



State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

JANICE MUELLER
STATE AUDITOR

22 E. MIFFLIN ST., STE. 500
MADISON, WISCONSIN 53703
(608) 266-2818
FAX (608) 267-0410
Leg.Audit.Info@legis.state.wi.us

To all readers:

The agency response to our review of Milwaukee Brewers Stadium costs misrepresents the Legislative Audit Bureau, mischaracterizes the content of the report, and makes allegations about the report's accuracy and objectivity that cannot be substantiated. As with all of our reports, the information we have included here has been subject to a rigorous documentation process, and the working papers prepared in support of our findings are open for public inspection.

I regret that an unfounded attack on our report and our professionalism has occurred. However, the Legislative Audit Bureau remains committed to our mission of ensuring that financial transactions and management decisions involving public funds are made effectively, efficiently, and in compliance with state law and that public agencies carry out their public missions. We look forward to continuing to provide objective, unbiased, nonpartisan, and accurate information to the public and the Legislature in the future.

Sincerely,

A handwritten signature in cursive script that reads 'Janice Mueller'.

Janice Mueller
State Auditor

JM/ss

[Audit Bureau Response to the Chairperson of the Southeast Wisconsin Professional Baseball Park District](#)

A REVIEW

*Milwaukee Brewers
Stadium Costs*

*Southeast Wisconsin Professional
Baseball Park District*

02-8

May 2002

2001-2002 Joint Legislative Audit Committee Members

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Gary R. George, Co-chairperson
Judith Robson
Brian Burke
Joanne Huelsman
Mary Lazich

Assembly Members:

Joseph K. Leibham, Co-chairperson
Samantha Starzyk
John Gard
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Barbara Gronemus

LEGISLATIVE AUDIT BUREAU

The Bureau is a nonpartisan legislative service agency responsible for conducting financial and program evaluation audits of state agencies. The Bureau's purpose is to provide assurance to the Legislature that financial transactions and management decisions are made effectively, efficiently, and in compliance with state law and that state agencies carry out the policies of the Legislature and the Governor. Audit Bureau reports typically contain reviews of financial transactions, analyses of agency performance or public policy issues, conclusions regarding the causes of problems found, and recommendations for improvement.

Reports are submitted to the Joint Legislative Audit Committee and made available to other committees of the Legislature and to the public. The Audit Committee may arrange public hearings on the issues identified in a report and may introduce legislation in response to the audit recommendations. However, the findings, conclusions, and recommendations in the report are those of the Legislative Audit Bureau. For more information, write the Bureau at 22 E. Mifflin Street, Suite 500, Madison, WI 53703, call (608) 266-2818, or send e-mail to Leg.Audit.Info@legis.state.wi.us. Electronic copies of current reports are available on line at www.legis.state.wi.us/lab/windex.htm.

State Auditor - Janice Mueller

Editor of Publications - Jeanne Thieme

Audit Prepared by

Paul Stuber, Director and Contact Person
Dean Swenson
Jolie Frederickson
Rob Schoenbrunn

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Baseball Park District**



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MADISON, WISCONSIN 53703
(608) 266-2818
FAX (608) 267-0410
Leg.Audit.Info@legis.state.wi.us

May 22, 2002

Senator Gary R. George and
Representative Joseph K. Leibham, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator George and Representative Leibham:

We have been monitoring the construction costs of Miller Park, the stadium for the Milwaukee Brewers Baseball Club, at the request of the Joint Legislative Audit Committee. The Southeast Wisconsin Professional Baseball Park District has been responsible for overseeing the design and construction of the stadium and is currently overseeing its operations. Construction was originally anticipated to be completed by March 1, 2000, but a crane accident in July 1999 that killed three workers and caused extensive damage resulted in a one-year delay in the stadium's opening.

Through December 2001, the District spent \$413.9 million on project construction, or \$13.4 million more than budgeted. In addition, the District spent \$14.2 million in 2001 for post-construction operations and maintenance, and it budgeted \$11.1 million for these costs in 2002.

A 30-year lease agreement between the District and the Brewers provides for the creation of a fund to pay for repairs and improvements to the stadium. The lease also requires the District to contribute \$3.85 million annually to support stadium maintenance. However, we note that public funds paid to help the Brewers support stadium maintenance costs will instead be paid to the team's lenders. We suggest the District work with the Brewers to ensure that needed repairs and maintenance projects are completed and that the public's investment in the project—for which we now estimate costs will total \$1.0 billion through 2030—is adequately protected.

The District met the majority of its statutory goals for the participation of minorities and women in the stadium construction work. However, we identified several management issues regarding the District's operations, including the use of a private skybox in the stadium, its contract with a private consulting firm that does not tie payments for stadium management services to the amount of work actually completed, and the adequacy of documentation for some expenditures. We suggest improvements be made in all of these areas.

I stand behind the accuracy of the information included in this report and the professionalism of my staff in completing this review. The District's response is Appendix 2.

Respectfully submitted,

A handwritten signature in black ink that reads "Janice Mueller".

Janice Mueller
State Auditor

JM/PS/ss

1995 Wisconsin Act 56 created the Southeast Wisconsin Professional Baseball Park District, a local unit of government responsible for overseeing the design and construction of Miller Park, a 43,000-seat, retractable-roof stadium for the Milwaukee Brewers Baseball Club. To finance project costs, the District exercised its authority to issue revenue bonds and to impose a 0.1 percent local sales and use tax in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties to pay for construction, debt service, and other costs. The District is governed by a 13-member board: 6 members are appointed by the Governor, and 7 members are appointed by local governments within the District.

An August 1995 memorandum of understanding (MOU) signed by representatives of the State, Milwaukee County, the City of Milwaukee, and the Milwaukee Brewers outlined the stadium's ownership, design, construction, and management. The MOU included a \$322.0 million budget for the project, including \$250.0 million for the stadium and \$72.0 million for infrastructure improvements. The official groundbreaking for the stadium took place in November 1996, and the new state-of-the-art stadium opened in March 2001.

Questions about the actual total cost of the project have been raised since the project began. In response to these concerns, in March 1997 the Joint Legislative Audit Committee directed the Audit Bureau to monitor the project's progress and to provide periodic reports. This report, which is our third, includes a review of project expenditures and revenues through December 2001, a review of revisions of major agreements and new contracts the District has entered into since the release of our June 1999 report, and a review of the District's efforts to meet statutory goals for the participation of minorities and women in project construction.

In December 1998, the District's governing board approved an updated comprehensive project budget for the stadium complex. Taking all costs into account, including \$6.5 million associated with issuing revenue bonds that were used to complete project construction and with the Lease Certificates of Participation that funded the acquisition and installation of leased equipment, a total of \$413.9 million has been spent on the stadium project through December 2001. This amount is 28.5 percent more than the \$322.0 million anticipated by the MOU.

The \$413.9 million in project costs can be divided into three categories. Through December 2001, they included:

- \$301.4 million for stadium construction, including costs associated with leased equipment, project administration, and the issuance of revenue bonds and Lease Certificates of Participation;
- \$98.5 million for infrastructure improvements, including costs associated with development of the 265-acre stadium site, relocation of utilities, and construction and improvements to surrounding parking lots, roads, and bridges; and
- \$14.0 million for operations, including costs associated with the District's day-to-day office operations, fees for professional services, and insurance costs.

The degree to which project construction expenditures will increase beyond the \$413.9 million that the District incurred through December 2001 cannot currently be quantified. First, officials of the District have acknowledged setting aside approximately \$11.0 million to pay for increased roof construction costs incurred as a result of design changes the District made after its roof contractor—Mitsubishi Heavy Industries of America, Inc.—began constructing the stadium's retractable roof. Second, the District is involved in litigation that could affect total project construction costs. In January 2002, the District filed a \$5.0 million lawsuit in Milwaukee County Circuit Court against Mitsubishi and its construction manager, HCH Miller Park Joint Venture, alleging that negligence and poor management in constructing the roof led to construction delays and increased costs. Mitsubishi, in turn, filed a countersuit in February 2002, alleging that the District owes it over \$87.0 million for additional construction costs incurred as a result of changes to the roof's design and construction schedule after the firm had submitted its bid price.

Most work on the stadium complex has been completed; however, the District is constructing a \$3.1 million youth ballpark on the former site of Milwaukee County Stadium. The project will include a baseball diamond, a 1,400 square-foot all-purpose building, a concession stand, seating for 722 people, and a picnic area. District officials have not created a separate budget line for this project but indicate they are providing \$1.1 million toward construction costs. In exchange for naming rights to the youth ballpark, the Evan and Marion Helfaer Foundation is contributing \$2.0 million to the project, payable in equal installments over ten years.

An agreement entered into between the District and the Brewers provided that the completed stadium would be fully furnished and equipped. Our review of financial records indicates that through

December 2001, the District spent \$4.9 million for the Brewers' furniture, fixtures, and equipment that included office furniture and athletic and training equipment specified by the Brewers, such as whirlpool baths, ice machines, saunas and steam rooms, batting and pitching machines, exercise equipment, and a video coaching system.

The construction crane that collapsed in July 1999 caused extensive damage to the partially completed stadium and resulted in the deaths of three ironworkers. District officials have stated publicly that the District's insurance companies paid for all costs associated with the accident, so that taxpayer costs did not increase. The manner in which the District has accounted for these costs prevented us from verifying this claim during the course of our review. However, through August 2001, accounting records show that the District received \$98.4 million in insurance reimbursements for costs related to the crane accident. The District's accounting records show \$88.4 million in accident-related costs. District officials stated that the additional \$10.0 million covers increased construction costs that resulted from the accident but could not be quantified through the District's existing budget and expenditure recording procedures.

In a February 2001 settlement agreement, the Brewers agreed to release the District from all claims and damages relating to the crane accident and the subsequent delay in completing the project. As a result, the District's potential financial exposure to the Brewers was eliminated, thereby removing a financial liability from the taxpayers in the five-county area.

Even though stadium construction is anticipated to be completed in spring 2002, the District will continue to incur post-construction expenditures related to the ongoing operation and maintenance of the stadium complex. These expenditures are separate from and in addition to the \$413.9 million that the District spent on project construction through December 2001, as well as the \$88.4 million that it spent repairing damage from the crane accident. Post-construction expenditures include:

- legal, consulting, and other contracted services costs;
- segregated reserve fund payments made to a fund controlled by the District, which will help pay for stadium repairs and improvements; and
- annual maintenance and repair contributions made to Bank One Trust Company, which distributes the funds.

Information provided by the District indicates that post-construction operating and maintenance expenditures totaled \$14.2 million through December 2001, and \$11.1 million is budgeted for 2002.

The 30-year lease agreement between the District and the Brewers, signed in December 1996, provides for the creation of a segregated reserve fund to pay for costs associated with repairs and improvements to the stadium, an extended service warranty on the stadium roof, and small capital projects. In November 2001, the District's governing board voted to increase the District's annual segregated reserve fund contribution from \$700,000 to \$1.75 million, beginning in 2002, because the District anticipates that the annual cost of the projects to be funded by the segregated reserve fund will be significantly higher than was contemplated when the lease was executed. Total project costs over the 30-year lease are anticipated to be \$75.0 million. Although the District is contractually required to pay for specified repairs and improvements regardless of the amount of available segregated reserve funds, the Brewers agreed to increase their contribution from \$300,000 to \$750,000 annually to help fund these costs. District officials indicate this arrangement will be formalized in an amendment to the lease agreement with the Brewers.

Under the terms of the lease agreement, the Brewers are responsible for stadium maintenance, but the District is required to make an annual maintenance and repair contribution equal to 64.0 percent of the Brewers' actual annual maintenance costs or \$3.85 million, whichever amount is less. Both parties currently anticipate that the District will contribute the full \$3.85 million annually. However, under a November 2000 amendment to the lease, the Brewers are no longer required to provide a summary reconciliation of bills, invoices, and other documentation showing the actual amount of maintenance costs incurred until May 31, 2006. By that time, the Brewers will have received a total of \$23.1 million from the District in annual maintenance and repair contributions.

If it is determined in 2006 that the District's contributions have exceeded the actual amount owed, the District may reduce its future monthly payments over a two-year period until the overpayment has been eliminated. However, it is not required to do so. Therefore, the possibility exists that the District will not attempt to recover any overpayments, and taxpayers will support unnecessary costs. We have included a recommendation for the District to require adequate documentation of maintenance expenditures on an ongoing basis.

Through December 2001, the District received a total of \$523.2 million to support project expenditures. Included in this amount is:

- \$239.8 million in net bond proceeds;

- \$115.8 million in sales and use tax revenues;
- \$90.9 million from the Milwaukee Brewers;
- \$41.3 million in interest and investment income;
- \$16.0 million from Milwaukee County;
- \$12.0 million in local transportation aids;
- \$6.8 million from the City of Milwaukee; and
- \$0.7 million in miscellaneous revenue.

The sales and use tax charged in the five-county area in southeast Wisconsin will ultimately fund the majority of construction and operating costs. In our 1999 report, we estimated that by 2014, the sales and use tax would provide sufficient revenue to cover the District's financial obligations, and the District could end its reliance on it at that time. In March 2002, the District's governing board concluded that the sales and use tax could end in 2014.

The 1995 MOU provided that the Brewers would own 36.0 percent of the \$250.0 million stadium and the District would own the remaining 64.0 percent, based on the anticipated proportion of construction costs each would finance. Based on the shared ownership agreement, which was amended in February 2001, it appears likely the District will own more than 64.0 percent of the stadium complex. However, actual ownership interests will not be known until the District's governing board establishes them, which the board indicates will be done sometime in 2002.

The consequences of the District owning a larger percentage of the stadium complex are not clear, and District officials indicated they have "no opinion regarding the advantages or disadvantages" to the District and its taxpayers if the District's ownership interest were to increase above the 64.0 percent originally anticipated. District officials, however, may wish to carefully consider the implications of owning a larger percentage of the stadium complex, including the possible effects this may have on taxpayer funds as a result of potentially increased costs for insurance and other expenses.

Statutes required the District to adopt hiring and contracting goals for minorities and women during construction of the stadium and to hire an independent monitor to evaluate efforts to attain these goals. The District established a program to facilitate minority and female participation, and it contracted with Milwaukee County's Disadvantaged Business Development Program to monitor project participation

independently. Based on a report submitted by the independent monitor, the District met most of the statutory participation goals. To compensate for goals not achieved, and as required by statutes, the District created a community program to provide technical assistance to qualified firms and provided \$85,000 to establish an ongoing scholarship program that is intended to increase the number of minorities and women in construction-related fields.

We identified several management issues regarding the District's operations, including the District's use of a private skybox in the stadium, which could be made available to charity groups; its contract with a private consulting firm that is providing ongoing stadium management services; and the adequacy of documentation for its operating expenditures. For example, the District was unable to provide adequate documentation associated with 25 vouchers totaling \$96,084. We questioned \$42,519 of this amount, including:

- \$27,671 for baseball game tickets that the District purchased on behalf of others, such as board members and firms that contracted to provide the District with professional services;
- \$4,500 paid for the undocumented moving expenses of a staff member;
- \$1,750 paid to a staff member for which no documentation was provided, but which officials indicate was for reimbursement of health insurance costs;
- \$860 paid to a staff member for a trip to Nashville for which inadequate documentation was provided;
- \$631 paid to a staff member as reimbursement for meals for a business-related conference that appears to include reimbursement for meals of a spouse and two other individuals who may also have been family members; and
- \$341 paid to a member of the District's governing board for unspecified travel expenses.

To ensure that these management issues are addressed and that expenditures are adequately documented and comply with applicable rules and regulations, we have included recommendations that the District's board make its skybox conference room available to local charity groups, that it ensure applicable policies and procedures are followed in seeking reimbursement for travel expenditures, and that it limit administrative costs to those that are necessary, reasonable, and adequately documented.

Finally, the District's governing board will face several challenges as the District and the Brewers begin to operate under the terms of the 30-year lease agreement that defines their working relationship, including:

- effectively overseeing agreements governing the District's relationship with the Brewers;
- responding to pending lawsuits involving the stadium's construction;
- ensuring needed stadium repairs and maintenance are completed in the future to protect the taxpayers' investment in the stadium; and
- working to achieve the Legislature's three goals in creating the taxing district—encouraging economic development and tourism, reducing unemployment, and bringing needed capital into the five-county taxing district.

In order to ensure costs are controlled and objectives are achieved, the District will need to provide careful oversight of any future contract changes, work to limit taxpayer costs incurred as a result of ongoing and future litigation, and ensure the Brewers comply with agreements and continue to adequately maintain the stadium.

Introduction

1995 Wisconsin Act 56 created the District to oversee construction and operation of a new Milwaukee Brewers stadium.

1995 Wisconsin Act 56 created the Southeast Wisconsin Professional Baseball Park District, a local unit of government responsible for overseeing the design and construction of Miller Park, a 43,000-seat stadium for the Milwaukee Brewers Baseball Club. To finance project costs, the District exercised its authority to issue revenue bonds and to impose a 0.1 percent local sales and use tax in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties to pay for construction, debt service, and other costs. The District is governed by a 13-member board: 6 members are appointed by the Governor, and 7 members are appointed by local governments within the District.

Provisions of Act 56 were based on a 1995 memorandum of understanding (MOU) signed by representatives of the State, Milwaukee County, the City of Milwaukee, and the Brewers, which each had funding responsibilities for the project. The MOU, which was signed on August 19, 1995:

- outlined agreements among the parties related to the stadium's description and ownership;
- outlined the terms and condition of the stadium's design, construction, and management; and
- included a \$322.0 million preliminary budget for the stadium project, consisting of \$250.0 million for stadium design, construction, and development, and \$72.0 million for infrastructure improvements.

The MOU indicated that the Brewers would fund \$90.0 million of the \$250.0 million in anticipated costs for stadium design, construction, and development costs; public funds would support the remaining \$160.0 million. In addition, the \$72.0 million in infrastructure improvements included in the MOU were to be funded by the State, Milwaukee County, and the City of Milwaukee.

District officials acknowledged that the project's final cost would exceed the \$322.0 million anticipated in the MOU.

In 1997, District officials acknowledged that the project's final cost would exceed the \$322.0 million anticipated in the MOU. They justified the increased costs in two ways. First, they pointed out that the MOU was not binding on any of the parties, and it specifically stated that it would create no liabilities or obligations. Second, they argued the

MOU's budget was for preliminary construction work only and that additional costs—such as those associated with the acquisition of leased equipment and the District's day-to-day operations—were not anticipated.

Nevertheless, at the time there was a general expectation that the District would adhere to the MOU's budget amounts. For example, the Legislature used the MOU as a basis for enacting Act 56, which required the District's governing board to determine that total initial stadium construction costs would not exceed \$250.0 million before it issued bonds to fund construction. The governing board first made such a determination in November 1996, before it issued \$160.0 million in revenue bonds to help pay for the stadium's construction.

The official groundbreaking for the new stadium complex took place on November 9, 1996, and the stadium opened in March 2001. The stadium is scheduled to host Major League Baseball's All-Star Game in July 2002.

The stadium complex is a 265-acre site that includes:

- a state-of-the-art stadium, which contains a restaurant open on game days and for other special events, and a commercial restaurant belonging to a national chain that is open year-round; and
- the surrounding land, which has parking spaces for approximately 13,000 vehicles, as well as a youth baseball facility and a concession building.

The stadium has a natural grass playing field, 72 private skybox suites, and a fan-shaped retractable roof that can be opened or closed in approximately ten minutes. When the roof is closed, the stadium can be heated up to 30 degrees warmer than the outside temperature.

In December 1996, the District and the Brewers entered into a 30-year lease agreement.

In December 1996, the District and the Brewers entered into a 30-year lease agreement governing the use, management, and maintenance of the stadium. Provisions of the lease establish rights and responsibilities associated with use of the stadium facilities, stadium maintenance, insurance and utility payments, retention of revenues generated from operation of the stadium, and the Brewers' obligation to make rental payments.

Stadium construction was originally anticipated to be substantially completed by March 1, 2000, with a 30-year lease between the District and the Brewers scheduled to begin on that date. However, on

July 14, 1999, a large construction crane collapsed, killing three workers and causing extensive damage to the project. As a result, the opening of the stadium was delayed one year, and the lease was amended to run from November 1, 2000, through December 31, 2030.

In March 1997, based on concerns about the stadium's anticipated costs exceeding legislative and public expectations, the Joint Legislative Audit Committee directed the Audit Bureau to monitor the project's costs and to provide periodic reports on the status of construction and other issues. In November 1997, we released our initial review of project costs (report 97-17), and in June 1999, we released a follow-up review that summarized project costs through December 1998 (report 99-10).

This third review updates the District's progress in constructing and operating the stadium. As part of this review, we analyzed:

- revenues and expenditures through December 2001, as well as anticipated future costs associated with the ongoing operation and maintenance of the stadium complex;
- revisions made to major agreements, as well as new contracts signed by the District's governing board since the release of our June 1999 report;
- the District's efforts to meet statutory goals for the participation of minorities and women in project construction; and
- challenges facing the District as it begins the transition from overseeing stadium construction to overseeing stadium management and operations.

In conducting our review, we examined the District's financial records and construction and financial agreements. We also reviewed available information on statutorily established goals for the participation of minorities and women in the stadium's construction. However, it should be noted that our review was inhibited by the actions of some officials of the District, who provided incomplete responses to questions and restricted our ability to interview the District's contracted staff and service providers. As a result, we were unable to perform a complete analysis of all expenditures and revenues, including those associated with the construction crane accident, and of several agreements executed by the District's governing board.

Project Construction Costs

Through December 2001, construction costs for the stadium complex totaled \$413.9 million and exceeded the District's construction budget by \$13.4 million. These amounts do not include an additional \$88.4 million in costs associated with the crane accident, which have been paid by the District's insurers.

Project Budget and Expenditures

In December 1998, the District's governing board approved a \$394.0 million project budget that addressed stadium construction, related infrastructure work, and operations, as well as leased equipment and project administration costs. The project budget did not, however, include almost \$6.5 million to issue the revenue bonds that were used to complete project construction or the Lease Certificates of Participation that funded the acquisition and installation of leased equipment. Including the issuance costs increases the project's budget to \$400.5 million.

We included the issuance costs in our analysis to provide a more complete picture of total construction costs. Through December 2001, the District's total construction expenditures, including the issuance costs, were \$413.9 million, which is 28.5 percent more than the \$322.0 million anticipated by the MOU.

As shown in Table 1, the District's stadium complex project budget totals \$400.5 million. Stadium construction costs accounted for \$306.4 million of the budget, while infrastructure costs accounted for \$82.2 million. Operations costs, including expenses associated with the District's day-to-day operations and with debt service and interim operations for Milwaukee County Stadium, accounted for \$11.8 million.

Table 1

Stadium Complex Project Budget
December 2001

	<u>Stadium Construction</u>	<u>Infrastructure</u>	<u>Operations*</u>	<u>Total</u>
District budgets	\$249,889,003	\$72,000,009	\$11,800,000	\$333,689,012
Leased equipment	38,259,012	6,840,988	0	45,100,000
Project administration	11,785,752	3,394,248	0	15,180,000
Issuance costs**	<u>6,486,362</u>	<u>0</u>	<u>0</u>	<u>6,486,362</u>
Total	\$306,420,129	\$82,235,245	\$11,800,000	\$400,455,374

* Includes \$8.5 million associated with the District's day-to-day operations, and \$3.3 million for Milwaukee County Stadium debt service and interim operations.

** Includes costs associated with the issuance of revenue bonds and Lease Certificates of Participation. Does not include refinancing costs.

Through December 2001, the project has exceeded its budget of \$400.5 million by \$13.4 million.

Although officials of the District stated publicly in 2001 that the project was approximately \$800,000 under budget, the District's financial records show that through December 2001, the project exceeded its budget of \$400.5 million by \$13.4 million. As shown in Table 2, stadium complex expenditures through December 2001, as reflected in the District's financial records, were \$413.9 million. These costs are grouped into three categories:

- stadium construction, which includes costs associated with design, engineering, and construction of the stadium complex, including the baseball park and its retractable roof, concession areas, and the scoreboard and other equipment;
- infrastructure, which includes costs associated with development of the stadium site and surrounding parking lots and roads, including construction of stadium foundations, highway and bridge construction, relocation of utilities, construction of parking areas, removal of hazardous materials, and demolition of County Stadium, which was completed in February 2001; and

- operations, which includes costs associated with the District's operations and with management of the stadium complex, such as salary and fringe benefits for staff; fees for professional services, including legal counsel and public relations; and insurance costs.

Although the stadium complex opened in March 2001, the District will incur construction-related costs through at least spring 2002, when all project work is scheduled to be completed.

Table 2

Stadium Complex Expenditures*
Through December 2001

	<u>Stadium Construction</u>	<u>Infrastructure</u>	<u>Operations</u>	<u>Total</u>
District expenditures	\$240,224,326	\$91,216,599	\$14,030,289	\$345,471,214
Leased equipment	39,488,965	2,932,731	0	42,421,696
Project administration	15,172,415	4,369,593	0	19,542,008
Issuance costs	<u>6,486,362</u>	<u>0</u>	<u>0</u>	<u>6,486,362</u>
Total	\$301,372,068	\$98,518,923	\$14,030,289	\$413,921,280

* Excludes costs associated with the July 1999 crane accident.

An additional \$11.0 million set aside for roof construction costs is not included in current expenditures.

The degree to which project construction expenditures will increase beyond the \$413.9 million that the District incurred through December 2001 cannot currently be quantified. First, officials have acknowledged setting aside approximately \$11.0 million to pay for increased roof construction costs incurred as a result of design changes the District made after its roof contractor, Mitsubishi Heavy Industries of America, Inc., began constructing the stadium's retractable roof. The \$11.0 million has not yet been paid and, therefore, is not included within the \$413.9 million project construction expenditure amount.

Pending lawsuits could affect total project expenditures.

Second, the District is involved in litigation that could affect total project construction costs. In January 2002, the District filed a \$5.0 million lawsuit in Milwaukee County Circuit Court against Mitsubishi and HCH Miller Park Joint Venture, the project's construction manager, alleging negligence and poor management in

constructing the roof, which led to construction delays and increased costs. Mitsubishi, in turn, filed a countersuit in February 2002, alleging that the District owes it over \$87.0 million for additional construction costs incurred as a result of changes made to the roof's design and construction schedule after the firm submitted its bid price. These cases are currently pending in Milwaukee County Circuit Court.

Stadium Construction Budget and Expenditures

As shown in Table 3, in the subcategory of stadium construction, the District's expenditures through December 2001 were \$240.2 million, or \$9.7 million less than budgeted. The largest amount, \$209.8 million was spent on general construction, which includes costs such as building materials and labor costs for construction workers. No expenditures have been reported for contingencies because when the District incurs costs in this area, it transfers funds from its contingency budget to its general construction budget, from which costs are funded. To manage construction of the stadium, the District contracted with HCH Miller Park Joint Venture, which is made up of Huber, Hunt & Nichols, Inc.; the Clark Construction Group, Inc.; and Hunzinger Construction Company. HCH Joint Venture was responsible for ensuring that work was completed within budget and in a timely manner.

Table 3

Stadium Construction Budget and Expenditures Through December 2001

	<u>District Budget</u>	<u>Expenditures</u>	<u>Difference</u>
General construction	\$206,387,751	\$209,813,130	\$ 3,425,379
Architectural and engineering fees	18,500,000	19,959,358	1,459,358
Contingencies	11,253,084	–	(11,253,084)
Pending contract change orders	7,320,918	3,146,394	(4,174,524)
Construction manager fee	<u>6,427,250</u>	<u>7,305,444</u>	<u>878,194</u>
Total	\$249,889,003	\$240,224,326	(\$9,664,677)

Infrastructure Budget and Expenditures

As shown in Table 4, the District's infrastructure expenditures through December 2001 were \$91.2 million, or \$19.2 million more than budgeted. Expenditures for stadium foundations were \$15.0 million more than budgeted. It should be noted that the District's infrastructure budget includes almost \$24.0 million in highway and bridge work that was completed and paid for by the Department of Transportation with \$15.0 million in segregated transportation funds and \$9.0 million in federal funding. As with stadium work, as the construction manager spends contingency funds because of higher-than-anticipated costs, the funds are transferred to the budget lines that reflect their use.

Table 4

Infrastructure Budget and Expenditures Through December 2001

	<u>District Budget</u>	<u>Expenditures</u>	<u>Difference</u>
Completed by District			
Site development	\$22,620,449	\$25,596,295	\$ 2,975,846
Deep pilings	7,181,440	7,181,441	1
Stadium foundations	4,927,155	19,938,412	15,011,257
Pad construction	3,500,000	3,423,483	(76,517)
Utility relocation	2,000,000	2,305,979	305,979
County Stadium demolition	1,900,000	834,296	(1,065,704)
Construction manager general conditions	1,717,943	2,321,421	603,478
Methane control	1,500,000	1,368,242	(131,758)
Architectural and engineering fees	1,200,000	1,316,632	116,632
Construction manager fee	913,824	1,065,804	151,980
Construction manager contingency	539,198	-	(539,198)
Special projects	<u> -</u>	<u>1,879,063</u>	<u>1,879,063</u>
Subtotal	48,000,009	67,231,068	19,231,059
Completed by Department of Transportation			
Highway and bridge work	<u>24,000,000</u>	<u>23,985,531*</u>	<u>(14,469)</u>
Total	\$72,000,009	\$91,216,599	\$19,216,590

* Through November 2001.

The District is contributing \$1.1 million toward construction of a youth ballpark.

Most infrastructure work has been completed; however, the District is currently constructing a \$3.1 million youth ballpark on the former site of County Stadium. The project will include a baseball diamond, a 1,400 square-foot all-purpose building, a concession stand, seating for 722 people, and a picnic area. District officials have not created a separate budget line for this project but indicate they are providing \$1.1 million toward construction costs, which we included in the special projects line of the infrastructure budget. In exchange for naming rights to the youth ballpark, the Evan and Marion Helfaer Foundation is contributing \$2.0 million to the project, payable in equal installments over ten years. The District will, therefore, need to cover almost all of the Foundation's share of the costs until this funding is received. As a result, it will forgo interest earned on these funds, which we estimate would have totaled approximately \$616,000, assuming a 5 percent interest rate and annual payments beginning in January 2002. Through December 2001, the District spent \$1.7 million to construct the youth ballpark.

Construction of the youth ballpark began in August 2001 and has been scheduled for completion in May 2002. Under the lease with the District, the Brewers will be responsible for maintaining, managing, and operating the youth ballpark, but the agreement allows the District to provide unspecified financial assistance if it so chooses. The Brewers plan to rent the field to boys baseball and girls and adult softball teams. The Brewers are also allowed to lease the facility for meetings and parties and to keep any revenue generated from both the ballpark and the facility.

Leased Capital Equipment Budget and Expenditures

In June 1997, the District's governing board created the Baseball Leasing Corporation, a nonstock, nonprofit entity to obtain and lease capital equipment such as the scoreboard, concession equipment, and the roof drive mechanism for the District. The corporation's board of directors consists of members of the District's governing board. However, the District decides which items will be purchased and when they will be installed. Acquisition and installation of the leased equipment was funded with proceeds from the District's August 1997 issuance of \$45.0 million in Lease Certificates of Participation. The District has chosen to budget for the leased equipment separately, even though the leased equipment is essential to the stadium complex's operations.

The District spent \$7.8 million for the stadium's scoreboard and audio-visual equipment.

As shown in Table 5, leased capital equipment expenditures through December 2001 were \$42.4 million, or \$2.7 million less than budgeted. However, budget documents indicate that the District plans to spend all \$45.1 million budgeted for leased capital equipment. The largest

expenditures are likely to be for the scoreboard and audio-visual equipment and for the roof drive mechanism, for which the District has spent \$7.8 million and \$6.9 million, respectively.

Table 5

Leased Capital Equipment Budget and Expenditures
Through December 2001

	<u>District Budget</u>	<u>Expenditures</u>	<u>Difference</u>
Stadium-related			
Roof drive mechanism	\$ 7,400,000	\$ 6,854,086	(\$ 545,914)
Scoreboard and audio-visual equipment	6,596,845	7,826,068	1,229,223
Furniture and accessories	6,580,000	4,852,200	(1,727,800)
Food service equipment	5,640,000	5,460,430	(179,570)
Mechanical equipment	5,195,000	4,788,494	(406,506)
Electrical equipment	4,163,036	7,012,346	2,849,310
Conveying systems	<u>2,684,131</u>	<u>2,695,341</u>	<u>11,210</u>
Subtotal	38,259,012	39,488,965	1,229,953
Infrastructure-related			
Site development	<u>6,840,988</u>	<u>2,932,731</u>	<u>(3,908,257)</u>
Total	\$45,100,000	\$42,421,696	(\$2,678,304)

With a budget of almost \$6.6 million, furniture and accessories represent the third-largest planned expenditure for leased capital equipment. The District and the Brewers provided in a construction administration agreement that the completed stadium would be fully furnished and equipped. This meant that project expenditures included office furniture and equipment, television monitors, and finished conference rooms for the Brewers. In addition, project costs included leased athletic and training equipment specified by the Brewers, such as whirlpool baths, ice machines, saunas and steam rooms, batting and pitching machines, exercise equipment, and a video coaching system. Our review of financial records indicates that through December 2001, the District spent \$4.9 million for furniture, fixtures, and equipment. Examples of such expenditures that the District made in the six months before the stadium opened in March 2001 include:

- \$367,111 for office furniture for the Brewers;
- \$315,000 for design and development of a 5,500-square-foot baseball entertainment attraction within the stadium, including video batting cages and educational exhibits;
- \$183,157 paid to a company that provides high-speed Internet access, Web and domain hosting, and consulting services;
- \$140,196 for construction of a children’s playground within the stadium;
- \$53,829 for barbells and other fitness equipment;
- \$52,128 for computers and technical support; and
- \$39,815 for icemakers and refrigerators.

Project Administration Budget and Expenditures

As shown in Table 6, project administration expenditures were \$19.5 million through December 2001, or \$4.4 million more than budgeted.

Table 6

Project Administration Budget and Expenditures
Through December 2001

	<u>District Budget</u>	<u>Expenditures</u>	<u>Difference</u>
Insurance	\$ 7,000,000	\$11,152,066	\$4,152,066
Testing and permits	3,100,000	3,973,156	873,156
Program manager	1,830,000	1,532,636	(297,364)
Project manager	1,400,000	666,231	(733,769)
Project participation independent monitor	750,000	768,408	18,408
Project participation coordinators	550,000	556,917	6,917
Wisconsin Department of Administration fees	400,000	742,594	342,594
Architectural and engineering design competition	<u>150,000</u>	<u>150,000</u>	<u>0</u>
Total	\$15,180,000	\$19,542,008	\$4,362,008

Insurance expenditures, including property insurance and construction liability insurance, exceeded the budgeted amount by \$4.2 million. Project administration services were generally provided under contract to the District. For example:

- The program manager was International Facilities Group, a private company that had experience operating stadiums and that provided the District with technical and administrative assistance in the project's early months.
- The project manager was the Hammes Company, a private company that provided design and construction oversight until the District hired staff to assume those responsibilities.
- Milwaukee County's Disadvantaged Business Development Program was selected as the independent monitor for the project, responsible for ensuring the District complied with statutory guidelines for the participation of minorities and women in project construction.
- Four project participation coordinators—two hired by the program manager on the District's behalf, and two hired by the principal design and construction companies—also had responsibilities related to minority and female participation in project construction.

Operations Budget and Expenditures

The District spent \$14.0 million through December 2001 on operating costs.

The District's operations budget includes administrative costs provided by the District's own staff, as well as professional services for which the District contracted. Although the District has contracted for all administrative and management services since August 2001, it had initially employed eight full-time staff that included an executive director, an associate director, a finance manager, and support staff. Currently, all staff—including the District's executive director, who is no longer a District employee—are provided under contract. As shown in Table 7, the District incurred \$14.0 million in operations expenditures through December 2001, or \$2.2 million more than the \$11.8 million that had been budgeted. These costs were incurred during construction of the stadium complex, and they include \$2.4 million for interim operations and debt service for Milwaukee County Stadium. Documents

provided by the District do not contain sufficient detail to determine the budgeted amounts for individual operations categories, which prevented our independent assessment of why the District exceeded its operations budget.

Table 7

Operations Budget and Expenditures
Through December 2001

	<u>District Budget*</u>	<u>Expenditures</u>
Outside Services		
Legal	–	\$ 4,241,850
Consulting	–	1,630,471
Accounting services	–	687,025
Public affairs	–	682,619
Insurance	–	501,640
Audit services	–	131,622
Financial advisor	–	135,390
Recruitment	–	43,774
Other	–	<u>304,984</u>
Subtotal	–	8,359,375
District Office Expenditures		
Salaries and fringe benefits	–	2,282,584
Office equipment and leases	–	508,702
Office operations	–	396,580
Travel	–	73,183
Meeting costs	–	<u>12,829</u>
Subtotal	–	<u>3,273,878</u>
Total	\$ 8,500,000	\$11,633,253
Milwaukee County Stadium		
Interim operations	–	1,204,406
Debt service	–	<u>1,192,630</u>
Subtotal	<u>3,300,000</u>	<u>2,397,036</u>
Total	\$11,800,000	\$14,030,289

* The District's documents do not provide sufficient detail to show individual budgeted amounts.

Crane Accident Expenditures and Reimbursements

The construction crane that collapsed in July 1999 caused extensive damage to the partially completed stadium and resulted in the deaths of three ironworkers. District officials have stated publicly that insurers paid for all costs associated with the accident, so that taxpayer costs did not increase. However, the manner in which the District has accounted for these costs prevented us from verifying this claim during the course of our review.

Insurance companies reimbursed the District \$98.4 million for costs related to the crane accident.

Through August 2001, accounting records show that the District received \$98.4 million in insurance reimbursements for costs related to the crane accident. The District's accounting records show \$88.4 million in accident-related costs. District officials stated that the additional \$10.0 million that was reimbursed covers increased construction costs that were incurred as a result of the accident but could not be quantified through existing budget and expenditure recording procedures. Officials indicated accident-related costs are not reflected in project construction expenditures and that the District incurred no additional accident-related expenditures or reimbursements after August 2001.

In a February 2001 settlement agreement with the District, the Brewers agreed to release the District from all claims and damages relating to the crane accident and the subsequent delay in completing the project. As a result, the District's potential financial exposure to the Brewers was eliminated, thereby removing a financial liability from the taxpayers in the five-county area.

Liquidated Damages

The District's agreements with HCH Joint Venture and the Brewers stipulated that if construction of the stadium complex was not completed on time, the District would assess liquidated damages up to a maximum of \$1.0 million and would provide these funds to the Brewers. The liquidated damages are intended to approximate the Brewers' loss for not being able to use the stadium complex by March 2000, as originally planned.

Officials indicate the District paid the Brewers \$1.0 million in liquidated damages on behalf of HCH Joint Venture.

As a result of the accident and the one-year delay in completing the project, the District determined that HCH Joint Venture owed the District \$1.0 million in liquidated damages. HCH Joint Venture and the District agreed, however, that the liquidated damages would not be withheld by the District during construction of the project, in order to ensure HCH Joint Venture had sufficient funds to complete its work. District officials agreed to wait until the end of the project to assess the liquidated damages and stated they used the District's funds to pay the Brewers \$1.0 million; however, we were not able to identify this payment in the District's financial records.

As of December 2001, HCH Joint Venture had not paid the District the \$1.0 million in liquidated damages. District officials stated that the lawsuit the District filed in January 2002 alleging negligence in constructing the stadium's roof seeks recovery of the \$1.0 million. The District's agreements with the Brewers provide that the District may request that the team return the \$1.0 million until it is determined that HCH Joint Venture is legally required to pay the damages. District officials have not indicated whether the District plans to recover the \$1.0 million payment made to the Brewers if it is determined that HCH Joint Venture is not required to pay damages.

Post-Construction Costs

Even though stadium construction is expected to be completed in spring 2002, the District will continue to incur post-construction costs related to operation and maintenance of the stadium complex during the course of the 30-year lease agreement. These costs are separate from and in addition to the \$413.9 million that the District spent on project construction through December 2001, as well as the \$88.4 million that it spent repairing damage from the crane accident. Post-construction costs include:

- legal, consulting, and other contracted services costs;
- segregated reserve payments to a fund controlled by the District, which will help pay for stadium repairs and improvements; and
- annual maintenance and repair contributions made to Bank One Trust Company, which distributes these funds.

The District has spent \$14.2 million for post-construction costs through December 2001.

As shown in Table 8, information provided by the District indicates that post-construction operating and maintenance expenditures totaled \$14.2 million through December 2001. This includes a \$3.85 million annual maintenance and repair contribution that the District paid in 2000 and 2001, for a total of \$7.7 million, as required by its 30-year lease with the Brewers; contributions to the segregated reserve fund; and miscellaneous maintenance expenditures.

Table 8

Post-Construction Operating and Maintenance Expenditures
Through December 2001

	<u>Expenditures</u>
Outside Services	
Legal	\$ 1,217,622
Consulting	624,397
Public affairs	273,246
Project participation independent monitor	151,666
Accounting services	111,475
Audit services	44,933
Project participation coordinators	30,079
Financial advisor	6,801
Other	<u>131,932</u>
Subtotal	2,592,151
District Office Expenditures	
Salaries and fringe benefits	255,694
Office operations	56,807
Office equipment and leases	34,706
Meeting costs	<u>1,530</u>
Subtotal	348,737
Annual maintenance and repair contributions	7,700,000
Reimbursable advance funding*	1,665,215
Discretionary improvements**	1,001,573
Segregated reserve fund payment	661,240
Routine maintenance and operations	<u>196,918</u>
Subtotal	<u>11,224,946</u>
Total	\$14,165,834

* Expenditures for work that will eventually be paid for by third parties.

** Information provided by the District did not indicate which costs were included as discretionary improvements.

As shown in Table 9, the District's budget for 2002 is projected to be \$11.1 million.

Table 9

2002 Post-Construction Operating and Maintenance Budget
As of November 2001

	<u>Amount</u>
Outside Services	
Legal	\$ 1,500,000
Consulting	1,450,000
Insurance	1,060,000
District management and administration	700,000
Architect and engineer design	200,000
Public affairs	50,000
Accounting services	50,000
Audit services	35,000
Project participation coordinators	25,000
Financial advisor	21,000
Testing and permits	20,000
Other	<u>250,000</u>
Subtotal	5,361,000
District Office Expenditures	
Office operations	66,000
Meeting costs	23,000
Office equipment and leases	20,000
Travel	<u>10,000</u>
Subtotal	119,000
Annual maintenance and repair contributions	3,850,000
Segregated reserve fund payment	<u>1,750,000</u>
Subtotal	<u>5,600,000</u>
Total	\$11,080,000

The District expects ongoing operating and maintenance expenditures will decline in the future, after its lawsuits and other initial stadium complex issues are resolved.

Segregated Reserve Fund

The lease agreement between the District and the Brewers, signed in December 1996, provides for the creation of a segregated reserve fund to pay for costs associated with repairs and improvements to the stadium, an extended service warranty on the stadium roof, and small capital projects. The original lease required the District to contribute \$700,000 and the Brewers to contribute \$300,000 to the fund each year. The District's obligation to contribute is contingent upon the Brewers' payment of rent that is required under the lease, while the Brewers' contribution is contingent upon the District's payment of annual maintenance and repair contributions. According to the lease, the fund is controlled by the District, which is entitled to retain any interest and income it earns.

Under the terms of their agreement, the District and the Brewers must agree on an annual budget for the segregated reserve fund that lists the repairs, improvements, and projects to be completed. The Brewers are not permitted to make any major capital repairs or necessary improvements to the stadium complex without the prior written approval of the District's governing board. The Brewers are responsible for performing agreed-upon repairs, improvements, and projects, but under the lease, the District must pay for such work, regardless of the amount of available segregated reserve funds.

The lease specifies that segregated reserve funds may be used for:

- major capital repairs, which must be performed in a "safe and first-class manner," and in a fashion consistent with the standards of Major League Baseball facilities that fall within the top 25 percent of such facilities;
- necessary improvements, including those required by local law, insurance carriers, and Major League Baseball rules and regulations, and those required to keep the stadium complex's quality the same as that of at least 75 percent of all Major League Baseball stadiums;
- discretionary improvements;
- small projects, which include improvements or major capital repairs that cost less than \$30,000, the aggregate cost of which may not annually exceed \$300,000, adjusted for inflation every five years;

- emergency capital repairs, such as those to prevent immediate personal injury or property damage; and
- an extended service warranty for the stadium's retractable roof, if costs exceed \$50,000 in a lease year.

Segregated reserve fund project costs are anticipated to total \$75.0 million over the 30-year lease.

In November 2001, the District's governing board voted to increase the District's annual segregated reserve fund contribution from \$700,000 to \$1.75 million, beginning in 2002. District officials explained that the annual cost of the projects to be funded by the segregated reserve fund will be significantly higher than the amount originally contemplated when the lease was executed, and they anticipate total project costs over the 30-year lease will be \$75.0 million: \$52.5 million contributed by the District, and \$22.5 million by the Brewers. For example, officials now anticipate replacing the scoreboard approximately every seven years. Although the District is contractually required to pay for specified repairs and improvements regardless of the amount of available segregated reserve funds, the Brewers agreed to increase their contribution from \$300,000 to \$750,000 annually to help fund these costs. District officials indicate this arrangement will be formalized in an amendment to the lease agreement with the Brewers, but that it has not yet been formalized.

Annual Maintenance and Repair Contributions

The District must pay \$3.85 million annually for stadium maintenance and repair.

Under the terms of the lease agreement, the Brewers are responsible for stadium maintenance. However, the lease requires the District to make an annual maintenance and repair contribution equal to the lesser of \$3.85 million or either 64.0 percent of the Brewers' actual annual maintenance costs or a percentage of those costs that reflects the District's ownership of the stadium complex. Both parties currently anticipate that the District will contribute the full \$3.85 million annually.

In addition to typical maintenance and repair expenses such as trash removal, playing field maintenance, and wages of maintenance staff, the lease allows the Brewers to claim reimbursement from the District for costs that include:

- the team's stadium rental payments, which the District indicates will total \$33.0 million over the course of the 30-year lease;
- \$300,000 annually for major capital repairs and improvements financed by the segregated reserve fund;

- uniforms, including cleaning;
- utilities;
- insurance;
- salaries and fringe benefits for seasonal employees; and
- maintenance costs associated with the youth baseball facility located next to the stadium.

The District amended its agreement with the Brewers regarding stadium ownership, which addressed concerns raised in our prior report.

In our June 1999 report (report 99-10), we questioned whether the sales and use tax would need to fund additional maintenance and repair costs if the District owned more than 64.0 percent of the stadium and suggested it would be prudent for the District to take steps to clearly delineate \$3.85 million as a maximum level of reimbursement. District officials at that time argued it was not possible for the District to be responsible for additional costs if the District's ownership percentage increased. However, in February 2001, the District amended its agreement with the Brewers regarding stadium ownership to provide that neither the initial calculation of the two parties' ownership interests in the stadium nor any recalculation can result in an increase in the District's \$3.85 million annual maintenance and repair contribution.

Under the initial terms of the lease and other agreements, the District's monthly obligation to reimburse a portion of the Brewers' actual maintenance costs was based, in part, on the team's submittal of bills, invoices, and other documents that showed actual maintenance costs incurred. If the Brewers did not provide sufficient documentation, the District's payments were to be reduced. Agreements established varying monthly payment scenarios, depending on the level of documentation of maintenance costs the team provided.

The District has reduced the Brewers' documentation requirements.

However, we note that a November 2000 amendment to the lease removed the Brewers' monthly documentation requirement and replaced it with less stringent reporting requirements. The team is no longer required to provide a summary reconciliation of bills, invoices, and other documentation showing the actual amount of maintenance costs it incurs until May 31, 2006. By that time, the team will have received a total of \$23.1 million from the District, representing the amount of annual maintenance and repair contributions made for the previous six years.

If the District does not attempt to recover overpayments, taxpayers could potentially pay unnecessary costs.

If it is determined in 2006 that the District's contributions have exceeded the actual amount owed, the District may reduce its future payments over a two-year period until the overpayment has been eliminated, but it is not required to do so. Therefore, the possibility exists that the District will not attempt to recover any overpayments, and taxpayers will support unnecessary costs. In contrast, beginning in 2007, the Brewers must provide documentation of actual maintenance costs paid by the team by May 31 of each lease year. If an overpayment occurs, the District is allowed but not required to reduce its payments for one year until it recovers the overpayment.

District officials justified their decision to pay the Brewers' maintenance costs without documentation by explaining that they wanted to "eliminate busywork" associated with the team's submittal of monthly reports. Further, they and the Brewers assume the District will pay the full \$3.85 million annually. However, it may not be prudent for the District to pay the Brewers \$23.1 million before obtaining and thoroughly reviewing detailed maintenance and repair expenditure information. Substantially reducing documentation requirements raises concerns about whether the District's governing board will be able to adequately protect the interests of the taxpayers who are financing these costs. Therefore, *we recommend the Southeast Wisconsin Professional Baseball Park District's governing board seek to amend its lease agreement with the Milwaukee Brewers Baseball Club to require the team to submit detailed documentation that substantiates all reimbursable maintenance and repair costs.*

Various funding sources pay for the stadium complex.

The District has relied upon a variety of funding sources to complete the stadium complex and pay for post-construction operating and maintenance costs, including revenue bond proceeds; sales and use tax collections from the five-county stadium taxing district; a contribution from the Brewers; state, county, and local funds, including local transportation aids; interest income from funds the District has received but not yet spent; and other revenue sources. Complex financial arrangements govern a number of these contributions and the District's funding sources.

As noted, the 1995 MOU indicated:

- the Brewers would contribute \$90.0 million toward the anticipated \$250.0 million in stadium design, construction, and development costs;
- public funding for stadium design, construction, and development would total \$160.0 million;
- the State would provide \$36.0 million toward the anticipated \$72.0 million in infrastructure costs; and
- the City of Milwaukee and Milwaukee County would each contribute \$18.0 million toward infrastructure improvements.

City of Milwaukee officials did not initially provide the expected \$18.0 million contribution because they claimed the State had agreed orally to provide a portion of the city's contribution. State officials denied having made such an agreement and refused to provide funding. To avoid litigation and project delays, the District's governing board and the city agreed upon a complex financial transaction in November 1998 that allowed the city to fulfill its obligation over a 20-year period. In September 1996, the city had granted \$15.0 million to the Milwaukee Economic Development Corporation to loan to the Brewers. To meet its financial obligation to the stadium project, the city will allow the Brewers to repay the District rather than the Milwaukee Economic Development Corporation. Repayment will include the original \$15.0 million loaned by the corporation, plus 5.75 percent interest. In addition, the city paid \$5,869,160 in cash to fulfill its financial obligation.

In addition to the arrangement with the City of Milwaukee, the District's governing board agreed in June 1998 to credit Milwaukee County with \$2.0 million toward its contribution in exchange for the rights to demolish and salvage Milwaukee County Stadium. Therefore, Milwaukee County contributed \$16.0 million in cash to the project. The State of Wisconsin contributed \$12.0 million in local transportation aids and provided \$24.0 million in highway and bridge work near the stadium.

The District received \$523.2 million in project funding through December 2001.

As shown in Table 10, all funding sources provided \$523.2 million to support the project through December 2001. Although the State provided \$36.0 million for infrastructure improvements, only \$12.0 million, which represents local transportation aids provided directly to the District, is shown. The remaining \$24.0 million, which paid for the highway and bridge work, is not reflected in the table because the work was completed and paid for by the Department of Transportation, not the District.

Table 10

Project Funds Excluding Insurance Reimbursements
Through December 2001

<u>Source</u>	<u>Amount</u>
Net bond proceeds	\$239,829,160
Sales and use tax	115,799,057
Milwaukee Brewers*	90,900,000
Interest income	41,259,585
Milwaukee County	16,000,000
Local transportation aids	12,000,000
City of Milwaukee**	6,772,938
Special projects***	574,237
Miscellaneous revenue	<u>111,257</u>
Total	\$523,246,234

* Financial records do not indicate the purpose of the additional \$900,000 paid by the Brewers.

** Includes the city's \$5,869,160 cash contribution and the first loan repayment of \$903,778 made by the Brewers.

*** Includes revenue received from the sale of Milwaukee County Stadium memorabilia and other sources.

Revenue Bonds

Statutes authorized the District to fund stadium construction with revenue bonds and to acquire and lease property in connection with the project. Through December 2001, the District issued \$202.0 million in revenue bonds, excluding bonds the District issued to refinance previously issued revenue bonds and \$45.0 million in Lease Certificates of Participation, which were used to fund the acquisition of leased capital equipment. Since the release of our second report in June 1999, the District issued an additional \$42.0 million in revenue bonds. If the District does not issue more bonds, debt service obligations will total \$574.4 million through 2029. The amount includes \$255.9 million in principal repayments and \$318.5 million in interest. The District's debt service schedule is shown in Appendix 1.

Revenue bonds were issued to finance project construction, including:

- \$146.7 million in December 1996 and \$13.3 million in April 1997 for initial construction costs;
- \$30.0 million in October 1999 to initiate construction work to repair the damage caused by the crane accident; and
- \$12.0 million in October 1999 to complete infrastructure work.

The October 1999 issuance of \$12.0 million in revenue bonds to fund infrastructure work occurred because the District had agreed to allow the City of Milwaukee to fulfill its financial obligation, in part, by allowing the Brewers to repay the District for a \$15.0 million loan the city had made to the Brewers. However, the loan's repayment period was 19 years, and the District indicated the cash was needed immediately to pay for the work.

The District has refinanced many of its revenue bonds to take advantage of lower interest rates. In September 1998, it refinanced \$126.0 million of the bonds issued in December 1996, thereby reducing debt service costs by \$4.4 million. In July 2001, it refinanced \$47.5 million in bonds, including those that had been issued in December 1996 but had not been previously refinanced, as well as those that had been issued in October 1999. To do so, it issued \$50.7 million in new revenue bonds, which reduced debt service costs by \$1.1 million.

As noted, in June 1997, the District's governing board created the Baseball Leasing Corporation, a nonstock, nonprofit entity to finance the acquisition and installation of capital equipment such as the scoreboard, the drive mechanism for the retractable roof, and food

service equipment for the stadium complex. Acquisition of the leased equipment was funded with proceeds from the issuance in August 1997 of \$45.0 million in Lease Certificates of Participation, which are not bonds and are not considered debt. The District was to make annual lease payments to the Corporation to repay the Certificates. In July 2001, the District refinanced the Lease Certificates of Participation by issuing \$53.7 million in revenue bonds; replacing the Certificates will reduce debt service costs by \$1.2 million.

Refinancing will save the taxpayers \$6.7 million.

Table 11 summarizes the District's issuance and refinancing of revenue bonds and Lease Certificates of Participation. In total, the District has reduced its debt service costs by \$6.7 million through its refinancing efforts.

Table 11

**District's Issuance and Refinancing of Revenue Bonds
and Lease Certificates of Participation
Through December 2001**

December 1996	Issuance of \$146.7 million in revenue bonds
April 1997	Issuance of \$13.3 million in revenue bonds
August 1997	Issuance of \$45.0 million in Lease Certificates of Participation
September 1998	Issuance of \$126.2 million in revenue refunding bonds to refinance \$126.0 million in 1996 revenue bonds
October 1999	Issuance of \$30.0 million in revenue bonds
October 1999	Issuance of \$12.0 million in revenue bonds to provide immediate cash because the District is allowing the City of Milwaukee to provide most of its infrastructure contribution over a 19-year period
July 2001	Issuance of \$50.7 million in revenue refunding bonds to refinance \$47.5 million in 1996 and 1999 revenue bonds
July 2001	Issuance of \$53.7 million in revenue refunding bonds to refinance \$45.0 million in Lease Certificates of Participation

Sales and Use Tax

Through December 2001, the District had received \$115.8 million from the sales and use tax.

Section 229.685, Wis. Stats., allows the District to use revenue from the 0.1 percent sales and use tax imposed on the five counties under its jurisdiction for purposes related to baseball park facilities. Statutes require the District to dedicate revenue in excess of the amount needed to fund debt service and the District's share of stadium maintenance and operating expenses for future maintenance costs and capital improvements, or to use the excess revenue to retire its revenue bonds early. Statutes further require the sales and use tax to end after the District's governing board certifies to the Department of Revenue that sufficient funds are available to meet the District's obligations. Through December 2001, the District received \$115.8 million from the sales and use tax, or an average of almost \$1.7 million per month.

The Department of Revenue collects the tax on behalf of the District. Statutes allow the Department to fund its administrative expenses by retaining a percentage of total collections: 3.0 percent in the first two years the tax was in effect, which ended in March 1998, and 1.5 percent thereafter. Through December 2001, the Department retained \$2.3 million.

The sales and use tax revenue is being used to fulfill several of the District's financial obligations, including paying for:

- debt service associated with its revenue bonds;
- annual stadium maintenance and repair contributions; and
- annual segregated reserve fund payments.

In our 1999 report, we assumed that project costs would not increase significantly and estimated that by 2014, the sales and use tax would provide sufficient revenue to cover the District's financial obligations, and the District could end its reliance on it at that time. In 1999, the chairman of the District's governing board characterized our estimated 2014 sunset date as "misleading" and "suspect." However, in March 2002, the District's governing board concluded that the sales and use tax could, in fact, end in 2014.

The District will receive an estimated \$562.9 million in sales and use tax revenue through 2014.

District officials have stated that they expect sales and use tax receipts to increase 5.5 percent annually. Based on this assumption, we estimate that the District will receive \$562.9 million in sales and use tax revenue through 2014, when the sales and use tax is scheduled to end.

Milwaukee Brewers' Contribution

The Brewers agreed to contribute \$90.0 million for stadium construction, as described in the MOU. To meet this obligation, the Brewers secured \$40.0 million from the sale of the stadium naming rights to the Miller Brewing Company, and \$50.0 million in loans and refundable grants, which are a type of loan. Of the \$50.0 million:

- \$20.0 million was provided by the Lynde and Harry Bradley Foundation, Inc.;
- \$15.0 million was provided by the Milwaukee Economic Development Corporation, a nonprofit entity created to further economic development in the City of Milwaukee;
- \$14.0 million was provided by the Metropolitan Milwaukee Association of Commerce, Inc.; and
- \$1.0 million was provided by the Evan and Marion Helfaer Foundation.

Under a plan approved by the District's governing board, the Brewers were to have provided the District with all \$90.0 million of the team's contribution by September 1999. However, after the crane accident, the Brewers delayed the final two \$10.0 million payments that were due in August and September 1999 until March 2000. A separate agreement with the Brewers, signed in December 1996, entitled the District to interest if the team did not provide its financial payments as needed to fund project construction costs. However, in a February 2000 agreement between the two parties, the District agreed not to seek interest on the past-due payments, even though both acknowledged that interest was to have accrued.

The District has forgone an estimated \$614,000 in interest it could have collected from the Brewers.

District officials indicated that the Brewers' contributions were to have been made in such a way as to minimize the time between when the contributions were made and when the District needed the funds, and that because all project construction work ceased for several months after the crane accident, the District did not need the Brewers' final \$20.0 million contribution at the time scheduled. Although officials of the District indicate that the District was not entitled to any interest, the agreement between the two parties provides that interest was to have accrued. Based on State Investment Fund interest rates of approximately 5.0 percent during the period when the Brewers' contribution was due, we estimate that this interest would have totaled approximately \$614,000. However, it appears that the February 2000 agreement precludes the District from seeking the forgone interest from the Brewers at a later date.

Financial records indicate that the District needed the Brewers' \$20.0 million contribution in 1999.

Based on information in its financial records, we question the District's assertion that the Brewers' contribution was not needed as scheduled. Based on the District's financial records, we conservatively estimate that the District incurred \$25.4 million in stadium construction expenditures from August 1999 through December 1999, indicating considerable construction activity occurred in the months after the crane accident. It is not known with certainty how the District covered these particular costs. However, as noted, the District issued \$30.0 million in revenue bonds in October 1999, the proceeds of which officials stated were used to pay for project construction costs. Had the Brewers provided payment for their required contribution in a timely manner, the District could at least have reduced its total interest costs by delaying the date on which the bonds were issued.

Stadium Ownership

It is likely the District will own more than 64.0 percent of the stadium complex.

The 1995 MOU provided that the Brewers would own 36.0 percent of the \$250.0 million stadium and the District would own the remaining 64.0 percent, based on the anticipated proportion of construction costs each would finance. Based on the shared ownership agreement, which was amended in February 2001, it appears likely the District will own more than 64.0 percent of the stadium complex. However, actual ownership interests will not be known until the District's board establishes them, which it indicates will be done sometime in 2002.

After the crane accident, the District and the Brewers amended several of their agreements related to shared ownership of the stadium. The amended agreements do not include specific percentages of ownership interest; instead, they provide that the two parties will each own an undivided interest in the stadium complex based on their financial contributions. The amended agreements also specify that the District and the Brewers will share ownership in the project's infrastructure, such as utilities and parking areas, rather than just the stadium itself. As a result, the Brewers will have a shared ownership in infrastructure even though the team's original \$90.0 million contribution did not increase and was used exclusively to build the stadium.

District officials have "no opinion" on the effects to taxpayers if the District were to own a larger percentage of the stadium complex.

The District will own a larger percentage of the stadium complex when infrastructure is included in the ownership calculation. The consequences of the District owning a larger percentage of the stadium complex are not clear, and District officials indicated they have "no opinion regarding the advantages or disadvantages" to the District and its taxpayers if the District's ownership interest were to increase above the 64.0 percent originally anticipated. District officials, however, may wish to carefully consider the implications of owning a larger percentage of the stadium complex, including the possible effects this may have on taxpayer funds as a result of potentially increased costs for insurance and other expenses.

Repayment of the Brewers' Loans

In October 2001, the District purchased two of the Brewers' notes that had been held by the Bradley and Helfaer foundations. The purchase price was \$6.3 million. As a result of this purchase, the District, rather than the foundations, will receive \$53.9 million in loan repayments through 2030. Based on the notes' interest rates, we estimate this purchase will benefit the District because the purchase price was \$14.5 million less than the present value of the Brewers' payments over 30 years. Media reports indicate that the two foundations agreed to this financial arrangement to obtain immediate funds they plan to use to finance other projects. In addition, the Milwaukee Economic Development Corporation's note, which represents another loan made to the Brewers, was assigned to the District in 1998. Ownership of these three notes will provide the District with \$82.2 million in repayments of loans to the Brewers through 2030.

Most of the \$111.7 million intended to help the Brewers fund stadium maintenance will instead be paid to the team's lenders.

Moreover, the District's annual maintenance and repair contributions, which the lease stipulated would be used to pay for ongoing stadium maintenance, are instead being used to repay the \$50.0 million in loans made to the Brewers by various lenders. In fact, of the \$111.7 million in public funding the Brewers were to receive from 2002 through 2030 to help support stadium maintenance costs, only \$12.1 million will be used for that purpose; the remainder will be paid to the Brewers' lenders. It will therefore be important in the future for the Brewers to protect taxpayers' substantial financial investment in the project by identifying and allocating sufficient funds to pay for needed stadium maintenance.

Statutes required the District to adopt hiring and contracting goals for minorities and women during construction of the stadium and to hire an independent monitor to evaluate efforts to attain these goals. The District established a program to facilitate minority and female participation, and it contracted with Milwaukee County's Disadvantaged Business Development Program to monitor project participation independently. Based on a report submitted by the independent monitor, the District met most of the statutory participation goals. To compensate for goals not achieved, and as required by statutes, the District created the Miller Park Stadium District Community Program, Inc., to provide technical assistance to qualified firms and to establish an ongoing scholarship program that is intended to increase the number of minorities and women in construction-related fields.

Statutory Goals

Statutes required the District to adopt hiring and contracting goals for minorities and women during stadium construction.

Section 229.70, Wis. Stats., includes several goals for participation by minorities and women in the stadium project. First, the District was to require contractors providing construction and professional services to adopt goals that ensured at least 25.0 percent of employees hired specifically for the project were minorities, and at least 5.0 percent were women. Second, statutes required the District to establish goals for contracting with businesses that were at least 51.0 percent owned, controlled, and actively managed by minorities or women. The District was required to establish goals to ensure that minority business enterprises received at least 25.0 percent, and women's business enterprises received at least 5.0 percent, of the aggregate dollar value for three contract categories:

- construction;
- professional services related to construction, which the District interpreted to include design and environmental work; and
- development, which the District interpreted to include work associated with legal, accounting, auditing, and public affairs services.

It is unclear whether statutes required the contracting goals to apply to all contracts in the three contract categories combined, or whether they required the District to meet the goals in each individual contract category. The District attempted to meet the contracting goals in both ways.

Although the participation levels were goals, not legal requirements, the District required contractors to comply with the goals where possible and to provide justification when the goals could not be met. In September 1999, the District's governing board decided that all costs associated with the crane accident would not be subject to the District's participation program and determined that the goals applied to the District's contracts, and not to the insurance proceeds that paid for accident-related costs. Nevertheless, the governing board encouraged contractors to comply with the goals voluntarily.

Each month during the project, four project participation coordinators collected data from contractors working on the project to determine the District's compliance with the goals. Two coordinators were hired on the District's behalf, and two were hired by HCH and the stadium project's principal design contractor. The coordinators compiled hiring and contract information from contractors, prepared monthly reports summarizing the participation of targeted firms, and reviewed contractors' bid proposal packages to evaluate proposed participation by targeted individuals and firms. Through December 2001, the District paid the coordinators \$586,996 for this work.

The project's independent monitor subsequently reviewed the coordinators' work to verify its accuracy and to confirm the extent to which the District met the statutory participation goals. Through December 2001, the District paid the independent monitor \$920,074 for its work.

Minorities accounted for 25.6 percent of the construction and professional services hours worked, and women accounted for 7.3 percent.

In October 2001, the independent monitor provided the District with a final report that presented project participation results for work completed through March 2001, when the stadium opened. As shown in Table 12, this report indicates the District met its goals related to hiring targeted individuals. Minorities accounted for 25.6 percent of the construction and professional services hours worked by individuals hired specifically for the stadium project, while women accounted for 7.3 percent of these hours. The District did not track the number of targeted individuals hired for the project, as statutes require, but it instead tracked the proportion of project work hours performed by targeted individuals, which may be a more accurate way to measure participation.

Table 12

**Project Participation in Construction and Professional Services
by Newly Hired Minorities and Women
Through March 2001**

	<u>Statutory Goal</u>	<u>Hours Worked by Newly Hired Minorities and Women</u>	<u>Hours Worked by All New Hires</u>	<u>Percentage</u>
Minorities	25.0%	167,600	655,034	25.6%
Women	5.0	47,565	655,034	7.3

Source: Independent Monitor's October 2001 report.

According to the independent monitor's final report, the District achieved most of its contracting goals, as shown in Table 13. Minority business enterprises received 30.8 percent of expenditures the District determined were subject to the goals, and women's business enterprises received 6.4 percent of those expenditures. Combined, targeted firms received \$104.6 million in contracted work out of the \$281.0 million in work that was determined by the independent monitor to be subject to the contracting goals. The only goal the District did not meet was for development contracts provided to minority business enterprises.

Table 13

Minority and Women's Business Enterprise Contract Expenditures
Through March 2001

<u>Contract Categories</u>	<u>Minority Business Enterprises</u>		<u>Women's Business Enterprises</u>	
	<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>
Construction	\$79,051,926	31.6%	\$16,064,815	6.4%
Professional services	6,571,910	25.2	1,603,722	6.2
Development	<u>920,158</u>	19.9	<u>347,883</u>	7.5
Total	\$86,543,994	30.8	\$18,016,420	6.4

Source: Independent Monitor's October 2001 report.

Statutes did not specifically include a waiver process for the hiring or contracting participation goals on particular contracts, but if the District or a contractor was unable to meet the goals, the independent monitor was required to determine whether good-faith efforts had been made to reach them. Specifically, statutes required the independent monitor to consider:

- the supply of qualified targeted firms having the financial and technical capacity and the experience to perform the work;
- the competing demands for the services of qualified targeted firms; and
- the extent to which the District or the contractor advertised for and aggressively solicited bids from qualified targeted firms, and the extent to which those firms submitted bids.

The District provided two waivers from project participation requirements.

District officials indicate that they granted, with the approval of the independent monitor, two project participation waivers during construction of the project. In October 1998, a \$25.7 million waiver was provided to Mitsubishi Heavy Industries of America, Inc., the subcontractor that fabricated and assembled the stadium's retractable roof. The waiver covered the overseas portion of Mitsubishi's work and was granted because of the unique nature of this work and the

impracticality of finding qualified targeted firms to complete it. In addition, a \$415,000 waiver was granted in May 1999 to HKS, the project's primary architectural firm, after key design staff who were targeted individuals left two subcontracting firms.

Community Program

If the District or project contractors had been unable to meet the participation goals and no waiver had been granted, s. 229.70(4m), Wis. Stats., would have required that good-faith efforts be made to contract with Milwaukee Area Technical College to develop training programs to increase the number of qualified targeted individuals. Because of this statutory obligation, in December 1997 the District created the Miller Park Stadium District Community Program, Inc., a nonprofit corporation that oversees and implements a program with four components:

- scholarships for enrollment in pre-apprenticeship construction trade programs at area technical colleges;
- technical assistance to targeted firms involved with the stadium project;
- grants to help community agencies and post-secondary institutions provide internships, job training, and assistance to targeted firms seeking to increase the size of projects they can undertake, and to increase the pool of qualified targeted individuals; and
- internships in various fields, such as construction trades and management, architecture, engineering, finance, and law.

As shown in Table 14, the District loaned the Community Program \$120,000, which served as initial program funding. The loan was made in five installments in 1998 and 1999. The program also received \$361,242 in contributions from companies and individuals associated with the project, including a \$199,988 voluntary contribution from Mitsubishi. The Community Program spent \$353,416 for services such as providing accounting and other technical assistance to targeted firms and the production of a video designed to increase minority and female students' interest in the construction trades, as well as \$122,821 to repay the District's \$120,000 loan with interest.

Table 14

Community Program Financing
January 1998 through August 2001

	<u>Amount</u>
Funds Available	
District loans	\$120,000
Contributions	361,242
Program expenditures	(353,416)
Loan repayment	<u>(122,821)</u>
Ending balance	\$ 5,005

A scholarship program for minorities and women has been created at area technical schools.

In June 2000, the Community Program reached an agreement with Milwaukee Area Technical College, as well as Gateway Technical College, Moraine Park Technical College, and Waukesha County Technical College, to create a scholarship fund designed to increase the pool of minorities and women who are qualified to perform construction-related work. The Community Program provided \$85,000 in March 2001 to endow the fund, which is administered by the Milwaukee Area Technical College Foundation, Inc. The agreement is effective through May 2005, but the parties may renew it for additional one-year periods.

Minorities and women taking specified construction-related courses at the four technical colleges may apply for scholarships. Recipients may use the funds for tuition, curriculum-related expenses, and living expenses. An August 2001 scholarship report provided to us by the District showed that in March 2001, the first scholarships were awarded to 11 students, each of whom received \$500. It is anticipated that additional scholarships will be awarded and that the scholarship fund will maintain a minimum balance of \$65,000.

The District's use of a private skybox in the stadium, its contract with a private consulting firm that is providing ongoing stadium management services, and the adequacy of documentation for some expenditures raise concerns about whether taxpayers who fund the stadium can benefit from its use when possible, whether administrative costs are limited to only those necessary for the District's operations, and whether expenditures are adequately documented and comply with applicable rules and regulations.

District Board Conference Room

The District's board room is a private stadium skybox.

Under its 30-year lease with the Brewers, the District is allowed rent-free space within the stadium, which is used as office space by contracted employees and for storage of the District's documents. At no cost, the District also receives utilities, other than its telephone charges, and use of a reasonable number of parking spaces to conduct office operations. In addition, a private skybox—the Tommy G. Thompson Conference Room—is used as a conference room for the periodic meetings of the District's governing board. Concerns have been raised about the potential personal use of the skybox by members of the District's board and contracted employees.

District officials stated they had envisioned that their conference room would not have a view of the playing field; however, the Brewers instead offered the District a double-sized skybox along the stadium's right field, including 24 private club seats that are accessible only through the skybox and are located in the stands. District officials stated that the Brewers were unable to sell three skyboxes in 2001, including the one offered to the District.

Based on concerns raised about the use of the conference room apart from official business, the District requested an opinion from the State's Ethics Board. The Ethics Board advised in January 2001 that:

- the District may use the skybox for official business, including periodic board meetings;
- board members may use the skybox for non-governmental purposes only if use of a skybox is available to the public, and then only under the same terms and conditions available to the public;

- the District may make the skybox available to charitable organizations, provided that board members do not use their positions to arrange for the skybox's use by organizations in which the board members serve as officers, directors, or authorized agents; and
- board members should not accept free or discounted admission to professional baseball games.

During the 2001 baseball season, the Brewers made two skyboxes available to the public on a per game basis. The Brewers rented a 30-seat skybox for \$3,500 per game, and a 20-seat skybox for \$2,500 per game. The team did not sell individual tickets to the skyboxes but instead required the purchase of an entire skybox for a given game.

Concerns have been raised about the proposed personal use of the District's skybox.

Concerns were first raised in March 2001, when it was reported that the District intended to allow board members to buy individual tickets, at \$32 apiece, to attend baseball games in its skybox. This rental price was significantly lower than the rates available to the public and was in apparent contradiction of the Ethics Board's advisory opinion.

In May 2001, the District implemented a written policy that allows board members and staff to rent the skybox for personal purposes, provided that similar space is available to the public. The admission price will be determined on an event-by-event basis by an administrative staff member, and it is to be equal to the skybox's fair market value. The policy does not, however, explicitly require the admission price to be comparable to the amount the Brewers charge the public for the two skyboxes that are available on a per game basis, leaving open the possibility that board members may be allowed to rent the skybox for less than the rates charged to the public. District officials stated that the skybox was not used by board members for personal purposes during the 2001 baseball season.

District officials also stated that it was their original intention to make the skybox available to charitable groups, but that the Ethics Board had prevented them from doing so. In fact, the Ethics Board's advisory opinion permits charitable groups to use the skybox, noting that "the statutes administered by the Ethics Board are not an obstacle to the district's making the conference room/skybox available to charitable organizations." We believe that making the skybox available for charitable purposes would ensure that the skybox is used and would provide the District's governing board with a mechanism to benefit communities in the five-county area that are taxed to pay for stadium

construction, maintenance, and operating costs. Therefore, we recommend the Southeast Wisconsin Professional Baseball Park District's governing board establish written procedures to make its conference room skybox available to charitable groups located in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties.

Contracting for Management Services

The District has contracted with its former executive director to provide management services.

In the past, the District employed its own staff; however, since August 2001, the District's governing board entered into a no-bid contract with a private consulting firm to provide ongoing facility management services for the stadium complex. The firm is owned by the District's former executive director, who was employed by the District during construction of the stadium complex and had significant oversight responsibilities for the project. Contracting with this firm will likely prove beneficial for the District because of its owner's familiarity with the project and understanding of ongoing issues. However, we identified several concerns with the structure of the contract, which runs from August 2001 through December 2006.

The management contract we reviewed specifies that the consulting firm is to provide various services, including those related to capital improvement design review and construction engineering, investment management, public communications, and budget development and management. In addition, the consulting firm is to provide administrative services that include managing project files, records, and leased equipment; monitoring the stadium's operations and maintenance; overseeing an annual maintenance, repair, and improvement program; and communicating with the public about the stadium.

To fulfill the duties it specifies, the contract estimates that:

- the executive director will work 20 to 30 hours per week;
- a finance manager will work 20 to 24 hours per week;
- an associate director will work 20 hours per week; and
- administrative duties will require 20 hours of work per week.

The District's annual payment for management services is not based on the amount of work actually performed.

The terms of the contract provide that, through September 2002, the District will pay the consulting firm \$432,240 annually: \$286,560 for facility management services, and \$145,680 for administrative services, regardless of the amount of work that is actually performed. The contract provides for annual 5.0 percent increases in these payments. The initial facility management payments are based on billing rates of \$150 per hour for the executive director, working an average of 25 hours per week, and an \$80 per hour rate for the finance manager, working an average of 22 hours per week. Based on these estimates, during the first year of the contract, the firm will be paid approximately \$195,000 for the executive director's work and \$91,520 for the finance manager's work.

In addition to these payments, the District is contractually obligated to reimburse the consulting firm for job-related expenses, such as those associated with printing and copying; office equipment and computer services; telephone charges; travel; advertising; and hiring architects, engineers, accountants, and attorneys as consultants. The contract does not specify a maximum amount of reimbursable expenses. Finally, the contract provides that the District will reimburse travel expenses incurred by the executive director's spouse, who may accompany him to meetings of a national stadium managers' association. Section 19.59, Wis. Stats., the code of ethics for local government officials, prohibits local officials from using their positions to benefit a family member. However, the ethics code does not apply to the executive director because s. 19.42(7w)(d), Wis. Stats., exempts independent contractors.

The management services contractor will be paid \$2.6 million over the life of the contract.

As shown in Table 15, the consulting firm will receive at least \$2.6 million over the life of the contract. This amount takes into account the annual 5.0 percent increases, but not the reimbursements for job-related expenses.

Table 15

Cost of Management Services, by Type
August 2001 through December 2006

<u>Contract Period</u>	<u>Facility Management</u>	<u>Administration</u>	<u>Total</u>
August 2001–September 2002	\$ 334,320	\$169,960	\$ 504,280
October 2002–September 2003	300,888	152,964	453,852
October 2003–September 2004	315,932	160,612	476,544
October 2004–September 2005	331,729	168,643	500,372
October 2005–December 2006	<u>435,394</u>	<u>221,344</u>	<u>656,738</u>
Total	\$1,718,263	\$873,523	\$2,591,786

We are concerned the current contract obligates the District to pay the consulting firm a substantial amount of money without assurance of the amount of work that will be completed. Although contracted staff may currently be working more than the estimated number of hours presumed when the contract was developed, it is possible that the amount of work they perform will substantially decline in the future. As structured, the current contract provides few assurances that administrative costs will be limited to only reasonable and necessary expenditures.

Financial Management

District officials were unable to provide adequate documentation for 25 vouchers.

To determine whether the District has adequate documentation for its expenditures and to assess their appropriateness and reasonableness, we reviewed 90 vouchers that accounted for \$2.6 million in expenditures made from January 1997 through August 2001. The vouchers were not randomly chosen, but instead selected because of the dollar amount or type of transaction involved. Most of the vouchers we reviewed appeared to be for reasonable and appropriate expenses and were sufficiently documented. However, the District was unable to provide adequate documentation associated with 25 vouchers totaling \$96,084 that we had requested. We question \$42,519 of this amount, which includes payments to credit card companies, staff of the District, a governing board member, and the Brewers.

It should be noted that in August 1997, the District's independent auditor recommended that the District better define items in its expense reimbursement policy, based on the level of public scrutiny the District receives. For example, the auditor suggested the District may wish to:

- define "best available, reasonable cost" for lodging reimbursement;
- define travel expenses by stating the vehicle size that would be appropriate to rent;
- establish mileage reimbursement that excludes miles spent commuting; and
- establish per diems based on the population of the city to which a trip is taken.

The auditor indicated that by further defining these items, the District would reduce the amount of questions raised by employees and the public. Although the District subsequently established a travel budget, it did not directly address the recommendation of its auditor.

Examples of questionable and inadequately documented expenditures that we identified included:

- \$27,671 for baseball game tickets that the District purchased from the Brewers in March 2001 on behalf of others, including board members and firms that contract to provide the District with professional services. The District purchased 2,500 tickets for the game on March 30, 2001 (the first exhibition game played at the stadium); 250 tickets for the game on April 6, 2001 (the first regular season home game); and a total of 24 skybox tickets for these two baseball games. Officials stated that the District was fully reimbursed by the individuals who attended the baseball games, but the documentation made available to us adequately supported only \$51,267 of the \$78,938 spent on baseball tickets.
- \$4,500 paid in June 1997 for moving expenses of a staff member of the District for which no documentation of costs was provided.

- \$1,750 paid to a staff member of the District for which no documentation was provided. District officials indicated these costs were for reimbursement of health insurance premiums.
- \$860 paid to a staff member of the District for a May 1999 trip to Nashville. No description or documentation of the purpose of the trip was included.
- \$631 paid to a staff member of the District as reimbursement for meals for a business-related conference in Florida in January 2001, which appears to include reimbursement for meals of a spouse and two other individuals who may also have been family members.
- \$341 paid to a member of the District's governing board for unspecified travel expenses. No documentation was provided. District officials indicated that the payment was cancelled, but they provided no documentation in support of the statement. Information contained in the District's financial records indicates the payment was made.

In addition, officials provided us with the credit card statements associated with \$6,766 in payments the District made to a credit card company from December 1997 through July 1998, but they were unable to locate the accompanying vouchers and supporting documentation for these expenditures. As a result, we could not determine the purposes associated with these expenditures, the majority of which were for out-of-state travel and meals, including:

- \$4,055 for hotel charges;
- \$582 in charges for restaurants located in the Milwaukee area and in other states; and
- \$322 for airfare to Orlando.

Several trips were made by board members and staff to review major league baseball stadiums in other cities or to attend conferences. Related charges that were included in the credit card receipts we reviewed and that also appeared to lack adequate documentation included:

- \$910 for hotels;

- \$703 for airfare;
- \$258 for meals, primarily at restaurants in the Milwaukee area; and
- \$57 for lake and harbor cruises in the Seattle area.

The District paid \$13,700 for legal and public relations work responding to our prior report.

Finally, before the release of our June 1999 evaluation, and in violation of agreed-upon procedures, the District paid its public relations firm to review and analyze a confidential draft of our report, as well as help to prepare a written response to the final report and coordinate the District's media response. In some instances, the firm combined several tasks in its billing statements, which required us to estimate the amount charged for work specifically related to our report. We conservatively estimate that the District spent \$5,800 for public relations work related to our 1999 report, which may not include all such costs. In addition, based on our limited review, we found that the District paid a law firm an estimated \$7,900 to review our report and help to prepare a written response.

Based on our limited review, it appears the District's governing board is not consistently providing financial oversight of the District's administrative expenditures. Adequate documentation is needed to provide assurance that public funds have been spent appropriately. Therefore, we recommend the Southeast Wisconsin Professional Baseball Park District's governing board take action to ensure that:

- individuals consistently follow the District's written policies when seeking reimbursement for travel expenses;
- contracted employees be required to adhere to the statutory code of ethics for local government officials; and
- the District's spending is limited to costs that are reasonable and adequately documented.

Future Considerations

Construction of the Milwaukee Brewers stadium is now substantially complete. However, the District and the Brewers are in only the second year of the 30-year lease agreement that defines their ongoing working relationship. Consequently, the District's governing board will face challenges different from those encountered during the stadium's construction, including:

- effectively overseeing agreements governing the District's relationship with the Brewers;
- responding to pending lawsuits, specifically those related to design and construction of the retractable roof;
- ensuring needed repairs and maintenance are completed in the future so that the public's investments are adequately protected; and
- working to achieve the Legislature's three goals in creating the taxing district—encouraging economic development and tourism, reducing unemployment, and encouraging economic development in the five-county taxing district.

Contractual Relationship with the Brewers

Careful oversight of any contract changes is needed to ensure adequate protection of the taxpayers' interests.

As noted, the 30-year lease agreement between the District and the Brewers delineates the rights and responsibilities associated with use of stadium facilities, stadium maintenance, insurance and utility payments, retention of revenues generated from the operation of the stadium, and the Brewers' obligation to make rental payments. The lease, which was originally signed in December 1996, has already been amended by the parties three times, and a fourth revision is pending. To ensure adequate protection of the taxpayers' interests, careful oversight of any contract changes is needed, particularly given that some existing contract provisions are unclear, open to interpretation, or apparently contradictory. For example:

- The lease neither provides measurable standards nor identifies the party responsible for making certain judgements, such as keeping the quality of certain stadium improvements the same as that of at least 75 percent of all Major League Baseball stadiums.
- Although the District entered into an agreement with the Brewers in which it agreed not to seek accrued but unpaid interest on the Brewers' past-due \$20.0 million stadium construction contribution, the agreement specifies that it should not be considered a waiver of the District's entitlement to the unpaid interest.
- It is unclear when the District can either withhold or reduce its annual maintenance and repair contribution payments to the Brewers' trustee in the event the Brewers fail to fulfill lease obligations such as making annual rent payments.

Pending Litigation

The District's board is party to lawsuits that, if its interests do not prevail, may significantly increase project costs. District officials indicate that they had been using a dispute resolution process to work out concerns that Mitsubishi—the firm that built the stadium's retractable roof—raised about construction costs. However, because the process was not proceeding in a manner the District's board believed was constructive, the District filed a \$5.0 million suit against Mitsubishi and HCH Joint Venture in January 2002, alleging negligence and what it characterized in a subsequent letter as a disturbing pattern of design errors. Mitsubishi's \$87.0 million countersuit alleges that the District and HCH Joint Venture failed to pay for costs the company incurred to modify the original roof design to the District's specifications.

The District has identified several problems with the retractable roof.

In addition to cost concerns related to Mitsubishi's \$87.0 million claim against the District, there are concerns about the quality of the stadium's retractable roof. During the 2001 baseball season, roof defects resulted in water leaking onto the playing field and seating area and, in January 2002, the District indicated that repairing grease and water leaks in the roof would cost at least \$100,000. In March 2002, Brewers' officials first indicated that problems had existed with the roof drive mechanism since fall 2001, and that they have decided to keep the roof closed during spring baseball games until the problems can be fixed, thereby limiting the retractable roof's usefulness.

In addition, media reports indicate that in February 2002, CMC Heartland Partners, a development company, filed suit in Milwaukee County Circuit Court against the District, alleging breach of contract for the District's alleged failure to expand a bridge east of the stadium from four to six lanes. As part of a 1997 land swap between the State and CMC that related to the development of the stadium complex site, the company maintains that the State and the District agreed to provide improved access to CMC's remaining property. A spokesperson for the District indicated that the current bridge is adequate for traffic and access, and that widening the bridge would not be the best use of resources.

The outcome of pending litigation is uncertain at this time.

At this time, the outcome of all pending litigation is uncertain. However, should the District fail to prevail, revenues from the 0.1 percent sales and use tax would be used to fund any additional costs. As noted, the District has acknowledged setting aside approximately \$11.0 million from the stadium construction budget to pay Mitsubishi for needed design and other changes. The amount of any additional costs that may be incurred will not be known until the suits are resolved in court or through mutual agreement.

Maintaining the Stadium

Public investment in building the stadium and operating and maintaining it for a 30-year period is substantial. When the lease expires in 2030, we estimate that all costs, including construction, debt service, administration, and maintenance, will total \$1.0 billion. As shown in Table 16, in addition to construction costs, the sales and use tax will fund \$578.9 million in post-construction costs, including \$318.6 million in debt service costs and \$115.5 million for annual maintenance and repair of the stadium complex.

Table 16

Total Estimated Construction and Operating Costs
Through 2030

<u>Type of Cost</u>	<u>Amount</u>
Stadium Complex Construction	
Construction (through December 2001)	\$ 413,921,280
Pending roof construction payments	<u>11,000,000</u>
Subtotal	424,921,280
Post-Construction	
Interest on debt	318,547,678
Annual maintenance and repair contributions	115,500,000
Contracted services*	91,049,000
Segregated reserve fund payments	51,450,000
District office expenditures*	<u>2,312,000</u>
Subtotal	<u>578,858,678</u>
Total	\$1,003,779,958

* Estimated based on the best information currently available.

Ensuring effective use of funds for stadium maintenance and repair will be an important responsibility for the District's governing board in the future. As equipment wears out and needs replacement, the Board will need to decide, in cooperation with the Brewers, what is to be repaired and when. Decisions the District makes on these issues will play an important role in determining the extent to which costs are limited to only those necessary.

In addition, the District will need to ensure that the Brewers' obligations to fund stadium maintenance are fulfilled. Brewers' officials have indicated the stadium's construction increased the team's revenues by boosting game attendance. They also suggest the project has had a positive economic impact on the community. For example, at its peak, the project employed more than 700 construction workers, many from the surrounding area, and successfully incorporated project goals for the employment of women and minorities in construction.

Boosting game attendance is necessary for the stadium project to achieve its goals.

We did not attempt to independently assess the economic impact of the stadium in the five-county taxing district. However, if stadium construction is to achieve the Legislature's goals of encouraging economic development and tourism beyond the stadium's first year of operation, and if the Brewers are to generate sufficient revenue to repay their lenders and fulfill their obligations to contribute to stadium maintenance costs, it is likely that game attendance will have to increase substantially above current levels.

In 2001, Brewers' game attendance totaled 2.8 million, or approximately 34,700 per game. An 11.1 percent reduction in stadium attendance had been projected for 2002, which would mean approximately 30,800 per game. By this measure, attendance at a number of early season games has been low. Through the first 16 home games of 2002, the Brewers have drawn attendance of 356,494, or an average of 22,281 per game. This represents a 35.8 percent decline from the previous year. Revenue from ticket and concession sales is important to the Brewers' financial health as they seek to repay their lenders and fulfill their stadium maintenance obligations. Therefore, as the District's governing board begins the transition from overseeing stadium construction to overseeing stadium management and operations, ensuring that the team complies with agreements and continues to adequately maintain the stadium will become an increasingly important responsibility.

Appendix 1

District Debt Service Schedule

<u>Year</u>	<u>Total</u>
1997	\$ 7,863,008
1998	9,264,821
1999	7,930,818
2000	10,695,889
2001	14,648,407
2002	16,769,030
2003	16,935,800
2004	17,105,992
2005	17,278,419
2006	17,451,269
2007	17,632,295
2008	17,815,565
2009	17,990,635
2010	18,171,190
2011	18,358,230
2012	18,536,915
2013	18,726,010
2014	18,918,400
2015	19,107,874
2016	19,301,486
2017	19,407,455
2018	19,541,830
2019	19,541,430
2020	19,539,330
2021	19,543,605
2022	19,541,830
2023	19,534,840
2024	19,537,845
2025	19,537,350
2026	19,541,430
2027	19,541,550
2028	19,540,180
2029	<u>19,536,415</u>
Total	\$574,387,143*

* Includes \$318.5 million in interest and \$255.9 million in principal.



SOUTHEAST WISCONSIN PROFESSIONAL BASEBALL PARK DISTRICT

Miller Park – One Brewers Way, Milwaukee, Wisconsin 53214
Phone (414) 902-4040 Fax (414) 902-4033



May 15, 2002

Ms. Janice Mueller
State Auditor
State of Wisconsin Legislative Audit Bureau
22 E. Mifflin Street – Suite 500
Madison, Wisconsin 53703

Dear Ms. Mueller:

We have reviewed the final Legislative Audit Bureau (LAB) report dated May 13, 2002, and have prepared these comments in response. We formally request that they be included – in full and in unedited form – as part of the report, as well as posted on the LAB's Web site.

We are shocked at the ineptitude and unprofessional result of what surely must have cost the taxpayers in excess of \$100,000 to prepare. The Bureau's failure to fulfill its statutory obligation to the Legislature is made clear by the million-dollar mathematical mistakes, the basic accounting and auditing failures and the clear lack of a basic project understanding that are reflected throughout this report. The LAB report is riddled with factual errors, major inaccuracies and a failure to apply standard construction accounting and auditing procedures.

The LAB report is riddled with factual errors and fails to apply standard construction accounting and auditing procedures.

The Bureau's poor performance on this effort should lead legislators to consider whether it is time to audit the Audit Bureau. In this era of taxpayer accountability and the reinventing of government, much could be gained from an independent audit of the LAB, particularly if its work on Miller Park is an indication of its track record. Given the type of work product presented here, lawmakers must seriously consider how they can continue to support a bureaucracy with more than 86 employees and an annual budget of nearly \$11 million. Having an outside, third party audit the Bureau also will allow the state to consider bringing in more experienced, outside help on a contract basis for challenging projects. We offer this recommendation because the indication left by this report on Miller Park shows a clear and present inability to get it right.

Legislators should consider whether it is time to audit the Legislative Audit Bureau.

Further, the Miller Park District Board formally requests a public hearing be held to give legislators the opportunity for a full and public discussion of this audit and what it says about the LAB and its work. In the case of Miller Park, we believe a public hearing will show that the Board did a splendid job. In the case of the LAB, we believe it will show a need for major reform.

The District formally requests that a public hearing be held to give legislators the opportunity for a full and public discussion of this audit and what it says about the LAB and its work.

This response details the major errors, inaccuracies, factual mistakes, mathematical miscalculations and basic accounting and auditing errors present in this report from cover to cover.

LAB MISLEADS LEGISLATURE

- *Project Cost*

By far the most troubling inaccuracy and misrepresentation is the presentation of the final project costs of construction. While it is impossible to begin to understand the process resulting in the LAB's inaccurate guess of the total project cost, we are able to point out the significant components that the LAB failed to consider or explore.

The LAB failed to consider many key documents that were available because LAB staff never had the knowledge or experience to review or request copies of the following basic, critical construction-related documents:

- Construction Manager Payment Applications
- General Conditions of Construction
- Construction Manager Subcontracts
- Change Order Log
- Construction Claim Summary
- Construction Punchlist
- Pending Insurance Claim Summary

The LAB's inexperienced staff failed to review or request a number of critical construction-related documents, making it impossible to accurately determine the Miller Park project's costs.

Frankly, it is shocking that the LAB would attempt to relate expenditures from a General Ledger to the capital cost of construction without carefully reviewing each of these records, which exist for all major construction projects and are consistent with construction industry standards. The Legislature should consider whether this is a one-time mission failure or part of a pattern that could be reflected in previous LAB projects on matters such as state buildings, bridge and road projects or correctional facilities.

Without reviewing basic project logs, records and documents common to all major construction projects, the Audit Bureau is unable to accurately state the project's costs. For the record, the total cost of the Miller Park project is \$393.2 million. We went over budget in only one area – foundation work – and that was more than made up for by savings in other areas. The LAB's faulty procedures, inaccurate math and failure to review key documents renders its fiscal analysis meaningless. This lax work standard should trouble legislators.

By ignoring these records, the LAB failed to account for numerous significant issues affecting the final cost of construction, such as re-inspection costs to be recovered; construction rework costs to be recovered; costs incurred by the owner not attributable to the capital cost of construction; insurance reimbursement costs not related to the tragic crane accident; costs incurred after construction; pending claims for financial recovery; and more.

In fact, already this year, the District has recovered more than \$2.1 million of costs the LAB inappropriately identified as "costs of project construction." Records reflecting this recovery were available, but either were not reviewed or not understood by the LAB staff. In addition, the Bureau's report also appeared to inappropriately identify significant insurance reimbursed costs and bond issuance costs not normally attributed to construction as "costs of project construction." These two items alone total more than \$16.5 million.

The LAB's report inappropriately identified at least \$18.6 million of costs as "costs of project construction." From the report, it is impossible to determine how many other such errors in construction project accounting may have occurred in the Audit Bureau's work.

It should be noted that the LAB staff was provided a copy of the Final Project Accounting document, which appropriately accounts for the above listed construction cost numbers. The Final Project Accounting for the construction of Miller Park is projected to be \$393.2 million, \$800,000 under the budget adopted by the District Board prior to groundbreaking in the fall of 1996. Nowhere is this information included in the report. This is troubling.

The LAB report inappropriately identified at least \$18.6 million as "costs of project construction." It is impossible to determine how many other such errors the LAB's inexperienced staff may have made.

Further proof of the budget success of our well-managed, financially controlled project is the impact on taxpayers. During the course of the project, sales tax collection has remained consistent at 0.1% and the projected length of time for the tax to be collected (until 2014) has not changed. Furthermore, the project has been completed within budget, and the District is managed properly so that it can meet its current operating needs.

- *Cost of Issuance*

It is unfair to consider the costs of bond issuance (bond counsel, brokerage fees, management fees, etc.) as a capital cost of construction. Bond issuance costs are simply costs of financing, and are derived from gross bond proceeds. In fact, no other state or municipal projects apply bond issuance costs to the capital costs of construction budgets.

For example, when the Department of Transportation builds a \$5 million bridge, the construction budget does not include any reference to bonding costs. When the Department of Administration Division of Facilities Development builds a university building for \$20 million, the project does not report costs of bond issuance in its construction budget. And, when a local municipality builds a new school for \$10 million, bond issuance costs are not considered part of the construction budget.

No other state or municipal projects apply bond issuance costs to the capital cost of construction budgets. Legislators should question why the LAB used different standards in reviewing the Miller Park project.

While we do appreciate the report mentioning that the refinancing – after the costs of issuance are deducted – still saved the taxpayers millions of dollars, the idea of including bond issuance costs does not appear in other similar LAB reports, and legislators should question why there is now a change in policy and approach for this project. The Miller Park project should be analyzed with the same standards that are applied to all other state and municipal projects.

Further, in what only can be viewed as part of the LAB's effort to generate political controversy, the report includes a projected 35-year cost of the project. Again, this is not a common practice on any other state or municipal project. Our research could not identify the last time the Department of Transportation developed a lifetime cost of a bridge (including debt service, maintenance, operations, repairs, and so forth). Nor could we identify a Department of Administration report saying that a \$20 million university building will actually cost the taxpayers more than \$60 million during the 35-year life of the building. We could find no other LAB reports that took a similar, lifecycle approach.

The LAB's calculation of \$1 billion in public investment in the project provides a telling example of the significant mathematical errors in the report. The LAB previously stated that the tax would be collected until the year 2014. In the current report, it is estimated that the total tax collected will be \$562.9 million. We could not document where the Audit Bureau finds the other \$400-plus million. Legislators should review at a hearing whether this is a gross mathematical mistake, an example of ineptitude or merely a need for a new calculator.

- *Inability to Complete Insurance Reimbursement Analysis*

The fictional origin of the LAB's calculations is underscored by the Bureau's own confusing admission that "we were unable to perform a complete analysis of all expenditures and revenues, including those associated with the construction crane accident..."

The LAB has cited a lot of numbers for an organization unable to perform a complete analysis. The LAB was, in fact, provided a complete General Ledger and a complete ledger of crane accident-related expenditures and revenues. Perhaps the LAB analysis could have been completed if its staff had reviewed the documents most pertinent to construction.

Although the LAB report presents many numbers, their fictional origin is underscored by the LAB's own admission that it was "unable to perform a complete analysis of all expenditures and revenues..."

- *Unknown Brewers Payment*

The Bureau's report states, "Financial records do not indicate the purpose of the additional \$900,000 paid by the Brewers." The Bureau's inability to identify the purpose of this \$900,000 payment is puzzling, yet insightful. First, the brutally obvious: the \$900,000 payment is for the first year's rent for Miller Park. This fact is clearly presented in the lease agreement that the Bureau references numerous times throughout the report.

Second, the failure to recognize this fact is further damaged by the lack of desire to reconcile this apparent discrepancy. While dedicating many pages of the report to voucher payments of less than \$1,000, the report fails to adequately investigate an issue relating to a payment of nearly \$1 million. This nearly \$1 million math and accounting error should trouble lawmakers.

The LAB's inexperienced staff was unable to identify a \$900,000 payment to the District from the Brewers as the team's first-year rent payment, although it was clearly explained in the lease agreement referred to several times in the LAB report.

- *Game Tickets Cost*

The report's representation that the District purchased \$27,671 worth of baseball game tickets "on behalf of others, such as Board members and firms that contracted to provide the District with professional services" appears to be an intentional misrepresentation of the facts. As requested, the Miller Park staff provided its complete General Ledger to LAB staff at the beginning of the audit process. Furthermore, in an April 19, 2002 letter to Mr. Paul Stuibler, Miller Park staff attached the pertinent pages from that General Ledger with a narrative explanation of how to read the General Ledger.

The LAB failed to indicate – although it was twice presented with proper documentation – that the District was fully reimbursed for all but the very few tickets used for official District business relating to grand opening activities.

Although the LAB was twice presented with documentation and explanations, it failed to indicate that the District was fully reimbursed for all but the very few game tickets used for official District business relating to the grand opening activities at Miller Park. This fact has also been confirmed in writing through an independent analysis by a respected local accounting firm.

The documents we provided clearly indicate that the District was fully reimbursed for all tickets purchased, with the exception of 78 tickets provided to District Board members and spouses so they could participate in the official District business related to pre-game ceremonies on the field. The thirteen Board members each received two tickets for the three games (two exhibition games and opening day) that had pre-game ceremonies on the field. The cost of these tickets, for District business purposes, was only \$2,486, as reflected in our General Ledger and explained in our letter of April 19, 2002.

That a respected local accounting firm reviewed the very same ledger the LAB staff was provided during its audit and verified the same conclusion presented to the LAB casts a dark cloud over the Bureau. Perhaps the LAB staff intentionally included this grossly misleading analysis as part of an effort to re-politicize this project. On the other hand, perhaps there is gross ineptitude that exists with the LAB staff. These records reflect key and basic accounting procedures that fall within GAAP standards. If, in fact, the LAB staff could not follow these documents, legislators must seriously question the overall accuracy of this report and, problematically, previous LAB reports.

If LAB staff could not follow basic accounting documents, legislators must seriously question the overall accuracy of this report and, problematically, previous LAB reports.

- *Brewers Contribution Inaccurately Stated*

The Bureau's report states that, "The Brewers agreed to contribute \$90.0 million for stadium construction, as described in the MOU. To meet this obligation, the Brewers secured \$40.0 million from the sale of the stadium naming rights to the Miller Brewing Company, and \$50.0 million in loans and refundable grants, which are a type of a loan."

This is not true. The naming rights agreement, between the Milwaukee Brewers and Miller Brewing Company, provides the Brewers with \$41.2 million over a 20-year period. The Brewers did not have access to the full \$41.2 million up front. Elsewhere in the report, the LAB goes to great measures to point out the present value consequences of payments over time. At one point, the LAB even labels a generous community gift from the Helfaer Foundation as the District losing \$616,000 by "forgoing interest it could have earned." At another point, it claims, "The District has forgone an estimated \$614,000 in interest it could have collected from the Brewers."

The report contains basic errors regarding the Brewers' contribution to the project, including the \$41.2 million (not \$40 million as the LAB report inaccurately states) naming-rights agreement with Miller Brewing Company.

It seems that the LAB's failure to recognize a \$41.2 million payment (not \$40 million, as stated by the LAB) up front vs. over time is far more financially significant than either of the items highlighted. At any rate, the Brewers have fulfilled their legal obligations and commitment to contribute \$90 million for the construction of Miller Park.

- *Roof Position*

The Bureau's report indicates that Brewer officials have discovered problems with the roof and "have decided to keep the roof closed during spring baseball games until the problem can be fixed, thereby limiting the retractable roof's usefulness." This is untrue, and shows a general disregard for the facts. Even a casual review of news clips on this topic could have provided the LAB with accurate information on this matter. The roof is being used on a daily basis, and has been opened or closed for games depending on fan comfort. Furthermore, as was the case last season, the Brewers have played games this year through rain and violent thunderstorms with no delays or cancellations due to weather. While it is being operated on a more limited basis, the usefulness of the roof has proven as valuable as ever. To suggest otherwise is misleading and unfair to Miller Park, the Milwaukee Brewers, their fans and the taxpayers.

The report's discussion of the Miller Park roof contains basic factual errors that could easily have been corrected with a simple review of news coverage.

- *Ownership Interest*

The Bureau's report indicates that the project's Ownership Percentage calculation will be made in 2002. This is not true. As was stated consistently to LAB staff, the calculation on the project's Ownership Percentage will be made when all final costs of construction (including claims, reimbursements, litigation, etc.) are known.

The LAB report also states, "The consequences of the District owning a larger percentage of the stadium are not clear..." This is also not true. The impact of ownership percentage is clearly defined in each and every agreement that the District has entered into where the ownership percentage may have an impact on the terms and conditions of the agreement.

Therefore, there are no uncertainties in the consequences of varying ownership percentages. All of these documents were available to the Bureau, and it is clear that the LAB staff has reviewed some of them. Since the language on ownership in all of these documents is clear, this demonstrated inability by the LAB staff to again understand the basic framework of the project may mean that legislators will want to explore the level of skill existing in the LAB.

- *Vouchers*

Much of the report is devoted to an analysis of District vouchers. The Bureau indicates that after requesting 90 targeted vouchers from the District, documentation was not produced for all of them. We believe this statement is misleading and an attempt to besmirch the District and its staff. We believe the LAB report should have included the following information:

The LAB never asked to review a single construction-related voucher on the largest construction project in the state.

- Although the LAB is auditing the largest construction project in the state, none of the vouchers the LAB requested related to design or construction. The LAB target was focused on the bureaucratic review of expense reports, payments to employees, payments to the Brewers, credit card payments and other such areas. One must question whether this reflects a standard LAB approach or is an example of so-called "gotcha" accounting. It should be troubling to legislators that the LAB focused its review on these issues and never asked to see a construction-related voucher on the largest construction project in the state.

- The 90 vouchers the LAB requested totaled \$2,620,593 in expenditures made by the District. We provided the LAB with documentation for 69 of the requested vouchers that totaled \$2,592,593 in District expenditures. Our supplied documentation addressed nearly 99% of the value of the vouchers the LAB requested. The remaining vouchers represent less than \$30,000 of a \$394 million project – less than 0.01% of the total project expenditures.
- We consistently indicated that all of the remaining vouchers would be made available as soon as possible. We explained that some of the vouchers requested were more than five years old, had been archived, had been moved several times when construction offices were closed or relocated, and are currently subject to legal counsel inspection as part of our pending litigation discovery process. We physically showed LAB staff the storage area secured under legal counsel’s supervision, and allowed LAB staff to observe that the secured area contains tens of thousands of pages and more than 450 file boxes. Because of the legal discovery process, the part-time District staff was forced to search for the requested vouchers at night or on Sundays, which was difficult and time-consuming. Unfortunately, the LAB was unable to wait for staff to produce the remaining 21 vouchers and has used this situation to inappropriately attack the project. It is also curious that the while the LAB had two previous opportunities to review these vouchers, in 1997 and 1999, it did not ask for them until now.

- *Adequacy of Documentation of Expenditures*

The LAB report questions the adequacy of the District’s documentation of expenditures. As the Southeast Wisconsin Professional Baseball Park District’s written Financial Policy / Procedure Statement indicates, the District has always practiced in open public hearings and meetings the strictest cost control, cost management and financial procedures. In fact, in five annual financial audits, the District’s outside professional auditing firm has reviewed our financial procedures and documents and have found them to be exemplary. Those audit reports, prepared by a respected private-sector accounting firm, are most informative and helpful and have always been available for the LAB’s review. This may be another indication that the state can get more value by considering more experienced, outside auditors for complicated projects.

In five annual financial audits, a nationally respected, professional auditing firm has found the District’s financial procedures and documents to be exemplary. This is another indication that the state can get more value by contracting with more experienced, outside auditors for complicated projects.

- *District Conference Room*

The Bureau’s report consistently refers to the District’s conference room as a “skybox.” This misrepresentation is another clear indicator of the Bureau’s intentional negative slant. As consistently reported to the LAB staff, the District’s conference room is used several times a day for business purposes and has never been used for personal use. The Bureau’s report also states that, “Based on concerns raised about the use of the conference room apart from official business, the District requested an opinion from the State’s Ethics Board.” This statement misrepresents the facts. The District, of its own accord, requested an opinion from the Ethics Board before Miller Park even opened. To suggest this was done “based on concerns raised” only inflames the rhetoric in this faulty report and further injures the report’s veracity.

The District conference room is used several times a day for business purposes and has never been used for personal use.

- *Management Contract*

As indicated in the LAB report, once the project was completed and the stadium opened, the District entered into a long-term agreement with the consulting firm owned by our former Executive Director. The LAB acknowledges, “Contracting with this firm will likely prove beneficial for the District because of its owner’s familiarity with the project and understanding of ongoing issues.” We believe the LAB has understated the case, and has underestimated the value of continuing this relationship. In fact, in part because of the national success and recognition of Miller Park, our former Executive Director has been offered numerous, lucrative, long-term opportunities to relocate and assist with similar construction projects elsewhere. Fortunately, we were able to negotiate an agreement with our former Executive Director, assuring our District and Miller Park of dependable, trustworthy and quality leadership for years to come. Our contract agreement is well within industry standards and fully conforms with common industry terms and conditions. Furthermore, the Board believes the management contract protects the interests of the District and the taxpayers.

Since late 1996, we have had the good fortune of having a fine Executive Director assist the Board in its efforts to implement the Miller Park plan. Our Executive Director has worked tremendously hard and has provided countless hours of overtime, consistently recording 60 or more work hours per week, while being paid a reasonable flat-rate salary. Further, he has always demonstrated the highest levels of integrity, honesty and work ethics. It is unsettling that the LAB report would suggest otherwise, and legislators must question whether this institutional bias has led to a “witch hunt” in its attack on someone whose integrity and ethics are above reproach.

- *District Staffing*

The report states, “Although the District has contracted for all administrative and management services since August 2001, it had initially employed eight full-time staff that included an executive director, an associate director, a finance manager, and support staff.” This is not correct. The District never employed eight full-time staff, and in fact, had only six full-time staff for the vast majority of the project. Further, the District never employed a full-time associate director. Lastly, the District has only contracted for all administrative and management services since October 2001. These continuing factual errors are red flags that should raise serious concerns with lawmakers.

The Stadium District:

- Had 6 full-time staff, not the 8 erroneously indicated by the LAB;
- Has contracted for all administrative and management services since 10/01, not 8/01 as the LAB wrongly states; and
- Has never employed a full-time associate director, in contrast to the LAB’s false comments.

INSTITUTIONAL BIAS

The Bureau’s dislike of the Miller Park project, the Milwaukee Brewers and its ownership is well-documented in media reports dating back to 1995. Former LAB staff made their attitude toward the concept of a new ballpark known throughout the project’s early years. In fact, a former staff person most recently criticized the project earlier this year in the *Minneapolis Star Tribune*. The LAB bias against the project is evident in other ways as well.

Recall that during the 1999 audit, you found it necessary to personally apologize to Miller Park staff for the unprofessional conduct of

An LAB staff member removed from the 1999 audit because of demonstrated bias against the Miller Park project apparently played a key role in this latest inaccurate report.

one of your staff members. You pledged it would not happen again and promised to remove that person from the project. Unfortunately, while he was supposedly removed from that audit, he apparently played a key role in this latest inaccurate report. One must question his fairness – some might believe his objectivity could be clouded and lean toward “gotcha” accounting and auditing tricks.

Further evidence of this bias was demonstrated in the kick-off meeting for this report on Dec. 20, 2001. At that meeting, another of your key staff members indicated a preference for conducting face-to-face meetings with District staff so that the LAB could discover and explore the nuances of the Miller Park project. With that comment, the Bureau reconfirmed that its primary objective was not to provide a program audit, but to throw together yet one more grandstanding report on a controversial and challenging project with highly charged political overtones. It will always be easy to reap cheap political headlines, but it should not obscure the fact that there is a major credibility gap at the LAB.

As an agency that claims to be both non-partisan and non-political, it is disappointing that the LAB’s biased approach and analytical ineptitude could result in such an ill-conceived report. Our Board members were asked by our various elected leaders to serve our community, as volunteers, to oversee the planning, design, construction and operation of Miller Park. The groundwork and approach for our assignment was agreed to long before our District Board became a reality. We “inherited” the road map to construct Miller Park. Our job was to ensure that the project was done right, and that the taxpayers were protected – and a fair review shows we have accomplished just that. No amount of false analysis and inaccurate math can erase the success of Miller Park.

It is inappropriate for this report to personally attack the volunteer Board and slyly hint at – but never prove – the suggestion of some wrongdoing. No amount of false analysis and inaccurate math can erase the success of Miller Park.

It is inappropriate for this report to personally attack the Board and slyly hint at – but never prove – the suggestion of some wrongdoing. Miller Park is one of the finest ballparks in the country, it has brought national recognition to Wisconsin, and it has been chosen to play host to the 73rd Annual MLB All-Star Game this summer. While the LAB report failed to fulfill the LAB’s obligation to determine the “economic impact” of the Miller Park project, it could have easily found publicly available information showing the multimillion-dollar positive economic impact Miller Park has on southeast Wisconsin. For example, convention officials believe the All-Star Game festivities will attract as much as \$50 million in direct spending on hotels, restaurants and retail spending. That is omitted, perhaps conveniently, from the report.

THE LAB’S DEMONSTRATED INEXPERIENCE

As evidenced above, a most disturbing element of the latest attempt to present a report related to Miller Park is the overwhelming number of factual errors, inaccuracies and misrepresentations. It is clear from the tone that the driving mission was to promote the LAB’s institutional bias, but that provides no excuse for the Bureau to allow such a gross number of factual errors to appear in a state taxpayer-funded audit.

The LAB staff’s approach to Miller Park clearly demonstrates a serious lack of experience, knowledge and understanding. Miller Park is one of the most complex construction, legal, financial and technical projects ever undertaken in our state. It is clearly out of the LAB’s league.

The LAB staff did not know what they were looking at; they did not know how to interpret the many legal and technical documents; and they did

LAB staff did not know what they were looking at, how to interpret the many legal and technical documents or the right questions to ask. Miller Park is one of the most complex construction, legal, financial and technical projects ever undertaken in our state. It is clearly out of the LAB’s league.

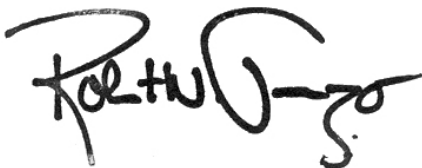
not know the right questions to ask. LAB staff was charged with independently auditing the largest construction project in the state of Wisconsin, and it never even thought to ask for or look at the most critical and important construction documents. By failing to review these documents, it is impossible for the LAB staff to gain an understanding of the Miller Park project.

RECOMMENDATIONS

In an effort to help improve future audits by the LAB, we respectfully submit the following recommendations for improved Bureau performance and results:

1. Consider outsourcing audits that are unique, complex or technically advanced. Numerous private-sector firms exist that could bring valuable expertise, would clearly understand the subject matter being audited, and would be able to properly guide the process. Utilizing the private sector on such unique, complex and technically advanced projects would prove to be more cost-effective and productive and more beneficial to lawmakers.
2. Consider retaining outside legal counsel to assist auditors in understanding legal agreements, terms and conditions – especially as they relate to complex and unique construction projects. Again, the use of outside legal counsel on complex issues would prove to be cost-effective and productive and help the Legislature.
3. Consider analyzing similar complex, unique projects conducted in other cities to gain greater understanding of the public-private partnerships often needed for success on such projects. For example, before auditing the Miller Park project, the LAB and its recommended private-sector partners should carefully study and learn from similar stadium projects in other cities.
4. Review and reconsider the format and process for audits of a unique nature. The typical “cookie-cutter” audit format creates a process riddled with inaccuracies and misunderstandings on a unique, complex and technically advanced project like Miller Park. The result is a report with no meaningful or worthwhile conclusions for lawmakers.
5. Consider ongoing staff training, continuing education for staff members and periodic reassignments of staff to avoid the inevitable build-up of institutional bias and the potential for increasing political gamesmanship.
6. Consider scheduling a hearing of the Joint Legislative Audit Committee to review the most recent report of the Miller Park District and the LAB’s performance.

Very truly yours,



Robert N. Trunzo
Chairman

Cc: Board of Directors
Executive Director