

employee organization, or other non-merit factor. In order for the Administrator to fully leverage broad-ranging experience and education, the NAC must be diverse with regard to professional and technical expertise. The Administrator will also pursue opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people, and will strive to achieve a widely diverse candidate pool for all NAC recruitment actions. Current DHS and FEMA employees, including FEMA Reservists, are not eligible for membership. Federally registered lobbyists may apply for positions designated as Representative appointments but are not eligible for positions that are designated as SGE appointments.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

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DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2022-0009]

Homeland Security Academic Advisory Council

AGENCY: Office of Partnership and Engagement (OPE), Department of Homeland Security (DHS).

ACTION: Request for applicants for appointment to the Homeland Security Academic Advisory Council (HSAAC).

SUMMARY: The Secretary of Homeland Security (Secretary) is requesting senior-level individuals who are interested in serving on the Homeland Security Academic Advisory Council (HSAAC), a discretionary federal advisory committee, to apply for appointment as identified in this notice. Pursuant to the Secretary's authority within the Homeland Security Act, this agency-led committee will be established and will operate under the provisions of the Federal Advisory Committee Act (FACA). The primary purpose of the HSAAC will be to provide advice and recommendations to the Secretary and DHS senior leadership on matters related to homeland security and the academic community.

DATES: Resume and category of interest will be accepted until 11:59 p.m. Eastern Standard Time on February 15, 2022.

ADDRESSES: Due to COVID-19 safety precautions, mailed applications will not be accepted. The sole method of

submission is via email to DHSAcademic@hq.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

Acting Executive Director Traci Silas via email at DHSAcademic@hq.dhs.gov or via phone at 202-603-1142.

SUPPLEMENTARY INFORMATION:

In addition to this notice, DHS may solicit members through correspondence with its existing contact list of faith-based organizations, Congressional partners, and White House staff.

Members of the HSAAC are appointed by the Secretary for specified terms of appointment. The HSAAC membership selection and appointment process is designed to ensure continuity of HSAAC membership, and to afford the Secretary the advisory input of the most capable, diverse, and novel perspectives that the country has to offer. Individuals who are interested in serving on the committee are invited to apply for consideration for appointment. There is no application form; however, a current resume and category of interest is required. The appointment will be for a term of up to 3 years. Individuals selected for the appointment will serve as Representatives or regular government employees (where applicable). All non-federal members must also complete a background investigation, a gratuitous service agreement and a non-disclosure agreement.

HSAAC will meet as often as needed to fulfill its mission, but typically four times each fiscal year to address its objectives and duties. The committee will aim to meet in person at least once each fiscal year with additional meetings held via teleconference. HSAAC members may be reimbursed for travel and per diem incurred in the performance of their duties as members of the committee. All travel for HSAAC business must be approved in advance by the Designated Federal Officer. To the extent practical, members can serve on any subcommittee that is established.

DHS does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. DHS strives to achieve a diverse candidate pool for all its recruitment actions.

The HSAAC will consist of up to 30 members who are appointed by and serve at the pleasure of the Secretary. In order for the Secretary to fully leverage broad-ranging experience and education, the HSAAC must be diverse with regard to professional and

technical expertise. DHS is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people. Members are appointed as representative members, except that members from federal agencies are appointed as non-voting ex-officio members. To ensure a diverse, inclusive and balanced membership, membership includes the following:

(a) Up to four members representing higher education associations

(b) Up to two members representing higher education law enforcement, public safety, and emergency management associations

(c) Up to two members representing four-year colleges and universities

(d) Up to two members representing two-year community colleges

(e) Up to two members representing Historically Black Colleges and Universities (HBCUs)

(f) Up to two members representing Hispanic serving institutions

(g) Up to two members representing Tribal colleges

(h) Up to two members representing the Asian American, Native American and Pacific Islander serving institutions

(i) Up to four members representing K-12 school systems, to include schools, school systems, and state educational agencies

(j) Up to two members representing Education Employee Associations/Labor Organizations

(k) Up to one member from the DHS Science and Technology Center of Excellence

(l) Up to one member from Cybersecurity and Infrastructure Security Agency (CISA) School Safety Task Force

(m) Up to one member from the DHS Center for Prevention Programs and Partnership

(n) Up to one member from US Secret Service National Threat Assessment Center

(o) Up to one member from Federal Emergency Management Agency (FEMA) higher education initiatives

(p) Up to one member from the DHS Office for Civil Right and Civil Liberties (CRCL)

(q) Up to one member from the Department of Education

(r) Up to one member from the Department of State

(s) Up to one member from the Department of Justice

(t) Up to one member from the Department of Health and Human Services

HSAAC is the sole advisory committee and public forum within DHS providing advice on matters

relating to DHS's engagement with the academic community.

Zarinah T. Silas,

Acting Executive Director and Acting Designated Federal Officer.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[222A2100DD/AAKC001030/
A0A501010.999900]

HEARTH Act Approval of Pascua Yaqui Tribe of Arizona Solar and Renewable Energy Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Pascua Yaqui Tribe of Arizona Solar and Renewable Energy Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into wind and solar leases without further BIA approval.

DATES: BIA issued the approval on December 22, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, sharlene.roundface@bia.gov, (505) 563-3132.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the

Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Pascua Yaqui Tribe of Arizona.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 5108 preempts State taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, 799 F.3d 1324, 1331, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of

the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” H. Rep. 112–427 at 6 (2012).

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 810 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 810–11 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See 25 U.S.C. 415 (h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for