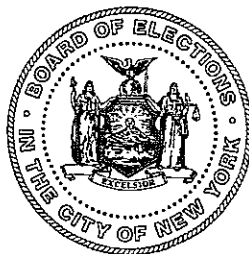


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EXECUTIVE DIRECTOR

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## **BOARD OF ELECTIONS**

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### **Testimony of Marcus Cederqvist, Executive Director, Board of Elections in the City of New York before the New York City Council Committees on Finance and Governmental Operations Fiscal Year 2010 Proposed Budget May 18, 2009**

Chair Weprin and Chair Sears, and members of the Council's Committees on Finance and Governmental Operations, I want to thank you for giving me the opportunity to appear before you once again this morning on behalf of the Board of Elections in the City of New York and for your continuing interest in this agency. As you know, my name is Marcus Cederqvist and I am the Executive Director of the Board and am joined here today by George González, Deputy Executive Director; Pamela Perkins, Administrative Manager; Steven H. Richman, General Counsel; John Owens, Jr., Enforcement Counsel; and John Ward, Finance Officer.

We appeared before the Committee on Governmental Operations just over nine weeks ago to discuss the deleterious impact that the Mayor's Preliminary Budget for Fiscal Year 2010 would have on elections in the City of New York. I have taken the liberty of attaching a copy of the previous testimony from March's hearing to today's written testimony for your review. The major details have not changed since the last hearing so I will avoid repeating all of it here again today. Nonetheless, it is vitally important that I take this opportunity to remind you of some of the major points that we discussed previously.

As you know from our previous meetings, the past year has been one of the most challenging in the agency's history. The Board conducted four election events in 2008 that collectively saw more than four million New Yorkers cast a vote and it processed two hundred percent more voter registration forms in 2008 than it did in 2007. Already in calendar year 2009, the Board has conducted four Special Elections, including a boroughwide election in the Bronx last month, and is preparing for two Special Elections for vacant State Assembly seats in two weeks.

The story is not new – year after year the Board has historically been underfunded to complete its mandated tasks. This is punctuated by the severe pay disparity between employees of the Board of Elections and those of other City agencies. However, this institutional underfunding was severely exacerbated for Fiscal Year 2009 when the City adopted a budget that reduced the Board's budget by \$7.6 million, notwithstanding that everyone clearly knew voting activity would be exponentially greater in the 2008 Presidential Election cycle than it was in the 2007 off-year elections.

As mentioned earlier, Mayor Bloomberg issued proclamations to conduct Special Elections for three City Council vacancies and one vacant Borough Presidency so far in 2009, as he is obligated to do under the City Charter. The Board conducted those elections as is mandated under law and is preparing for the two State Assembly Special Elections that Governor Paterson called three weeks ago. As you know, none of these six elections are funded; however, the Executive Budget proposes to cover one of these elections.

There is a common and pervasive misperception where people confuse the fact that voting is a fundamental right with the fact that elections costs money. The Board of Elections does not control the level of activity required by law, court orders, and executive proclamations. Unlike many other agencies, virtually all of the Board's duties, responsibilities, and activities are prescribed by Federal, State, and local law. The Board does not have discretionary programs and activities to cut.

The Board does not have the discretion to delay or cancel an election based on municipal budget shortfalls, nor can it delay processing voter registration forms or providing language assistance to voters. We are mandated to perform these functions and others, such as processing candidate petitions. This year alone, we will process petitions for all municipal offices, including citywide offices and City Council.

The budget reductions in the Executive Budget make it impossible for the Board to properly conduct the Primary and General Elections for this year, not to mention the likely citywide run-off elections.

As you know, the staff was worked to the bone over the course of the last year to make sure that all the work was accomplished. It is the Board's understanding that it has been authorized for 351 full time positions citywide. The materials contained in the Executive Budget indicate the administration's contention of a headcount as of March 28, 2009 of 342 positions. The Executive Budget proposes a reduction of 23 full-time positions for the Fiscal Year beginning July 1<sup>st</sup>, leaving the already understaffed Board with an authorized head count of only 319 positions. Given the Board's obligations, the Executive Budget's headcount reduction cannot be achieved in a responsible manner.

Additionally, the Executive Budget for 2010 does not properly fund either the Board's overtime costs or the necessary number of temporary employees for the upcoming election cycle. As you know, both are necessary to administer the bursts of activity revolving around the busy period of designating petition review for candidate qualification as well as setting up, conducting, and recanvassing each election. If these cuts are enacted, we will not be able to execute our constitutional and statutory responsibilities in an effective and lawful manner.

Poll workers are obviously an essential part of the voting experience. The Board continues to ask the City, albeit with limited success, for support to ensure that it has the resources to adequately train the poll workers. There is an itemized list of requests in previous testimony about these new needs.

If there is one bit of good news to report, it would be that it appears that the Board will not have to replace its current voting system for the 2009 elections. As we reported in March, certification of the new voting systems by the State Board of Elections was delayed because the federal Election Assistance Commission decertified the lab that was conducting certification testing. Although an agreement between the State Board and the Department of Justice has not yet been finalized, we are cautiously pleased by reports from Albany that New York City will not be compelled to participate in a pilot program to implement the new voting systems on a limited basis this year. Nonetheless, we also realize that the new system is coming. The Election Assistance Commission reaccredited the testing lab and certification testing has resumed. Now that testing is back on track, the State reported that they anticipate certifying voting systems for use by the local Boards of Elections by November 2009 and implementation of a new system in 2010 appears certain.

In light of the impending new system implementation, we are encouraged that the unspent HAVA funds have been rolled over in the Executive Budget to FY 2010. As you know, these funds will be used for a

comprehensive voter education effort to raise awareness among voters about the new voting system. Similarly, we are pleased to see that the capital allocation for Gartner Consulting that was not included in the Mayor's Preliminary Budget has been included in the Executive Budget for Fiscal Year 2010.

Nonetheless, these developments do not vitiate the fact that the Board of Elections is underfunded and that the lack of support from City leaders has put the Board's mission to conduct fair and honest elections in jeopardy. Last year, at a time when everyone clearly anticipated historic activity and voter participation and when the Board's obligations were increased significantly by a Federal Court Order, its budget was reduced by more than \$7.6 million for the current Fiscal Year. The shortfall reflected in the Executive Budget is equivalent to the cost of conducting one entire citywide election.

I must mention yet again the severe pay disparity between employees of the Board and those of other City agencies and other Boards of Elections in neighboring jurisdictions. Clearly, the dreadful current fiscal environment does not create an ideal setting for this point but I am morally obligated to reiterate this topic on behalf of the hard-working men and women that we rely on every day to get the job done. They have even been working without a contract since June of 2008. I recently sent the reports detailing this pay inequity to the staff of this committee and would welcome the opportunity to discuss it with you further.

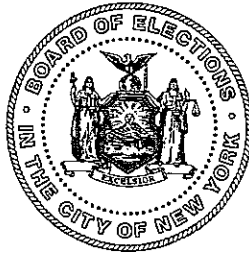
In conclusion, I would like to reiterate what I stated when we met in March: that the conduct of fair, honest, and open elections is a fundamental right in our democracy and the cuts made to the Board's budget in Fiscal Year 2009 and the further reductions proposed for Fiscal Year 2010 puts our democracy in peril. This is not hyperbole – it is a fact. As a result of the City's action, the Commissioners of Elections have been placed in an untenable position of either fulfilling their legal obligations despite the lack of adequate funding or deciding collectively that the City's failure to adequately fund elections relieves them of their legal obligations, thereby disenfranchising voters in New York City. Protecting the rights of the voters of this city is paramount. It is an understatement, at best, when I state that we need your support and assistance now if we are to succeed.

I thank you again for your time and for allowing me to come before you on behalf of the Board of Elections in the City of New York today. As always, my colleagues and I are available to answer any questions that you may have.

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### **Testimony of Marcus Cederqvist, Executive Director, Board of Elections in the City of New York before the New York City Council Committee on Governmental Operations – Fiscal Year 2010 Preliminary Budget March 12, 2009**

Ms. Chairman and members of the Council's Committee on Governmental Operations, I want to thank you for giving me the opportunity to appear before you once again this morning on behalf of the Board of Elections in the City of New York and for your continuing support of this agency. As you know, my name is Marcus Cederqvist and I am the Executive Director of the Board and am joined here today by George González, Deputy Executive Director; Pamela Perkins, Administrative Manager; Steven H. Richman, General Counsel; and John Ward, Finance Officer.

#### **Overview**

The year that has passed since we came before you concerning the current fiscal year's budget has been one of the most challenging in the agency's history. The Board conducted four election events in 2008 that collectively saw more than four million New Yorkers cast a vote. In addition, the Board processed two hundred percent more voter registration forms in 2008 than it did in 2007. Already in calendar year 2009, the Board has conducted three Special Elections for City Council vacancies and is preparing for a

## FY09-FY10 OTPS PROJECTION

5-18-09

		FY09	FY10
OTPS ALLOCATION		\$69,365,767	\$68,675,379
OTPS ALLOCATION Minus HAVA Funding		\$53,895,767	\$53,505,379
Minus Rent Money and Intra-City		<u>\$17,231,848</u>	<u>\$20,428,972</u>
Adj. Total		\$36,663,919	\$33,076,407
Day to Day Spending		<u>\$5,000,000</u>	<u>\$5,000,000</u>
Adj. Total		\$31,663,919	\$28,076,407
Event Codes (Actual+Mgr Est.)			
117 Postage	\$2,500,000		
412 Rental tables and chairs	\$350,000		
417 Advertising	\$400,000		
600 Contractual	\$650,000		
615 Printing	\$12,000,000		
633 Trucks-Cabs	\$4,000,000		
414 Poll sites	\$300,000		
686 Pollworker	<u>\$15,000,000</u>		
Event code Total	\$35,200,000	<u>\$35,200,000</u>	<u>-\$35,200,000</u>
Adj. Total		-\$3,536,081	-\$7,123,593
Other Factors			
PS Deficit	-\$6,300,000	PS Deficit	<u>-\$6,500,000</u>
3 Specials Feb. 24th	-\$1,000,000		
Doitt Deficit	-\$366,000		
Bronx Special April 21st	-\$2,200,000		
2 Bronx Specials June 2nd	<u>-\$550,000</u>		
	-\$10,416,000	<u>-\$10,416,000</u>	
Balance		-\$13,952,081	-\$13,623,593
Executive Budget funding for Bronx special		\$2,500,000	
Deficit		-\$11,452,081	-\$13,623,593
		Run Off	-\$13,500,000
		adj Deficit	-\$27,123,593

## Assumptions:

All Rent and Intra-City money is spent.  
No other cuts.

Most numbers rounded

borough-wide Special Election for the vacant Borough Presidency in the Bronx. As you probably know, none of these four elections are funded.

It was more than just record voter turnout and registration activity that made the past year unique. The recent elections also saw the first implementation of a Ballot Marking Device at poll sites throughout New York City and New York State. We have had the opportunity to speak before this committee numerous times to outline the challenges that the new system imposed but the underlying truth is that the Board was required to perform double the number of tasks, notwithstanding the demands of an extraordinarily busy year, because it literally had to set up the elections twice, once on for the regular lever machines and once for the electronic Ballot Marking Devices. These tasks were conducted by the same Board of Elections staff as in previous years.

While this would have been a challenge under any circumstances, this was made considerably worse due to the lack of adequate funding for the Board's operations and obligations. At a time when everyone clearly anticipated historic activity and voter participation and when the Board's obligations were increased significantly by a Federal Court Order, its budget was reduced by more than \$7.6 million for Fiscal Year 2009. The Mayor's Preliminary Budget for Fiscal Year 2010 contains a further \$18.2 million budget reduction in OTPS operating funds and a \$2.3 million reduction in PS. These reductions of \$28.1 million are incomprehensible. Without adequate funding and support to conduct elections, the foundation of democracy in our city is compromised. The Mayor's proposed reduction in funding for next year alone is equivalent to the cost of conducting one entire citywide election.

Unlike many other agencies, virtually all of the Board's duties, responsibilities, and activities are prescribed by Federal, State, and local law. The Board does not have the discretion to delay or cancel an election based on municipal budget shortfalls. The facts are clear – all Boards of Elections throughout the state are under a Federal Court Order to replace their voting system for this year's Primary Elections. We are mandated to process candidate petitions and voter registrations. This year alone, we will process petitions for all municipal offices, including citywide offices and City Council. The budget reductions proposed by the Mayor make it impossible for the Board to conduct the Primary and General Elections for this year, not to mention the likely citywide run-off elections.

### **Current Fiscal Year (FY'09)**

Before we discuss the Mayor's Preliminary Budget for Fiscal Year 2010 and the deleterious impact that it, if adopted, would have on the voting rights of New Yorkers, we would like to quickly update you on our situation in the current fiscal year. As you know and as we have discussed during previous hearings before this committee, the Board was severely underfunded to carry out its mandated tasks during this fiscal year. At a time when the Board was concurrently conducting a record Presidential Election on the lever voting machines, deploying the additional Ballot Marking Devices at each poll site, and evaluating a new replacement voting system, the City reduced the resources to meet these challenges. The staff worked tirelessly not only to handle record volumes in all aspects of the election but also to meet the Federal Court Order that mandated a BMD at every poll site throughout New York City, thereby requiring the staff to literally set up the election twice on two different systems. As a result of the enormous work that the Board performed to meet its obligations and the initial underfunding of the PS appropriation of approximately \$5 million, we project a deficit in PS of \$6.8 million.

As already mentioned, we have also conducted three Special Elections for vacant City Council seats since the beginning of 2009 and are scheduled to conduct a borough-wide election for Borough President in April and potentially a Special Election for State Assembly soon thereafter. These unfunded events are adding to this year's deficit, which we project could reach as much as \$13.9 million for Fiscal Year 2009. We sent a letter to the Director of the Mayor's Office of Management and Budget on January 7, 2009 advising him of the agency's situation and we have not received a response.

### **Mayor's Preliminary Budget for Fiscal Year 2010**

Looking forward to the coming year, I would now like to address the budgetary needs of the Board of Elections in the City of New York for the Fiscal Year ending June 30, 2010, as well as update you on the implementation of HAVA in both the City and State of New York.

### **Ballot Marking Devices**

As you know, Boards of Elections throughout New York State, including in the City of New York, deployed a HAVA-compliant Ballot Marking Device,



or BMD, in every poll site for both the Primary and General Elections. These BMDs are essential in complying with one of the Help America Vote Act's (HAVA) most important missions – to allow all voters, regardless of their ability or disability, to vote independently and privately at the same time and place as their neighbors. The Board requested additional resources from the City to staff these new devices with dedicated poll workers to assist voters who wished to use them. Although the implementation of these new devices technically complied with the Federal Court Order, these resources were not realized and the City did not serve an important segment of the voting population by providing these dedicated poll workers. This remains a moral imperative. We appeal to the members of this committee for their support of this need.

### **New Voting Systems**

New York State's process for certifying new voting systems to permanently replace the lever voting machines continues to be beset by problems and delays. Under the Remedial Order of Judge Gary Sharpe of the United States District Court of the Northern District for New York, the State Board of Elections was to have certified the new voting systems that could be used to conduct elections in New York State in November 2008. Local Boards of Elections, in turn, were to select which system they wanted to use of these certified systems and place their orders in December 2008 for use in the September 2009 Primary Elections. Nearly four months later, the State Board has not yet certified any systems for use due to delays caused by the decertification by the federal Election Assistance Commission of the lab that was conducting certification testing. Only last Friday, March 6<sup>th</sup>, the testing lab was recertified and certification testing of the new systems will resume.

Although there has been much speculation whether these delays will allow the new systems to be available by this year's Primary Election, the fact is that Judge Sharpe's Order remains in place. As such, the Board of Elections in the City of New York has been performing the work necessary to prepare us to comply with the Judge's Order and applicable State Law, including evaluating the respective systems, conducting public demonstrations in each borough throughout the city, conducting a hearing where members of the public were able to communicate directly with the Commissioners of Elections their sentiments concerning the systems, and planning for changes necessitated by a new system. The Board's

commitment to informing and including the voters in the selection process for a new voting system continues unabated. The Commissioners have directed that this selection process be conducted in a fully open and transparent fashion and the recent public demonstrations and hearings are examples of this.

### **Election Day and Poll Workers**

The implementation of an entirely new voting system will obviously have a tremendous impact on the administration of elections in New York City. Poll workers will need extensive training to properly assist voters on Election Day and the voters themselves will need to be educated so that they understand the changes in voting well in advance of being confronted with an entirely new way of voting.

In performing the comprehensive review of the Board's poll worker operations and having had the opportunity to compare it to other jurisdictions nationwide, the Board has also identified numerous recommendations to enhance the agency's ability to recruit and train the large number of qualified poll workers that are needed. One of the key recommendations is to raise the pay for attending training classes from \$25 to a more realistic \$100. The current low compensation for attending the training sessions is reflected by poor attendance. With a longer, expanded training class and a need for much greater trainee participation, this increase is merited and greatly needed. Increasing the stipend for training will cost \$2,325,000 for the existing 31,000 poll workers during the 2009 election cycle.

Another area that the BOE identified concerns the performance award paid to certain poll workers. Currently, the award is paid as an incentive for poll workers to attend training, pass the test, and ensure that they work the two regular election events. The BOE believes that this award is a helpful tool to ensure a good return for the BOE's training investment but the current amount of \$35 is very low. We believe that raising the award to \$100 would be a better incentive for poll workers to complete all the criteria associated with the payment. The cost for increasing the award for all poll workers would be \$2,015,000 in the 2009 election cycle if all of them meet the specified performance criteria.

A similar area that merits review to ensure better participation is the post-election debriefing of poll site coordinators. Coordinators are not eligible

for the award described above but receive a mere \$25 for attending a debriefing session with the borough staff to discuss the recent election and any problems. These sessions are vitally important for the BOE staff to address problems and plan for subsequent elections. We believe that elevating the compensation to \$100 (\$50 for the Primary Election and \$50 for the General Election) will result in a greater rate of participation among the coordinators. The cost for increasing the pay for all coordinators is \$134,550 for the 2009 election cycle.

The final area concerns remuneration paid to privately owned poll sites on each Election Day. The BOE's borough staff reports that the BOE has been losing many long-time privately owned poll sites over the last few years and finds it increasingly difficult to secure new ones. Although the majority of the more than 1,350 poll sites used on Election Day are public facilities and therefore do not create a direct cost, there are 554 privately owned sites serving approximately 1,600 Election Districts (EDs) that the BOE must rent in areas where no public facilities are available. The current remuneration of \$70 per ED has remained unchanged for decades and has become severely compromised as an incentive due to the adverse effects of inflation over that time.

Several property owners who have leased space to the BOE on Election Days past have stated that the current amount is insufficient to cover the costs of heating or cooling the space for the election. The BOE believes that increasing the compensation paid to privately owned sites to \$165 per ED would help the BOE retain private poll sites at this critical time when our space needs have increased due to the addition of at least one BMD at every poll site. The additional cost is \$152,000 per election event citywide.

Poll workers are obviously an essential part of the voting experience. The Board continues to ask the City, albeit with limited success, for support to ensure that it has the resources to adequately train the poll workers. Educating the public about voting and accommodating their expectations, however, is also a critical element of successful elections and a necessary component of a new voting system implementation.

Unlike some of the changes that have occurred in voting and election administration over the years, which have been evolutionary in nature, the introduction of a new voting system for the whole city will, in fact, be revolutionary – not only for the Board's more than 350 permanent staff and

more than 30,000 Election Day poll workers, but also for the 4.6 million registered voters in New York City.

### **HAVA-Related Funding**

The Mayor and the Council demonstrated that they collectively recognized this need by appropriating funds for HAVA implementation in previous budgets. The Board has been careful not to spend these funds until the new voting systems are certified and they previously were rolled-over from one year to the next as the State Board has experienced delays with certification – a clear collective recognition of the importance of the public education program and other aspects that these funds were dedicated to addressing. However, now when the city and state are on the verge of implementing a new voting system for all voters, these vital funds have been eliminated entirely in the Mayor's Preliminary Budget for Fiscal Year 2010. The Board needs for all unexpended funds appropriated for these uses last year in both the Expense and Capital Budgets be re-appropriated for Fiscal Year 2010.

The most pressing concern for the Board is our ability to successfully manage our responsibility to conduct fair and honest elections while making the most dramatic transition in the history of elections administration in the City of New York. If the Board was to conduct elections in the manner that it has refined over the years, there would be no need for outside support or assistance. Clearly, that is not the case and the Board has benefited from the assistance of outside support to ensure that these dramatic implementations are done seamlessly.

When we came before you last year, we noted that we were not completely sanguine that OMB fully understands the need for the Board to have the necessary funding to comply with both the Federal and State mandates under HAVA and the State's implementing legislation. Given the severity of the proposed budget reductions, we at this point do not believe that they understand any of the aspects of the Board's legal obligations to conduct fair and honest elections under the law. As mentioned previously, these cuts represent the elimination of an entire citywide election.

In December 2005, the Board, upon the recommendation of the Mayor's Task Force on Election Modernization, retained Gartner Consulting to provide Project Monitoring, Quality Assurance, Project Management, and Mentoring Services. Gartner Consulting has several active engagements

at various City agencies for change management projects and they have been a tremendous assistance to the Board as we have embarked on these extraordinary transitions. Gartner has been a major contributor to our ability to rapidly respond to the State Board's proposed Voting Systems Standards and the series of Federal Court Orders. In the Mayor's Preliminary Budget for Fiscal Year 2010, funding for Gartner's services has been eliminated. The Board wants and needs Gartner to continue to work with us on the full range of HAVA implementation tasks.

Another outside vendor that has been contracted to help with a specific HAVA-related task is Burson-Marsteller. As we reported last year, they are a professional communications firm that had been contracted to assist us in the design, development, and implementation of a comprehensive voter education and outreach program for the new voting system. Burson-Marsteller's high-level plan was reviewed and approved by the Commissioners last year but funding the actual execution of the public information initiative was eliminated in the Mayor's Preliminary Budget for Fiscal Year 2010. The long-planned direct mailings to voters describing the new voting system and the production of a new poll worker training video are similarly casualties of these proposed budget cuts.

### **Facilities**

The Board's voting machine facilities need to be modernized and significantly upgraded in order to service and maintain new electronic voting systems. The Board acquiesced to many temporary interim measures to accommodate the BMDs last year and learned many valuable lessons concerning the importance of having adequate facilities to handle electronic systems. Although our staff has been working diligently with the Department of Citywide Administrative Services to secure the upgrades and enhancements needed, such as increased electrical capacity and environmental controls, progress has been slow and we are ill-positioned to accept new voting systems should the State Board certify soon.

Similarly, the desperate need for additional space at Board's Executive Offices, located at 32/42 Broadway, continues to be a source of great concern. The city recognized the need to accommodate staff and onsite consultants by including funding for additional space on the building's third floor in the Fiscal Year 2009 Budget. We regret to report that, nine months

into the current fiscal year, DCAS has not secured this additional workspace despite its being properly funded.

### **Language Assistance**

As you know, the Board is required to translate its materials and provide language assistance in Spanish, Chinese (both Mandarin and Cantonese), and Korean under the Voting Rights Act of 1965. The Board last year settled a lawsuit by language assistance advocates that sought to expand language coverage in affected areas throughout the city. The Mayor's proposed Preliminary Budget calls for a loss of an additional six positions. Implementation of that cut would result in the Board's inability to meet its language assistance obligations.

In helping devise and negotiate the Language Assistance Program, Corporation Counsel's Office encouraged the Board to seek additional funding to implement and coordinate the Language Assistance Program. Among the Board's new needs is the creation of a new position to coordinate the program at an annual cost of \$71,671. In addition, the Board requires \$100,000 to conduct a media campaign to recruit and retain qualified poll site interpreters.

### **Candidate Records Unit**

The Candidate Records Unit (CRU) is responsible for processing most of the documents received by the Board, including those relating to the petition process and all campaign financial disclosure reports. In order to accomplish its multiple missions, CRU has undertaken a comprehensive effort to move from a paper based records system to an electronic one.

Recently the task of ballot preparation was assigned to the unit. CRU, now composed of a supervisor and six staff members, needs to be augmented by the authorization of and the funding for two additional positions. The unit needs two (2) Administrative Associates (each at an annual salary of \$44,646), one who will be responsible for coordinating the printing of ballots and related materials, as well as the production of audio ballots, and the other who will have principal responsibility for the processing of financial disclosure filings.

### **Management Information Systems**

Management Information Systems (MIS) is essential to the operations of the Board of Elections. There are three contracts that are up for renewal that receive capital funding. One of these contracts is with Sagesmith, LLC (\$1.1 million for two years) for software development and maintenance of the Candidate Processing and Election Sub-System (CPESS) and for the development of an interface with the new voting system. Another contract is with N-Tier Technology, LLC (\$1.1 million for two years) for software development and maintenance of the Board's Archival for Voter Images and Data voter registration system (AVID) and compatibility with the statewide voter database required under HAVA. The final contract renewal is with Information Methods, Inc. (\$400,000 for two years) for project management for the CPESS, AVID, and S-ELECT systems and the expected requirements for interfacing with the new voting system.

The MIS department also critically needs \$100,000 to procure new voter registration image scanners for the borough offices to handle the increased volume of voter registrations.

### **Voting Equipment Operations Unit**

The Voting Equipment Operations Unit requires two additional Associate Staff Analysts. With the introduction of 1,798 Ballot Marking Devices this year, while also servicing our current fleet of 7,700 mechanical lever voting machines, and the with need to establish additional voting machine facilities to accommodate the new BMDs, additional support and supervision is required. Two (2) new staff members are required to supervise activities at the voting machine facilities, monitor contracted vendor performance, and insure that the necessary record keeping activities are conducted. These staff members would also review all procedures related to the voting machine facilities and insure legal compliance, including mandates by amendments to the New York State Election Law. Finally, as we anticipate selection of a new permanent voting system, they will both assist in the selection process as well as be trained to monitor and review all voting system and related support activities. The Board projects that each of these new staff members will be paid \$61,383, for a total annual cost of \$122,766.

## **Facilities and Security**

The Board, like every agency in government, is aware of the need to address certain safety and security issues. Specifically, security at the entrances of our Executive Offices need to be enhanced. Our staff and the myriad important documents filed at these locations, such as petitions and financial disclosure forms, should be secured in a safe environment. We estimate that the costs of the required renovations and enhancements to our offices are \$450,000.

In the Fall of 2003, the Board retained the services of a licensed security firm to provide a uniformed and armed presence at our Executive Office. The Board believes the presence of uniformed, armed officers helps ensure the safety of our employees and the orderly conduct of the public. Last year, the Board requested an appropriation of \$420,000 to contract for this service at both our Executive Office and at our five Borough Offices. The Adopted Budget for FY'09 did not provide any funds, however, nor is it included in the FY'10 Preliminary Budget. We ask the Mayor and the Council to provide this modest amount to insure that all of our employees and the public can participate in our democratic process in a safe and secure environment.

## **Legal Services**

The implementation of HAVA and increasingly frequent litigation on a whole range of legal issues that fall within the Board's jurisdiction led us to request funding for two additional in-house legal staff positions in the Office of the General Counsel last year. Currently, the Board's General Counsel is the only full-time attorney on staff and is responsible for the entire range of Board activities aside from Campaign Financial Disclosure and Reporting. During the crunch of the notorious petition process, we have retained temporary legal staff who, while helpful, lack the necessary background and skills necessary to deal with some of the complex legal issues the Board has dealt with, and will deal with in the future. From HAVA compliance to poll site accessibility to procurement issues, an agency such as the Board needs at least two additional full time attorneys to help manage its legal operations.

The Board sought to create two Assistant General Counsel positions each at a salary of \$75,000 per year for an annual cost of \$150,000. In last year's adopted budget, only one of these positions was funded. The need



for the additional position remains undiminished and my testimony today reflects the ever-expanding need for additional legal services at the Board. The Board therefore renews its request for a second Assistant General Counsel's position at \$75,000 per year.

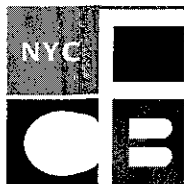
### **Pay Equity**

Although the dire nature of the current fiscal environment does not set the stage well for my final point, I would be remiss if I did not take this opportunity to once again remind you about the severe pay disparity between employees of the Board and those of other City agencies and other Boards of Elections in neighboring jurisdictions. Rather than expand on the matter at this time, I would be happy to provide you with further information concerning this important matter upon request.

### **Conclusion**

The conduct of fair, honest, and open elections is a fundamental right in our democracy and the cuts made by the City to the Board's budget in Fiscal Year 2009 and the further reductions proposed in the Mayor's Preliminary Budget for Fiscal Year 2010 at a critical time has put our democracy in peril. As a result of the City's action, the Commissioners of Elections have been placed in an untenable position of either fulfilling their legal obligations despite the lack of adequate funding or deciding collectively that the City's failure to adequately fund elections vitiates their legal obligations, thereby disenfranchising voters in New York City. Protecting the rights of the voters of this city is paramount. It is an understatement, at best, when I state that we need your support and assistance if we are to succeed.

I thank you again for your time and for allowing me to come before you on behalf of the Board of Elections in the City of New York today. As always, my colleagues and I are available to answer any questions that you may have.



## **New York City Campaign Finance Board**

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### **Testimony of Amy Loprest Executive Director New York City Campaign Finance Board**

#### **City Council Committees on Finance and Governmental Operations May 18, 2009**

Good morning, Chairman Sears, Chairman Weprin, and Committee members. I am Amy Loprest, Executive Director of the New York City Campaign Finance Board (CFB). With me are Deputy Executive Director Shauna Tarshis Denkensohn and General Counsel Sue Ellen Dodell.

#### **FY2010 Budget**

Pursuant to the New York City Charter, Section 1052(c), the Board submitted its estimated budget for fiscal year 2010 to the Mayor in March. As is required by the Charter, this estimate has been included in the Mayor's Executive Budget. The budget request is attached to this testimony.

The Board's budget for fiscal year 2010 is consistent with previous citywide election years. The allocation for the campaign finance fund to provide matching payments to candidates is dramatically increased in a citywide election year. Our budget for fiscal year 2010 allocates \$50,800,000 for the fund. As in previous years, unused portions of the campaign finance fund will be returned to the City's General Fund after the elections are concluded.

The Board's request also includes funds for the citywide Voter Guide. As you know, the Board publishes and distributes the non-partisan Voter Guide to every New York City household with a registered voter. All candidates, whether or not they participate in the Campaign Finance Program, have an equal opportunity to make a statement in the Guide. The Board's allocation for the Voter Guide for this election year is approximately \$7.6 million. The Board anticipates mailing nearly 6.4 million guides: 2.7 million guides for the primary election and 3.6 million for the general election. After our appearance before the Committee on Governmental Operations on March 12, 2009, the Board submitted a letter to Chairman Sears which contains a more detailed breakdown of the costs associated with the Voter Guide.

These increased cost projections for the campaign finance fund and the Voter Guide are based on our experience from prior citywide elections. As a result, the Board's budget request for the coming year contains a significant increase beyond the current year's budget. Still, it is important to note that this request represents a decrease from the CFB's budget for the previous citywide election year in 2005. Where we are able to contain costs, we are doing so. Outside of the matching funds and the Voter Guide, our costs will decrease from the current fiscal year to the next by approximately \$650,000.

### **2009 Elections**

The Board is busy with preparations for the 2009 elections. This past Friday, May 15 was the filing deadline for Disclosure Statement #8, covering funds raised and spent over the two months ending Monday, May 11, 2009. As of Friday, there are 263 active candidates registered with the Board.

The deadline for candidates to certify as participants in the Campaign Finance Program is June 10, 2009. 46 candidates have already filed their certifications. Local Law 34 of 2007 moved the certification deadline from June 1 to June 10, giving candidates more time to make their decision to enter the Program. June 10 is also the deadline for candidates to submit their information to be printed in the 2009 Voter Guide.

**Candidate Outreach:** The Board continues to offer its enhanced training program for candidates, with the CFB's Candidate Services Unit (CSU) certifying 230 campaigns as having completed the two-part training course to date. The Board is also helping make compliance easier for campaigns by focusing on early intervention. In addition to increasing the number of trainings we offer, we are scheduling compliance visits with campaigns earlier in the cycle, and we are working hard to utilize more plain language in our communications with campaigns.

**Debate Program:** Since the 1997 election, the Board has administered mandatory debates among participating candidates for mayor, public advocate, and comptroller. The Campaign Finance Act specifies two debates before the primary election and two before the general election for each office. Earlier this year, the Board solicited applications from groups interested in sponsoring the debates for the 2009 elections. After reviewing those applications and conducting a series of interviews, the Board has tentatively selected sponsor groups to host the debates, and plans to publicly announce the 2009 debate schedule at a press conference next month.

**Doing Business:** As amended by Local Law 34 of 2007, the Campaign Finance Act places low limits on contributions from those doing business with city government. The new law, in effect for the 2009 elections, gives New York City the most comprehensive limits on "pay-to-play" of any jurisdiction in the country. The Board completed its timely review of contributions filed in March as required by the law, and the review process for the May 15 filing has begun.

**Other Innovations:** The Board continues to improve our web-based informational gateway for candidates, called C-Access, which offers campaigns an instant and secure link to an array of useful information and services online.

Last week, the Board also unveiled an updated and improved online searchable database, which brings greater transparency to the City's political process and provides the public

with easier access to campaign finance records reported by candidates. The update offers new search capabilities and an improved, user-friendly interface.

### **Conclusion**

As always, the CFB looks forward to continuing to work with the Council to make the Program more effective and efficient. Thank you for your time, and we look forward to answering any questions you may have.

**NEW YORK CITY CAMPAIGN FINANCE BOARD OPERATING BUDGET**  
**FISCAL YEAR 2010**

	CHANGES FROM 2009 ADOPTED	FISCAL 2009 ADOPTED	FISCAL 2010 CFB BUDGET
PERSONAL SERVICES (PS)	-\$144,694	\$6,430,217	\$6,285,523
OTHER THAN PERSONAL SERVICES (OTPS)			
OTPS	-\$501,500	\$3,397,000	\$2,895,500
VOTER GUIDE	\$7,144,000	\$425,000	\$7,569,000
NYC CAMPAIGN FINANCE FUND	\$49,300,000	\$1,500,000	\$50,800,000
SUB TOTAL OTPS	\$55,942,500	\$5,322,000	\$61,264,500
<b>TOTAL</b>	<b>\$55,797,806</b>	<b>\$11,752,217</b>	<b>\$67,550,023</b>

HEADCOUNT	CHANGE FROM 2009 ADOPTED		FY2009		FY2010	
	Full Time	Seasonal	Full Time	Seasonal	Full Time	Seasonal
	-6	-2	89	7	83	5