to DCSEC.	16. DCSEC adhere to financial reporting requirements applicable to all District agencies including the submission of the FRP to ensure adequate oversight and control of DCSEC's finances.
17 DCSEC CFO report to DC CFO	Finances - oversight	Will be studied in consultation with District CFO.	17. Consideration should be given to requiring DCSEC's CFO to report directly to the District's CFO to ensure independent supervision and accountability and to eliminate current and future irregular financial management practices.
18 Board implement an executive review process	Personnel - rules and regulations	Personnel Committee will implement an improved process.	18. DCSEC's Board of Directors must implement a process for regularly assessing the performance of the Executive Director and holding this official accountable for achieving established performance goals
19 Board make sure activities are aligned with strategic plan	Operating structure - oversight and rules and regulations	A Board committee will implement an improved process.	19. DCSEC's Board of Directors must increase its oversight of management's selection of events to ensure that they are aligned with the strategic plan and develop a reporting mechanism to measure the financial impact on DCSEC's current and future status.

Note:

Implementation of the Auditor's recommendations, where indicated, will be accomplished no later than December 31, 2003, in order to provide an opportunity for a new chairman to participate in the discussion and development of such policies.



October 1, 2003

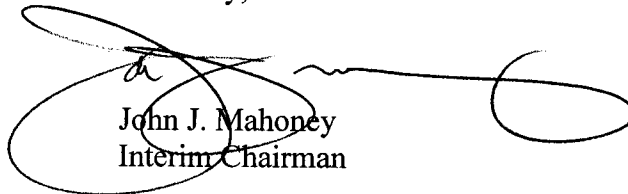
Ms. Deborah K. Nichols
District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th Street, N.W., Suite 900
Washington, D.C. 20005

Dear Ms. Nichols:

Enclosed is the revised DC Sport and Entertainment Commission's (Commission) response in chart form to the specific recommendations set forth in the DC Auditor's Draft Report entitled *Sports Entertainment Commission Executive Leadership Failed to Implement and Effective Governance Structure*. This response has been reviewed and approved by the Commission's Implementation Committee which has been formed to address the recommendations in the draft report.

Please substitute the enclosed Commission response for the chart that was submitted yesterday. Thank you.

Sincerely,



John J. Mahoney
Interim Chairman

cc: Bobby Goldwater
President and Executive Director

All Board Members



DC Auditor's Draft Report-
Sports Entertainment Commission Executive Leadership Failed to Implement an Effective Governance Structure

Recommendation	Function	Commission Response	Full Recommendation
1 Board identify and implement best practices in board governance	Operating structure	The Board has been operating with a set of By-Laws which will be reviewed and Board will develop a policy manual.	1. The DCSEC Board of Directors examine the Board's current structure and identify and implement best practices in Board governance including but not limited to: the development and dissemination of a Board manual that includes all Board policies; the identification of a process to review and approve actions of the Board Chairperson; and the implementation of succession planning and a mechanism for annually evaluating Board leadership.
2 Board and finance committee meet regularly with DCSEC management on finances	Finances - oversight	This already has been implemented. Budget & Finance Committee active since August 2002.	2. The DCSEC Board Budget and Finance Committee must ensure that it meets regularly and works closely with DCSEC management to ensure that Finance Committee active spending is adequately controlled in order to eliminate future budget and operating deficits.
3 Personnel committee create evaluation process for executive director	Personnel - rules and regulations	Personnel Committee will develop and implement an improved evaluation process for the Executive Director.	3. The DCSEC Personnel Committee must establish and recommend to the full Board a formal performance evaluation process for the Executive Director and must ensure that the Executive Director is evaluated annually and held fully accountable for the achievement of performance goals and objectives.
4 Personnel committee require DCSEC to implement personnel rules and regulations	Personnel - rules and regulations	DCSEC will ensure compliance with applicable D.C. law. Personnel Committee will study how to develop and implement a personnel system consistent with the Commission's implementing legislation and harmonized with 10-152.	4. The DCSEC Personnel Committee must immediately require DCSEC management to devise adequate personnel rules and regulations to ensure compliance with D.C. Law 10-152.
5 Board and management develop a strategic plan	Operating structure - planning	Update DCSEC's current strategic plan underway, due 10/31/03.	5. The DCSEC Board of Directors, in conjunction with management, must immediately develop a strategic plan that clearly identifies the organization's mission, vision, values, goals, objectives, and priorities.
6 Board establish a process to monitor management activities and alignment with strategic plan	Operating structure - planning and board oversight	Board's Implementation Committee will oversee.	6. The DCSEC Board of Directors must define a process to monitor and evaluate management activities and initiatives to ensure alignment with the strategic plan and DCSEC's mission.

DC Auditor's Draft Report-
Sports Entertainment Commission Executive Leadership Failed to Implement an Effective Governance Structure

Recommendation	Function	Commission Response	Full Recommendation
7 Board establish standard financial reports for management	Finances - rules and regulations	Board has been receiving quarterly operating reports and forecasts and will receive monthly reports submitted to OCFO.	7. The DCSEC Board of Directors must establish standard financial and performance reports to be regularly submitted by management to all Board members for informational, policy development, and decision-making purposes.
8 Board and management cut expenses	Finances	Budget & Finance Committee (which includes CFO representative) and management will reprogram the FY04 operating budget, making it cash neutral, if feasible, consistent with DCSEC mission.	8. DCSEC's Board and executive management must eliminate future deficit spending by cutting costs in areas of significant growth such as professional services and development.
9 Board create a capital spending plan	Finances - planning	Management to provide facilities capital plan to the Board by 10/31/03.	9. The Board of Directors immediately assess the capital improvement needs of DCSEC and develop a comprehensive facilities improvement plan covering a minimum five-year period.
10 Board establish a policy to determine use of investment funds	Finances - rules and regulations	Will be developed.	10. The Board's Budget and Finance Committee immediately develop and implement a policy regarding the circumstances and criteria that must be met in order to justify the use of investment funds to support operations.
11 Executive director increase amount of revenue generating events at RFK	Finances - planning	Underway as part of development of strategic plan and revised budget.	11. DCSEC's Executive Director devise and implement a viable plan to successfully increase the number of revenue generating events held at the RFK Stadium and the D.C. Armory.
12 Board and DC CFO develop financial plan	Finances - planning	See response to No. 8.	12. DCSEC's Board of Directors, in cooperation with the Chief Financial Officer of the District of Columbia, must develop a sound financial plan to address DCSEC's financial crisis. The plan should identify substantial expenditure reductions and revenue generating opportunities to eliminate the imbalance between revenues and expenditures in fiscal year 2003 and 2004 at a minimum.
13 Comply with appropriations process	Finances - rules and regulations	Will comply.	13. DCSEC comply with the Congressional appropriation process including the supplemental budget process and the Reprogramming Policy Act.

DC Auditor's Draft Report-

Sports Entertainment Commission Executive Leadership Failed to Implement an Effective Governance Structure

Recommendation	Function	Commission Response	Full Recommendation
14. Comply with the Anti-Deficiency Act	Finances - rules and regulations	Will comply.	14. DCSEC's management adhere to the provisions of the Federal and District Anti-Deficiency Act and immediately discontinue the practice of spending in excess of its Congressionally approved budget.
15. Hold DCSEC for violations of the Anti-Deficiency Act	Finances - rules and regulations	Will comply with laws as they are applicable to DCSEC.	15. The District's CFO hold DCSEC's Executive Director and CFO and any other DCSEC employee strictly accountable for violations of the federal and District Ant-Deficiency laws, including termination from their position.
16. DCSEC follow DC financial reporting requirements	Finances - rules and regulations	Will comply with laws as they are applicable to DCSEC.	16. DCSEC adhere to financial reporting requirements applicable to all District agencies including the submission of the FRP to ensure adequate oversight and control of DCSEC's finances.
17. DCSEC CFO report to DC CFO	Finances - oversight	Will be studied in consultation with District CFO.	17. Consideration should be given to requiring DCSEC's CFO to report directly to the District's CFO to ensure independent supervision and accountability and to eliminate current and future irregular financial management practices.
18. Board implement an executive review process	Personnel - rules and regulations	Personnel Committee will implement an improved process.	18. DCSEC's Board of Directors must implement a process for regularly assessing the performance of the Executive Director and holding this official accountable for achieving established performance goals
19. Board make sure activities are aligned with strategic plan	Operating structure - oversight and rules and regulations	A Board committee will implement an improved process.	19. DCSEC's Board of Directors must increase its oversight of management's selection of events to ensure that they are aligned with the strategic plan and develop a reporting mechanism to measure the financial impact on DCSEC's current and future status.

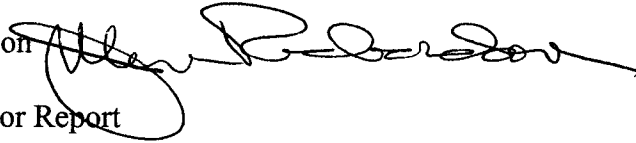
Note:

Implementation of the Auditor's recommendations, where indicated, will be accomplished no later than December 31, 2003, in order to provide an opportunity for a new chairman to participate in the discussion and development of such policies.

MEMORANDUM

TO: John J. Mahoney

FROM: John L. Richardson



RE: Draft D.C. Auditor Report

DATE: September 30, 2003

Thank you for giving me the opportunity to comment on the draft report sent to you by the D.C. Auditor entitled "District of Columbia Sports and Entertainment Commission's Executive Leadership Failed to Implement an Effective Governance Structure to Ensure Sound Financial Management Decisions, Management Accountability and Compliance with Applicable Laws and Regulations."

It was interesting to read the Auditor's description of how she conducted her audit. Her description is good, but I find it hard to accept that she conducted the audit as she said she did. I know she did not talk to me before she prepared the draft, and I know she did not look at many written materials that were readily available. I find it hard to believe that other (unidentified) members of the Board told her things she has attributed to them, and I know she did not talk to all Board members who served during the relevant time.

Perhaps these failures explain why and how the Auditor reached the conclusions and recommendations she announced in her draft report. Maybe there are other reasons. In any event, the report should not be released to anyone without substantial modification and revision. I have not had time to address all the mischaracterizations contained in the report, and I would have to do further research to respond to others. But, to portray the Board as a bunch of incompetent bumbling idiots who ignored their fiduciary duties would not only be untruthful, it would also be outrageously unfair and irresponsible. These people are strong professionals who have served their City faithfully and well. They would not and did not sit idly by while millions of dollars were spent; they would not and did not let the Commission act in any unlawful manner; they would not and did not vote for proposals without asking questions and fully considering published reports and analyses supporting the proposals; they would not and did not permit the Chairman of the Commission to hire the Executive Director and Chief Financial Officer without their participation, knowledge and approval; they would not and did not permit contracts to be entered into, budgets to be prepared, or grants to be made without their knowledge and acquiescence. They would not and did not serve their City by watching events transpire without question or comment. And I am certain that there is no documentary evidence or testimony from any Board member that would permit a contrary conclusion.

These Board members the Auditor seeks to defame and ridicule are devoted to the welfare of the City and its citizens. They are senior and seasoned lawyers, officers of distinguished organizations, institutions and corporations, and public servants who have established superb reputations. And they performed their duties to the Commission with honor and distinction. They did participate, they did debate, they did disagree, challenge and argue. They did read and understand the policies and strategies the Commission developed and presented publicly to the Mayor and the City Council at regular intervals. And they carefully considered business plans and spending proposals the Commission developed.

As noted, I do not have time now to address all the findings the Auditor proposes to publish. But I do want to comment on a few matters about which I have substantial and direct first-hand knowledge.

- The Auditor observes that the Board Chairman failed to establish standing committees required by the Board bylaws. The Board Chairman does not have authority to establish standing committees. The standing committees are established by the bylaws. It is true that, during the period under consideration, with certain exceptions, the Board acted as a "committee of the whole" and did not refer matters for consideration to either standing committee. It is also true that, initially, I did not appoint any Board member to either of the standing committees. But neither did I eliminate either committee or remove any Board member from either committee. To the best of my knowledge and recollection, no Board member ever suggested that the Board should assign any matter or issue to either of the standing committees, and no Board member ever raised the subject with me.

When the question was raised with me by a member of the City Council, I immediately made sure that Board members were appointed to both standing committees, and those members were serving at the time the Council legislation referred to by the Auditor was introduced and passed. If that legislation was "in response to complaints from Board members," as the Auditor asserts, those complaints were never transmitted to me or, to my knowledge, other members of the Board. Following enactment of that legislation, I announced the mandatory appointments provided for in the legislation, and the two standing committee have been functioning subsequently.

As the Auditor recognizes, and as is noted hereafter, the Board regularly established other committees to perform special responsibilities and to make recommendations for Board consideration.

- I did not, nor would the Board have permitted me to, hire a new Executive Director on my own. On the contrary, when Mr. Dalrymple announced his retirement, the Board formed a search committee which selected, with the approval of the Board, an executive search firm to help us. That committee, open to all Board members and composed of almost half the Board members, analyzed the available market, determined the characteristics of the people who should be interviewed, interviewed a significant number of highly qualified applicants,

recommended a selection -- which was approved by the Board -- and, with the approval of the Board, developed the essential terms to be included in the new Executive Director's employment contract. Documentary evidence and testimony of Board members is and has been readily available to the Auditor to support each of these representations -- all of which I provided in my interview with the Auditor -- belatedly arranged by the Auditor after the draft report was already prepared. While I and perhaps other Board members conducted the final negotiations with the new Executive Director and I signed the employment contract, that fact clearly does not support the conclusion that I "operated autonomously from the Board of Directors . . . hiring and negotiating an employment agreement with the Executive Director" And I did not.

- I did not, nor would the Board have permitted me to, hire a new Chief Financial Officer on my own. While all the essential documents are not presently available to me, my recollection is that a number of Board members interviewed several candidates, and the Board decided to select one of those candidates. I did sign the contract with the new CFO, but that fact does not support the Auditor's suggestion that I acted without Board consultation or approval. And I did not.

- The auditor suggests that the Commission never prepared or presented strategic statements describing how it intended to fulfill its mission. Nothing could be further from the truth. The Commission prepared and published statements of policy and principle which were regularly presented to the Mayor and the City Council. To my knowledge, no Board member ever registered any dissent with respect to those periodic statements within the Board or to the Mayor or the City Council. And neither the Mayor nor the Council ever contested any of those statements or suggested in any way that we were following a wrong strategy. The Board directly, I believe, and certainly through its ad hoc executive search committee, also declared its goals and governing principles when it was interviewing and selecting a new Executive Director. And all of those goals and principles are set forth in the Executive Director's contract.

All of those statements consistently recited a common theme: We would restore and preserve our physical assets; we would enhance the development of our staff; we would seek to bring more sports and entertainment events to the City; we would try to increase revenues earned from our assets; we would be a better neighbor and serve our community more effectively; we would continue our community outreach effort by making grants to organizations and groups that pursued a sports or entertainment goal; we would help restore the Anacostia River, which bordered and affected the attractiveness and utility of our property; we would help the City create a model program to recover unused or underused neighborhood facilities and would start with a major project at Kenilworth Park; we would try hard to bring the Olympics to Washington in 2012; and we would do our best to bring major league baseball back to the nation's capital.

I do not know whether the Auditor reviewed any of these statements or whether she examined the public record which amply recites them. But, if she did, it is hard to understand how she could assert that we never developed and announced guiding principles or governing policies. The Auditor may disagree with what we developed and announced, and she may

criticize us when we were not successful in achieving all our goals. But she cannot honestly contend that we did not announce those goals, and she cannot dispute that those goals were embraced or at least accepted without challenge by the Board, the Mayor and the City Council.

- The Board did not ignore the financial impact of the aggressive agenda it adopted. On the contrary, the Board members recognized three realities at each step along the way.

First, in 1999, it was perfectly clear that, without significant capital investments, the business of the Commission would end. At the time, the Commission's principal tenant, D.C. United, was extremely critical of the Commission's performance and the condition of its facilities. In fact, it had declared that it would leave RFK at the end of its current contract. Moreover, because of the condition of the Commission's facilities, it had become increasingly difficult to attract new business to RFK and the Armory.

Second, although it was difficult to determine with accuracy because of the financial management tools and resources used by the Commission at the time, it was reasonably clear that the Commission was not producing net operating income from its facilities and had probably been in an operating loss condition since the Redskins left RFK. It was only because of the interest earned on the Commission's retained earnings and the adoption of an unreasonably low operating and capital cost structure that the Commission was able to produce net income.

Third, the Commission recognized that, although it had built up a substantial cash reserve, it had done so with no stated goal in mind. It had not determined and declared what it would or could do with the millions of dollars it had earned and retained. And the Commission recognized further that it could not fulfill its statutory duties on a continuing basis with the cash reserve if all its business left.

Given these factors, the Commission determined that if it was to have a chance to produce positive net operating income and increase that net operating income, it would have to abandon its cash hoarding policy and invest its capital in its assets and its organization. This was necessary, not only to give it a reasonable chance to continue in business, but also to be faithful to its statutory obligation to preserve and protect the physical assets entrusted to it.

The Auditor incorrectly describes the Commission's program as "deficit spending." It was not. The Commission had cash assets that could be used to support its business. And the only reason it had that cash was because it had deferred spending money on asset maintenance and had delayed making necessary capital improvements. Put simply, the Board recognized that it had to spend money to make money and that there was no valid business reason to retain earnings while its assets deteriorated and its business went away. Accordingly, to the extent operating revenues were inadequate to fund capital and operating programs deemed to be necessary to preserve the financial integrity of the organization, the Board authorized the use of the Commission's retained earnings to cover any shortfall. This is not deficit spending, and it is

not irresponsible. Rather, it was the Commission's only way to achieve the goals the organic legislation required, the Board had set for itself, and the Mayor and the City Council accepted.

It is not possible within the time period provided for me to comment on all the other mischaracterizations contained in the Auditor's draft report. Many of them I am able to comment upon from memory, but others would require further research and some I am not familiar with at all. My silence with respect to any of them, however, should certainly not be interpreted as agreement or acquiescence.

In summary, I am very concerned with the Auditor's draft report. It very clearly maligns unfairly criticizes citizens of the City who have worked hard to perform public service as unpaid volunteers. And it reflects a failure to audit in a professional and responsible manner. The Auditor clearly did not examine documentary evidence available to her, and she only sought a limited amount of testimony from a small selected number of Board members. And when, after reviewing a particular subject, she had a choice of adopting a positive, negative or neutral conclusion, she adopted a negative conclusion every time. This is not the way a fair and unbiased audit report is prepared, and it does not demonstrate a knowledge, understanding and appreciation of the appropriate auditing standards.

I find it hard to ignore the well-known displeasure of the Auditor following the Commission's response to her audit report four years ago and the suspicion that that displeasure affected the manner in which she performed this investigation. When the Auditor presented her draft report four years ago, the Commission readily agreed with and accepted some of her comments and criticisms. But the Board was very skeptical about conclusions she asserted about the Commission's status, power and authority. Accordingly, the Board determined that it should retain an independent advisor to review those issues and to advise it as to how it should proceed. The Board's advisor thoroughly researched the questions and reached legal and policy conclusions directly at odds with those announced by the Auditor. The Board adopted its advisor's conclusions and provided them for review and guidance to the Mayor and to the Council. Neither the Mayor nor the Council disagreed with any of the positions adopted by the Commission, and neither the Mayor nor the Council agreed with the contrary interpretations of the Commission's status and authority contained in the Auditor's report.

One is left to speculate about the degree to which this experience -- referred to again by the Auditor in the current report -- unfairly affected the objectivity of the Auditor as she approached the study currently underway.

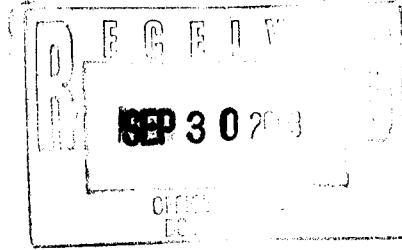
It is unclear to me what, if any, remedy the Commission may have or should request to respond thoroughly and completely to what I believe is an unfair and biased analysis of the Commission's activities and performance for the period under study. My personal preference would be for some sort of a public hearing where the Auditor and representatives of the Commission would be required to testify under oath and be subject to cross-examination by

affected interests. A formal public presentation where all these matters and others can be fully heard appears to me to be the only way quality and objectivity can be brought to a seriously flawed process.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER



Natwar M. Gandhi
Chief Financial Officer



September 29, 2003

Ms. Deborah K. Nichols
District of Columbia Auditor
717 14th Street, N.W., Suite 900
Washington, DC 20005

Dear Ms. Nichols:

Thank you for the opportunity to provide comments on your draft report, "District of Columbia Sports and Entertainment Commission's Executive Leadership Failed to Implement an Effective Governance Structure to Ensure Sound Financial Management Decisions, Management Accountability and Compliance with Applicable Laws and Regulations."

I note that the recent enactment of the "Sports and Entertainment Commission Financial Affairs Temporary Amendment Act of 2003" provides needed clarification and authority on this subject.

I offer the following comments concerning the draft report's finding that the District's Chief Financial Officer failed to provide timely, effective oversight of the financial operations and activities of the D.C. Sports and Entertainment Commission (DCSEC). The report states that as an ex-officio member of the DCSEC Board, the D.C. Chief Financial Officer "appears to have been intended to ensure that there existed independent, specialized oversight of DCSEC's financial operation."

As the report suggests, the role of the CFO on the Board is not clearly established. In fact, the only special powers that the CFO has as a member of the Board is with respect to the issuance of bonds, notes or other obligations. The CFO has no special veto or other financial control authority as he does over other D.C. government agencies. DC Code 3-1405(b) gives the Executive Director, not the District CFO, approval over all expenses incidental to the operation of the Commission.

To suggest that the CFO did not fulfill functions over which he had no authority weakens the conclusions that follow in the report. It is problematic to suggest that the CFO should have functioned as an independent financial watchdog when the governing structure of DCSEC specifically placed its financial management system outside of the D.C. government process for assuring financial oversight. I believe the report is on more solid ground by focusing on the financial management structure of DCSEC and how this differs from how the government assures financial integrity through the independence of the District's CFO. To conclude that as a board member the District's CFO can effectively perform this same financial watchdog role without having the necessary governing structures in place may be portraying a somewhat idealized situation.

The report correctly states that I have designated a senior government financial manager to represent the CFO's interests on the Board. However, the report is incorrect in stating that the senior manager delegated this responsibility to a staff member. The OCFO senior manager retained all responsibility for the Commission and attended all but one of the Board meetings.

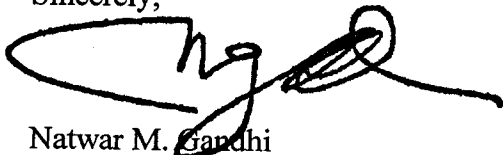
The report states that "neither the District's CFO nor his designee initiated any discernible efforts to effectively raise questions and seek prompt resolution of issues regarding DCSEC's irregular financial management practices and financial results." I believe that there is sufficient evidence to suggest that this statement is not warranted and should be removed from the report. For example, the OCFO senior financial manager recommended to DCSEC and worked closely with them in the purchase and installation of a new financial system for the Commission. This system enabled the Commission to produce accurate and up to date financial reports for the first time. Without the urging of the senior financial manager, this new financial system would not have been implemented.

As an ex-officio member of the Board, and as the District's Chief Financial Officer, I am responsible for performing the duties of this position and exercising whatever influence I can. For example, I requested that OCFO internal auditors conduct reviews of DCSEC operations as a result of issues that concerned me. In 2002, we reviewed DCSEC's contracting practices, and in 2003 we reviewed DCSEC's financial operations. We were pleased to share the results of these reviews with your office; our results were similar to yours. As I am sure you appreciate, given the limited audit resources available and the scope of financial and other operations in the District government that warrant financial and management review, this was no small commitment of resources concerning this one agency. Perhaps more important was the manner in which my senior staff and I attempted to work with DCSEC management to improve matters that were the subject of our reviews. We did not simply issue a report and walk away; we offered our services to improve existing systems and incorporate best practices. During this period, I met with senior Board and DCSEC officials, the Council, and the Mayor's office to express concerns and offer assistance in addressing our findings and recommendation.

I respectfully request that you consider my comments and modify the report to reflect that the authority and responsibility of the District's CFO on the DCSEC Board was not clear; that the OCFO did identify problems and made recommendations to improve DCSEC operations; and that DCSEC's governing structure did not provide the necessary mechanism for assuring that the District's CFO can perform an independent financial watchdog role.

I appreciate your cooperation in this matter. If you have any questions or would like to discuss, please call me at 727-2476.

Sincerely,

A handwritten signature in black ink, appearing to read 'Natwar M. Gandhi', written over a horizontal line.

Natwar M. Gandhi
Chief Financial Officer