Texas Cities and Counties: Time to Act Before the OZ 2.0 Nomination Window Closes

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One Big Beautiful Bill Act
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On July 4, 2025, President Trump signed the One Big Beautiful Bill Act (OBBBA), making the federal Opportunity Zone (OZ) tax incentive program a permanent part of the Internal Revenue Code. For Texas cities, counties, and economic development organizations, this is not abstract tax policy. It is a chance to direct billions of dollars of private capital into local communities.

The window to act closes this summer.

Texas will nominate roughly 605 new census tracts under OZ 2.0 between July and August 2026. The Texas Economic Development & Tourism Office (EDT) is asking economic development organizations and county judges to submit nominations no later than June 26, 2026. Tracts that local jurisdictions fail to nominate will not be considered. The next nomination window does not open back up for 10 years.

What Changed Under OBBBA

OBBBA keeps the core architecture of the OZ program (capital gains deferral, a basis step-up at five years, and exclusion of post-investment appreciation after 10 years), while also making several material changes:

- **Permanence.** The OZ incentive is now a permanent feature of the Code rather than a temporary program set to sunset at the end of 2026.
- **Rolling deferral.** For investments made after December 31, 2026, deferral runs five years from the investment date instead of to a fixed deadline.
- **Tighter eligibility.** Median family income (MFI) for an eligible tract must now be below 70% of area median, down from 80%. The contiguous tract exception is gone. Tracts with

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poverty above 20% are disqualified if MFI exceeds 125%.

- **Qualified Rural Opportunity Funds (QROFs).** OBBBA creates a new category of fund directed at rural OZ tracts. QROF investments receive a 30% basis step-up at five years (rather than 10%) and a reduced 50% substantial-improvement threshold (rather than 100%). This change is already in effect under IRS Notice 2025-50.

The Texas Timeline

EDT will lead the Texas nomination process. The relevant dates are as follows:

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What Texas Local Governments Are Doing Now

The pre-nomination work is where the consequential decisions get made. EDT will give weight to local incentive packages, demonstrated investor interest, and tracts where capital can realistically deploy in 24 to 48 months. Cities, counties, and economic development organizations should be evaluating:

- **Eligibility.** Which tracts satisfy the new 70% MFI threshold and the revised poverty rate criteria? Tracts that qualified under OZ 1.0 may not qualify under OZ 2.0.
- **Rural classification.** Are any candidate tracts rural under Notice 2025-50? Rural status changes project economics in ways that may make deals feasible that were not feasible under OZ 1.0.
- **Local incentive alignment.** Are candidate tracts supported by Chapter 380 or 381 agreements, Type A or Type B economic development corporation participation, Tax Increment Reinvestment Zone (TIRZ) overlays, tax abatements, or successor-to-313 commitments under Chapter 403? EDT will look for documented local commitment.
- **Pipeline projects.** Are there identified developers, capital sources, or projects (workforce housing, mixed-use, light industrial, healthcare, infrastructure, data centers, or operating

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businesses) prepared to deploy within 24 to 48 months of designation?

- **Regional coordination.** Tracts across South Texas, the Rio Grande Valley, El Paso, and rural border and energy corridor counties often share characteristics across jurisdictional lines. Coordinated regional submissions can present a stronger package than isolated nominations.

Details and Contacts Matter

EDT is staffed by appointees of the governor and works closely with the governor's office on economic development priorities. The selection process is not a pure scoring exercise. It is a state-level political and policy decision that weighs relationships, regional balance, gubernatorial priorities, and the credibility of the nominating jurisdiction.

Local governments that approach EDT cold, with a packet and a hope, are at a structural disadvantage. Local governments that arrive with a documented incentive stack, a credible project sponsor, and a Texas advocate who knows the building and the people in it are positioned very differently.

Rural Enhancements Deserve Particular Attention

About 60% of existing Texas OZ tracts are in rural areas, which is any area with less than 50,000 people. Under OZ 1.0, rural tracts received only a small fraction of total OZ investment nationally. The OBBBA QROF treatment is intended to change that. A 30% basis step-up at five years (tripled relative to urban OZ investments) paired with a 50% substantial-improvement threshold (halved relative to the urban standard) materially improves the after-tax return on rural OZ projects. For Texas, this matters most in the following areas:

- The Rio Grande Valley, where Cameron, Hidalgo, Starr, and Willacy counties contain large concentrations of low-MFI tracts

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- South Texas border counties, including Webb, Maverick, and Zapata
- West Texas and Panhandle communities active in data center, energy, and agricultural processing investment
- Rural East Texas timber, agribusiness, and small manufacturing communities

Local governments in these areas should confirm rural classification under Notice 2025-50 early and document it clearly in their nomination submissions.

Stacking OZ With Other Incentives

OZ equity rarely funds a project on its own. For most Texas local government projects, OZ capital is one piece of a stack that may also include Chapter 380 or 381 agreements, Type A or Type B EDC participation, TIRZ reimbursement, property tax abatements, New Markets Tax Credits, Low-Income Housing Tax Credits, Historic Tax Credits, private activity bonds, and state and federal infrastructure programs.

Designed and negotiated together, these tools form the public-private partnership (P3) structures that make complex projects financeable. The structural questions, including who owns what, who bears which risks, and how cash flows are prioritized, are not afterthoughts. They are the heart of the deal, and they need to be considered at the nomination stage, not after a developer has committed capital. FBT Gibbons' P3, public finance, and economic development counsel work these issues together as a single team.

Practical Recommendations

- **Inventory candidate tracts now.** Have eligibility, MFI, poverty rate, and rural classification confirmed in writing before June 26, 2026.
- **Document local incentive commitments.** Generic letters of support are not enough. EDT is looking for concrete, board-approved incentive packages tied to specific tracts.

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- **Identify project sponsors.** Nominations supported by named developers, fund managers, or investors carry more weight than nominations submitted in isolation.
- **Engage counsel early.** Eligibility, incentive documentation, P3 structuring, and public finance compatibility are interrelated and should be evaluated together.
- **Have a voice in Austin.** Local governments without an advocate inside the state process are at a disadvantage. The OZ 2.0 selection runs through EDT and the governor's office, and the people who know that process matter.

Time Is of the Essence

Decisions made between now and June 26 will shape where private capital flows in Texas communities for the next decade. The OZ 2.0 program is permanent. The designation cycle is not. Tracts that miss this cycle wait until 2036.

For questions about Texas OZ 2.0 nominations, fund formation, or related public finance and P3 matters, please contact the authors or any attorney in FBT Gibbons' Lobbying & Public Policy or Public Finance practice groups.

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