



Office for Democratic Institutions and Human Rights

# UNITED STATES OF AMERICA

GENERAL ELECTIONS  
6 November 2012

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

23-27 April 2012



Warsaw  
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**UNITED STATES OF AMERICA  
GENERAL ELECTIONS 2012**

**OSCE/ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

Following an invitation from the United States Mission to the OSCE to observe the 6 November 2012 general elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) from 23 to 27 April. The NAM was composed of Nicola Schmidt, Deputy Head of the OSCE/ODIHR Election Department, and Richard Lappin, OSCE/ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from federal and state institutions, as well as representatives of political parties, the media, and civil society. A list of meetings is included as an annex to this report.

OSCE/ODIHR would like to thank the Department of State for their co-operation and assistance in organizing the visit. OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM.

**II. EXECUTIVE SUMMARY**

On 6 November, US citizens will vote to elect the President and Vice-President, 33 Senators, and 435 Representatives. Attention will likely focus on the presidential race, although control of Congress is also at stake. The campaign is expected to be heated.

The legal framework for elections is decentralized and complex. While federal laws provide minimum standards for elections, the implementation and details are regulated by state law. A diverse body of electoral law and procedures exists across the country, including variations among counties in the same state. A number of state electoral laws are subject to change in the run-up to the elections, which may affect electoral participants' understanding of provisions or their ability to fulfil their roles effectively.

Following the 2010 census, the 435 seats in the House of Representatives were reapportioned among the 50 states and district boundaries were redrawn. OSCE/ODIHR NAM interlocutors raised concerns that redistricting largely reflected past voting patterns and would contribute to an increase in non-competitive contests. Redistricting has not been finalized in two states and legal challenges are ongoing or expected in several others.

Only US citizens residing in one of the 50 states are eligible to vote in general elections. Some 4.1 million citizens that are residents of US territories are not eligible to vote, while some 600,000 citizens that are residents of the District of Columbia are only eligible to vote in presidential elections. In addition, some 5.3 million prisoners and ex-prisoners remain

disenfranchised due to prohibitive legal regulations or burdensome procedures for reinstating voting rights.

Voter registration and identification are politically polarized, split on the issue of enfranchisement versus integrity of the vote. Co-ordination between state-wide voter registration databases remains limited, raising concerns about voter list accuracy among OSCE/ODIHR NAM interlocutors. Voter registration is active and an estimated 51 million eligible voters are not registered to vote. Recent legislation in a number of states has placed restrictions on third-party voter registration. Several states have enacted new laws requiring voters to present government-issued photo identification documents (ID) in order to vote.

Federal law outlines the requirements for candidate registration. However, additional requirements at the state level vary, which may affect ballot access for smaller parties. Although parties are reportedly seeking an increase in women candidates for the upcoming elections, women currently represent only 16 per cent of the present Congress.

Alternative voting methods are an established practice in the US and about one-third of voters are expected to cast their vote before election day. While all states offer postal voting and a majority provide in-person early voting, several states have shortened their early voting period. A number of states have amended their electoral laws to comply with federal legislation aimed at facilitating the timely administration of out-of-country voting.

The use of new voting technologies (NVT) is extensive and varies considerably across and within states. The recent trend to return to paper ballots has continued, with most states using optical scanners for counting. Federal guidelines for NVT are voluntary, resulting in a heterogeneous landscape of electronic voting systems.

There are no limits on campaign spending and the upcoming elections are anticipated to be the most expensive elections yet. The right to unrestricted campaign spending is equated with the right to free speech in the US context. While the financing of candidates and parties is closely regulated, spending by independent groups can be exempt from disclosure requirements, raising concerns about transparency.

Although increasingly partisan, the media landscape is diverse and provides voters with a range of political views. There is a tendency to prioritize freedom of speech and self-regulation over legislation. An increase in campaign spending by independent groups is widely expected to intensify negative political advertisements in the media campaign.

Election observation is regulated by state law. Often this does not provide for international observers, as required by paragraph 8 of the OSCE 1990 Copenhagen Document. Domestic election observation is expected to be widespread, adding an important layer of transparency and confidence to the process.

Although the majority of OSCE/ODIHR NAM interlocutors expressed overall confidence in the integrity of the electoral process and the professionalism of election administrators, most welcomed a potential OSCE/ODIHR observation activity for these elections, recognizing that further improvements could be made and that an external assessment may contribute to this. While few prior OSCE/ODIHR recommendations have been addressed, several areas would benefit from closer attention, including: redistricting; voting rights, registration, and

identification; campaign finance; alternative voting methods; and the conduct of the electoral campaign, particularly in the media. Most OSCE/ODIHR NAM interlocutors emphasized the professionalism of election administrators and the widespread deployment of civil society and political party observers as providing sufficient transparency and oversight on election day.

For these reasons, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission to observe the general elections. In addition to a core team of analysts, the mission recommends the secondment of 100 long-term observers from OSCE participating States. In line with the OSCE/ODIHR's standard methodology, the mission would include a media monitoring element. Systematic observation of election day proceedings is not envisaged.

### **III. FINDINGS**

#### **A. BACKGROUND**

The US is a federation comprising 50 states, the District of Columbia, and a number of overseas territories.<sup>1</sup> The President is the Chief Executive and legislative power is vested in Congress, a bicameral body consisting of the Senate and the House of Representatives. On 6 November, US citizens will vote to elect the President and Vice-President, 33 of 100 Senators, and all 435 Representatives. In addition, elections will also take place for state and local offices, as well as various referenda and initiatives.

Attention will likely focus on the presidential race, which is expected to be eagerly contested between the incumbent Democratic President Barack Obama and the currently leading Republican candidate Mitt Romney.<sup>2</sup> Control of the Congress is also at stake, with several close races anticipated. A wealth of public information about the prospective candidates and their platforms is already widely available. Campaigning is expected to be heated and focussed on healthcare, the size and scope of federal government, and economic issues such as the budget deficit, taxes, and unemployment.

The OSCE/ODIHR has assessed elections in the US since 2002.<sup>3</sup> Most recently, an Election Assessment Mission was deployed for the 2010 mid-term elections. The mission concluded that the elections "were administered in a professional manner and generally enjoyed the confidence of election stakeholders, despite some reoccurring deficiencies in the electoral framework."

#### **B. LEGAL FRAMEWORK**

The legal framework for elections is decentralized and complex. While the Constitution and federal legislation provide minimum standards for elections, the implementation and details are regulated by state law. A diverse body of electoral law and procedures exists across the country, including variations among counties in the same state. Court decisions at various levels also form an integral part of the legal framework.

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<sup>1</sup> Including Puerto Rico, Guam, the US Virgin Islands, American Samoa, and the Northern Mariana Islands.

<sup>2</sup> Nominations will be confirmed at the Republican National Convention taking place from 27 to 30 August, and the Democratic National Convention from 3 to 6 September.

<sup>3</sup> All reports are available on the OSCE/ODIHR website: <http://www.osce.org/odihr/elections/usa>.

Federal legislation includes: the 1965 Voting Rights Act (VRA), which aims to protect the rights of minorities by outlawing discriminatory electoral practices; the 1986 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and the 2009 Military and Overseas Voting Empowerment Act (MOVE), which regulate out-of-country voting; the 1993 National Voter Registration Act (NVRA), which regulates voter registration, including maintenance of databases; the 1971 Federal Electoral Campaign Act and the 2002 Bipartisan Campaign Reform Act, which regulate campaign finance, and the 2002 Help America Vote Act (HAVA), which provides minimum provisions for electronic voting systems, provisional ballots, state-wide voter registration databases, and access for disabled voters. No major legislative changes are expected to be passed by Congress prior to the upcoming elections.

The Department of Justice (DoJ) monitors state implementation of federal election law and can bring enforcement suits in cases of non-compliance. Section 5 of the VRA requires states and jurisdictions where there is historical voting discrimination to obtain pre-clearance of changes to electoral law from the DoJ or the federal district court in DC. Presently, the DoJ is actively involved in several cases, including on redistricting and voter identification. Contrary to good electoral practice, the OSCE/ODIHR NAM was informed that final decisions on some amendments to state electoral law may only be reached in the weeks shortly before election day, which may affect electoral participants' understanding of provisions or their ability to fulfil their roles effectively.

### C. ELECTORAL SYSTEM

The President and Vice-President are elected jointly by absolute majority by a special body, the Electoral College, consisting of 538 Electors elected by states through a popular vote.<sup>4</sup> Electors are mostly elected through "winner-takes-all" contests.<sup>5</sup> It is possible that the President can be elected by a majority of Electoral College votes without winning the popular vote nationwide. The President and Vice-President serve four-year terms.

Senators and Representatives are elected directly, primarily in first-past-the-post contests. The Senate represents the states. Each state forms a single electoral district and elects two Senators irrespective of its population. Senators serve staggered six-year terms, with no state's two Senators scheduled to be elected in the same election year. The House of Representatives represents the overall population and seats are allocated to the states according to their relative population. At least one Representative is elected from each state and all Representatives serve two-year terms.

Following the 2010 decennial census and in line with the Constitution, the 435 seats in the House of Representatives were reapportioned among the 50 states to reflect population changes. Eighteen states were affected, with significant changes for Texas (plus four seats), Florida (plus two), New York (minus two), and Ohio (minus two).<sup>6</sup> By extension, reapportionment impacts the size of each state's representation in the Electoral College.

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<sup>4</sup> In each state, the number of Electors equals the number of Senators and Representatives in Congress. DC is allocated three electors, as if it were a state.

<sup>5</sup> Electors in Nebraska (five) and Maine (four) are elected from the respective congressional district via "first-past-the-post" contests, with the remaining two Electors in each state elected via the "winner-takes-all" system.

<sup>6</sup> For a full list, see: [http://2010.census.gov/news/pdf/apport2010\\_table1.pdf](http://2010.census.gov/news/pdf/apport2010_table1.pdf).

States were subsequently required to redraw Congressional district boundaries to ensure that each district represented approximately the same number of people. The process of redistricting varies from state to state. While OSCE/ODIHR NAM interlocutors noted some improvement in the transparency of the process and an increase in independent commissions, concerns were expressed that redistricting largely reflected voting patterns and would contribute to an increase in non-competitive contests.<sup>7</sup> In addition, two states have still not finalized their redistricting, while legal challenges are ongoing or expected in several other states.

#### **D. ELECTION ADMINISTRATION**

In line with the electoral legal framework, individual states are responsible for administering general elections, with many duties often delegated to counties. Overall, OSCE/ODIHR NAM interlocutors expressed confidence in the performance of election administrators.

There is no federal body mandated to oversee the entire electoral process. The Federal Election Commission (FEC) is an independent regulatory agency composed of six voting members, three Democrats and three Republicans, and about 350 staff. The FEC administers and enforces campaign finance regulations. However, increased partisan voting has limited its ability to reach decisions on key campaign finance issues. The bipartisan Election Assistance Commission (EAC), established by HAVA, has four voting commissioners and some 28 staff. The EAC provides guidance on meeting HAVA requirements and serves as a national clearinghouse for information about election administration. Since December 2010, the EAC has been operating without a quorum and since December 2011 without any commissioners and, thus, without decision-making capacity. The role of the EAC and its future duties were questioned by several OSCE/ODIHR NAM interlocutors.

#### **E. VOTER RIGHTS, REGISTRATION, AND IDENTIFICATION**

##### **1. Voter Rights**

US citizens who are at least 18 years old on election day and are residents of a state are eligible to vote in general elections. Some 4.1 million citizens that are residents of US territories are not eligible to vote in general elections, while some 600,000 citizens that are residents of the District of Columbia are only eligible to vote in presidential elections. ODIHR has previously recommended that full representation rights be provided in Congress for all citizens, in line with paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document.

An estimated 5.3 million US citizens continue to be disenfranchised due to a criminal conviction, including some 2.1 million who have served their sentences.<sup>8</sup> Prisoner and ex-prisoner voting rights are determined by state law and vary considerably. In four states, prisoners and ex-prisoners permanently lose their right to vote unless pardoned by the state governor. Most states impose burdensome procedures for reinstating voting rights. In Maine and Vermont, prisoners are not disenfranchised at any stage. In line with previous ODIHR recommendations, several states had eased restrictions on prisoner and ex-prisoner voting rights

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<sup>7</sup> In 2010, one Senator and 27 Representatives were elected unopposed.

<sup>8</sup> See, "Felon Disenfranchisement Laws in the United States," The Sentencing Project, 2011, [http://sentencingproject.org/doc/publications/fd\\_bs\\_fdlawsinusDec11.pdf](http://sentencingproject.org/doc/publications/fd_bs_fdlawsinusDec11.pdf).

in recent years. In 2011, however, Florida and Iowa passed legislation that reversed previous reforms, re-introducing permanent disenfranchisement of prisoners and ex-prisoners.

## 2. Voter Registration

Voter registration is active and implemented at state-level, with minimum conditions provided by the NVRA. The NVRA permits states to run computerized programmes to detect records that may need deleting up to 90 days before election day. Corrections and deletions of individual records are exempt from this deadline. The NVRA also provides that voter registration must remain open until at least 30 days before election day. Eight states and the District of Columbia allow voter registration on election day. North Dakota does not require any form of voter registration. In 2011, Alabama, Kansas, and Tennessee passed legislation requiring prospective first-time voters to provide documentary evidence of US citizenship when registering.<sup>9</sup>

HAVA mandates states to co-ordinate and match their state-wide voter registration databases with other state and federal databases.<sup>10</sup> However, the modalities of performing such checks, as well as procedures to address possible inconsistencies, are not provided. Implementation of these requirements is left to the states, resulting in an uneven application and raising concerns about voter list accuracy among OSCE/ODIHR NAM interlocutors. Several states have recently introduced online voter registration, arguing that it is a means to save costs, enhance efficiency, and boost accuracy.<sup>11</sup>

Of a voting age population of some 237 million, it has been estimated that approximately 51 million eligible voters are not registered to vote.<sup>12</sup> Political parties and civil society organizations are currently engaged in voter registration drives, especially in states that expect close contests. However, recent legislation in a number of states has placed restrictions on third-party voter registration. In Florida, for example, the League of Women Voters has suspended its voter registration programmes because of burdensome and restrictive legal requirements.

## 3. Voter Identification

In the last year, eight states enacted new voter identification laws requiring voters to present government-issued photo ID.<sup>13</sup> Bills also passed in a further five states but were ultimately vetoed by the respective state governor. Missouri has introduced a ballot initiative on photo ID which will be voted on the 6 November. In total, some 30 states currently require presentation of some form of ID to vote in a polling station and 14 states require photo ID. HAVA requires all first-time voters to present photo ID if they registered by post.

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<sup>9</sup> The Tennessee law applies only to individuals flagged as potential non-citizens by state officials based on a database check. The Alabama law requires pre-clearance from the DoJ under Section 5 of the VRA before it can go into effect.

<sup>10</sup> Databases include the state database of the Motor Vehicle Authority and the federal database of the Social Security Agency, as well as state records of deceased people and prisoners.

<sup>11</sup> Since 2009, the following states have introduced online voter registration options: California, Colorado, Indiana, Kansas, Louisiana, Maryland, Nevada, Oregon, Utah, and Washington.

<sup>12</sup> See, "Inaccurate, Costly, and Inefficient," Pew Center on the States, 2012, [www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/Pew\\_Upgrading\\_Voter\\_Registration.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Pew_Upgrading_Voter_Registration.pdf).

<sup>13</sup> Alabama, Kansas, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin. Photo ID laws in Alabama and Rhode Island will not take effect until 2014. Voters in Rhode Island may also present non-government-issued photo ID. In March 2012, Wisconsin's photo ID law was ruled unconstitutional by a state judge.

Voter identification is a highly-charged issue and divided along partisan lines. Generally, Republicans regard voter identification as a means to protect electoral integrity, while Democrats believe it could disenfranchise voters, particularly low-income, student, elderly, and minority voters who are less likely to possess the required photo ID. New laws in Alabama, South Carolina, and Texas are subject to DoJ pre-clearance under Section 5 of the VRA. Amendments to voter identification laws are likely to be challenged in the courts in the run-up to elections.

HAVA requires that provisional ballots be provided to voters who believe they are registered at a polling station but could not be found on the voter list. Regulations and deadlines for verification and counting of provisional ballots, as provided by states, vary widely. While provisional ballots are intended to prevent disenfranchisement, many OSCE/ODIHR NAM interlocutors expressed concerns about uneven implementation.

#### **F. CANDIDATE REGISTRATION**

Presidential and Congressional candidates representing the Democratic and Republican parties are selected in primary elections which take place on different dates in different states. A presidential candidate must be a natural-born US citizen, at least 35 years old, and a resident of the US for at least 14 years. No person can be elected to the office of President for more than two terms. Senators must be at least 30 years old and US citizens for at least 9 years. Representatives must be at least 25 years old and citizens for at least 7 years. Both Senators and Representatives, when elected, must be residents of the state in which they are elected. Additional candidacy requirements at the state level vary considerably, including provisions for supporting signatures and nomination deadlines, which may impact ballot access for smaller parties and independent candidates. Senior state and county election officers often register as candidates in elections which they administer, leading to conflicts of interest. Although parties are reportedly seeking an increase in women candidates for the upcoming elections, women currently represent only 16 per cent of the present Congress.

#### **G. ALTERNATIVE VOTING METHODS**

Alternative voting methods are an established practice in US elections and approximately one-third of voters are expected to cast their vote using various methods before election day. All states provide voters with the possibility of postal voting, with 29 states and the District of Columbia not requiring voters to provide reasons for their request. In 2012, Washington will join Oregon as the second state to conduct general elections entirely by post. California will pilot postal-only voting in one county. In-person early voting is possible in some 32 states and the District of Columbia, with significant variations across the states. Early voting periods which range in length from 4 to 45 days, have recently been shortened in five states.<sup>14</sup>

UOCAVA and the MOVE Act provide that citizens living abroad should have the possibility to vote in general elections. The MOVE Act requires states and territories to distribute ballots to out-of-country voters at least 45 days prior to election day. In 2011, some 22 states enacted legislation to comply with MOVE by changing their primary election dates and allowing for the electronic transmission of blank ballots. The Department of Defense facilitates out-of-country

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<sup>14</sup> Florida, Georgia, Ohio, Tennessee, and West Virginia.

voting by providing voter registration and ballot request forms. Voters who have not received a ballot in time to return it before election day can use a ‘back-up’ Federal Write-In Absentee Ballot, which is accepted by all states. Some states continue to allow out-of-country voters to return their marked ballots by fax or email, which requires voters to waive the secrecy of their vote.

## H. NEW VOTING TECHNOLOGIES

The use of new voting technologies (NVT) in US elections is extensive and varies considerably across and within states. Most states use more than one type of NVT, either because of county variations or to accommodate voters with special needs. The trend to return to paper ballots, as noted in previous elections, has continued, with some 44 states using optical or digital scanners to count hand- or computer-marked ballots. Direct Recording Electronic (DRE) machines are used in some 22 states, with several states continuing to use DREs that do not provide a voter-verified paper audit trail (VVPAT).<sup>15</sup> The EAC is mandated by HAVA to provide guidelines for certification of NVT. However, as the guidelines are voluntary, few systems have been tested against EAC standards, resulting in a heterogeneous landscape of systems certified according to different standards.

OSCE/ODIHR NAM interlocutors indicated that few developments have occurred in the use of NVT, with most states not implementing changes due to budgetary limitations and continuing concerns over what type of NVT offers the most security and integrity. Two exceptions are Virginia, which now permits the use of DREs, and Washington, which now requires all DREs to provide a VVPAT. In addition, the Department of Defense reported long-term plans to introduce internet voting at specially established kiosks for some out-of-country voters in future elections.

## I. CAMPAIGN FINANCE

Unlike other areas of electoral legislation, campaign finance for general elections is regulated by federal law under the supervision of the FEC. There are no limits on campaign spending as the US Supreme Court has held that any limitation would constrain the right to free speech as enshrined in the First Amendment to the Constitution.<sup>16</sup> Consequently, elections in the US have been characterized by a high level of campaign spending. Many interlocutors informed the OSCE/ODIHR NAM that they expect the upcoming elections, especially the presidential contest, to be the most expensive yet.

Federal legislation comprehensively regulates campaign finance contributions and disclosure for candidates, political parties, and associated Political Action Committees (PACs).<sup>17</sup> Although direct contributions from corporations and unions to candidates and parties are forbidden, the 2010 US Supreme Court ruling on *Citizens United v. FEC* struck down the longstanding restriction on their “independent expenditure” on political advertising that explicitly advocates the election or defeat of a candidate. The Supreme Court ruled that corporations and unions

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<sup>15</sup> Five counties in Idaho continue to use punch-card systems.

<sup>16</sup> *Buckley v. Valeo* (424 U.S. 1, 23(1976)). See, [http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0424\\_0001\\_ZS.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0424_0001_ZS.html).

<sup>17</sup> PACs are not legally tied to a candidate or party but they may make direct contributions to their campaign funds. PACs may also act independently.

should enjoy freedom of expression, provided that their communications are not co-ordinated with candidates or a political party and that the sources of their funds are disclosed.

The *Citizens United* decision allows for corporations and unions to spend directly on campaigning, while subsequent judicial interpretations have also permitted them to finance outside groups, including so-called 501(c) and 527 organizations, named after their respective sections in the tax code. These organizations are not covered by federal election law and can accept unlimited contributions. In addition, while 527 organizations must disclose their donors via federal tax legislation, 501(c) organizations are exempt from disclosure provided that campaign activities are not their primary activity. Several OSCE/ODIHR NAM interlocutors expressed concerns that this could limit transparency by allowing donors to make large anonymous contributions to a 501(c) organization, which in turn could make political expenditures on their behalf without revealing its sources. Further concerns were expressed about possible co-ordination between outside groups and candidates.

Campaign financing is reliant on private contributions. While public financing is available for presidential elections, it is subject to several limitations and is not expected to be used by leading candidates in the upcoming race.

## **J. MEDIA**

The media landscape is increasingly partisan, but diverse, providing voters with a range of political views. Commercial television and radio dominate the broadcasting sector, with some 1,780 television channels and 15,000 radio stations currently licensed in the US. Although public service broadcasters are generally peripheral, National Public Radio enjoys a significant audience. Newspapers are typically privately-owned, with all major metropolitan areas having their own publications. The internet is increasingly used by voters as a key source of information on elections and candidates, particularly social media.

The legal framework for media is characterized by a close application of the First Amendment to the Constitution, tending to prioritize freedom of speech and self-regulation over legislation. The 1934 Communications Act (since amended) and regulations issued by the Federal Communications Commission provide the basic framework for media activities during elections. Print media are not bound by any statutory requirements. Editorial coverage by broadcast and print media is largely based on self-regulation.

Commercial broadcasters are obliged to comply with some provisions during elections. At least 60 days prior to general elections, broadcasters must provide “reasonable access” to all federal candidates. If a broadcaster grants access to airtime for one candidate, it must allow equal conditions for other candidates in that contest. However, this principle of ‘equal opportunity’ has been limited to a few specific contexts, due to an increasing number of exemptions aimed at protecting editorial freedom and media independence.

Federal candidates are also entitled to purchase paid political airtime at the lowest sum charged for a comparable advertisement on a channel by channel basis. There are no legal limits on campaign spending in the media, but broadcasters are required to maintain a publicly accessible ‘political file’ of all requests to purchase airtime. While all advertisements must include sponsorship identification, broadcasters are forbidden to censor the content. Several OSCE/ODIHR NAM interlocutors expressed the view that an increase in campaign spending by

independent groups would diminish accountability of the campaign and likely intensify negative political advertising.

#### **K. ELECTION OBSERVATION**

In line with OSCE commitments, the US has regularly invited the OSCE/ODIHR to observe federal elections. However, election observation is regulated by state law, which generally does not provide for international observers as required by paragraph 8 of the OSCE 1990 Copenhagen Document. In 2011, New Mexico and North Dakota passed legislation that explicitly permits international election observation, bringing the total of such states to four.<sup>18</sup> In 2010, the National Association of Secretaries of State renewed its 2005 resolution, welcoming “OSCE international election observers from the OSCE member countries to observe elections in states where allowed by state law.”

Domestic election observation is expected to be widespread, providing an important level of transparency and confidence. The DoJ intends to deploy federal observers to monitor states’ compliance with federal legislation, including VRA and HAVA requirements. Political parties and civil rights organizations are expected to mobilize several thousand lawyers and poll watchers.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

The majority of OSCE/ODIHR NAM interlocutors expressed overall confidence in the integrity of the electoral process and the professionalism of the election administration. Although previous OSCE/ODIHR recommendations remain largely unaddressed, most interlocutors stated that they would welcome a potential OSCE/ODIHR observation activity for these elections, recognising that further improvements could be made to the electoral process and that an external assessment may contribute to this. In particular, this concerns the impact of redistricting; developments in voting rights, registration, and identification; campaign finance provisions; changes to alternative voting methods; and the conduct of the electoral campaign, particularly in the media. Most OSCE/ODIHR NAM interlocutors emphasized the professionalism of election administrators and the widespread deployment of civil society and political party observers as providing sufficient transparency and oversight on election day.

On this basis, the OSCE/ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM) to observe the general elections. In addition to a core team of analysts, the mission recommends the secondment of 100 long-term observers from OSCE participating States. In line with OSCE/ODIHR standard methodology, the LEOM would contain a media monitoring element. While the mission would visit a limited number of polling stations on election day, systematic observation of election day proceedings is not envisaged.

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<sup>18</sup> The two other states are Missouri and South Dakota, as well as the District of Columbia.

## **ANNEX: LIST OF MEETINGS**

### **Department of State**

Tina Kaidanow, Principal Deputy Assistant Secretary of State for Europe and Eurasia  
Charles P. Hornbostel, OSCE Policy Officer, Office of European Security and Political Affairs  
Joseph T. Farrelly, Deputy Coordinator for the OSCE, Office of European Security and Political Affairs

### **Department of Justice**

Matthew Colangelo, Deputy Assistant Attorney General, Civil Rights Division  
Roscoe Jones, Attorney, Civil Rights Division

### **Department of Defense**

Paddy McGuire, Deputy Director, Election Official Assistance, Federal Voting Assistance Program  
David Beirne, Acting Deputy Director, Technology Programs, Federal Voting Assistance Program

### **National Association of Secretaries of State**

Leslie D. Reynolds, Executive Director  
Stacy Dodd, Executive Assistant

### **National Conference of State Legislators**

Susan Parnas Frederick, Senior Federal Affairs Counsel  
Neal Osten, Director, Washington Office

### **Federal Election Commission**

Ellen L. Weintraub, Vice Chair  
Stephanie M. Caccamo, Communications Specialist

### **Election Assistance Commission**

Mark A. Robbins, Acting Executive Director / General Counsel  
Brian Hancock, Director of Test and Certification  
Monica Evans, Director of Grants  
William P. Boehm, Deputy Director for Policy  
R. Bryan Whitener, Deputy Director of Communications  
Alice Miller, Chief Operating Officer

### **Senate Committee on Rules and Administration**

Jean Parvin Bordewich, Staff Director  
Adam D. Ambrogi, Chief Counsel  
Veronica M. Gillespie, Majority Elections Counsel

### **US Commission on Civil Rights**

Lenore S. Ostrowsky, Attorney-Advisor to the Staff Director  
Eileen Rudert, Social Scientist

### **US Commission on Security and Cooperation in Europe**

Mark S. Milosch, Chief of Staff  
Erika B. Schlager, Counsel for International Law  
Allison B. Hollabaugh, Counsel  
Janice Helwig, Policy Advisor  
Orest Deychakiwsky, Policy Advisor  
Robert Hand, Policy Advisor

### **Federal Communications Commission**

Mark L. Berlin, Attorney Advisor, Policy Division

Robert B. Sommers, International Visitors Program

**New Jersey Department of State**

Donna M. Barber, Elections Manager, Division of Elections

**New Jersey Election Law Enforcement Commission**

Jeffrey M. Brindle, Executive Director

**Democratic National Committee**

Will Crossley, Director – Counsel, Voter Protection

Quincey Gamble, National Voter Protection Field Director

Ruth Greenwood, Voting Rights Fellow

**New Jersey Democratic State Committee**

Paul Andrew Penna, Executive Director

**Citizens United**

Michael Boos, Vice President / General Counsel

Brendan D. McIntyre, Director of Development

**National Association for the Advancement of Coloured People**

Hilary O. Shelton, Senior Vice President for Advocacy and Policy

**League of Women Voters**

Jeanette Senecal, Senior Director, Elections and E-Democracy

Lloyd Leonard, Senior Director, Advocacy

**The Pew Center on the States**

David J. Becker, Director, Election Initiatives

Samuel Derheimer, Senior Associate, Election Initiatives

Matt Morse, Senior Associate, Election Initiatives

Zachary Markovits, Manager, Election Initiatives

Sean Greene, Manager, Research, Election Initiatives

**The Campaign Legal Center**

David Vance, Director of Communications and Research

Paul S. Ryan, FEC Program Director and Associate Legal Counsel

**International Republican Institute**

Bakhtiyor Nishanov, Deputy Director, Eurasia

**International Foundation for Election Systems**

Michael Svetlik, Vice President of Programs

Chad R. Vickery, Regional Director, Europe and Asia

Gavin Weise, Deputy Director, Europe and Asia

**National Democratic Institute**

Pat Merloe, Director, Elections and Political Processes

Michelle S. Brown, Senior Program Manager, Elections and Political Processes

Laura Grace, Senior Program Officer, Elections and Political Processes

*\* Meetings were requested with the Republican National Committee and the New Jersey State Republican Committee but no positive response was received*