Maryland Opportunity Zones 2.0
Requesting Eligibility for Tracts Not on Treasury's List
Guidance and Frequently Asked Questions

Executive Summary

The US Treasury published a list of census tracts which are eligible for designation as Opportunity Zones ("OZs") in April of 2026 which the Maryland Department of Housing and Community Development ("DHCD") uploaded to this interactive map. Generally, both the US Treasury and the State of Maryland recommend against requesting designation for any tract not included on this initial list as the path for approval is narrow. However, for high-impact projects that could benefit from an OZ designation, exception requests may be considered. This document details the process to submit these exception requests.

Census Tract Eligibility

Per IRC § 1400Z-1(c)(1), a census tract is eligible for OZ designation if it meets one of the following conditions:

I. such population census tract has a median family income that-
   A. in the case of a population census tract not located within a metropolitan area, does not exceed 70 percent of the statewide median family income, or
   B. in the case of a population census tract located within a metropolitan area, does not exceed 70 percent of the metropolitan area median family income, or

II. such population census tract-
   A. has a poverty rate of at least 20 percent, and
   B. has a median family income that-
      1. in the case of a population census tract not located within a metropolitan area, does not exceed 125 percent of the statewide median family income, or
      2. in the case of a population census tract located within a metropolitan area, does not exceed 125 percent of the metropolitan area median family income.

451 census tracts in Maryland were designated as eligible for designation. To make this determination, the US Treasury utilized the 2020-2024 American Community Survey (ACS) 5-Year and the 2020 Decennial Census of Island Areas (DECIA) data sets from the Bureau of the Census (Census Bureau). However, Treasury recognizes that the data has some margin of error and, as a result, there may be census tracts that meet the eligibility conditions above that were not included on the eligibility list.

Exception Requests

While the US Treasury will consider off-list nominations from Governors, they are restricted by US statute to only consider metrics related to median family income and poverty rates. As such, the Treasury will not consider a project's merit, a community's need, or a program's mission. In short, to have an exception request approved, states must prove (with data) that the initial eligibility determination was inaccurate.

In July, Treasury provided updated guidance to the State of Maryland on this process:

(1) All exception requests must be made on a **census-tract level.** This means that the Treasury will not consider exception requests that focus on a subdivision of a larger census tract alone.
(2) Exception requests must be submitted as soon as possible, with **August 15th, 2026** being the target submission deadline.
(3) Eligibility and/or subscription rates for poverty-based programs such as Medicaid are acceptable data points to substantiate an exception request.
(4) Updated market analysis, including community surveys, may be submitted as evidence of eligibility.
(5) Full datasets must be provided along with the exception request so that Treasury may review and make eligibility determination after reviewing.
(6) The Treasury strongly prefers open-source / national data so there is no dispute over state-specific statistics. If a state can make an exception case using the Treasury's own published data, that is the strongest possible position. If the State or County have dedicated transparent and defensible data, that data can be used to present justification in lieu of Census data.

Frequently Asked Questions

Q. My tract isn't on the Treasury's eligible list. Can I still get it nominated?

A. Possibly, but only through a narrow, data-based pathway under Section 5.04 of Rev. Proc. 2026-14. You must submit a detailed analysis, with current tract-level data, showing the tract actually meets the low-income-community (LIC) threshold. This is a **data-correction** process, not an appeal on the merits.

Q. What are the eligibility criteria?

A. There are two eligibility tracks:

(1) **Median Family Income Threshold**: Under OZ 2.0 (OBBBA), a tract's **Median Family Income (MFI) does not exceed 70%** of the areawide or statewide MFI (or the metropolitan area median family income, whichever is greater). This is stricter than the OZ 1.0 threshold of 80%. Poverty rate is the other qualifying measure.
(2) **Poverty Rate Threshold**: The tract has a **poverty rate of at least 20%** AND a Median Family Income (MFI) that does not exceed 125% of the surrounding area (metropolitan or statewide) median family income.

Q. What data does the Treasury use?

A. The 2020-2024 American Community Survey (ACS) 5-Year and the 2020 Decennial Census of Island Areas (DECIA) data sets from the Bureau of the Census (Census Bureau).

Q. What kinds of arguments does the Treasury consider?

A. That the published poverty or MFI figure is **factually wrong or outdated** and that correct data demonstrates that the census tract meets the threshold. The adjudication process will not weigh other factors that were not written into the statute.

Q. What will NOT be adequate request rationale?

A. Anything other than the poverty/MFI data, Treasury most likely will not weigh:

- The size, quality, or transformational potential of a planned project.
- Jobs created or investment dollars at stake.
- How much the community needs help, or how distressed it feels.
- What Congress "**intended**" or what the program is "**for**."

A. A compelling project with a weak data case will not be approved. A modest tract with a solid data-accuracy case can win. Re-adjudication is a math check, not a worthiness judgement.

Whether It's Worth Trying

Q. How do I know if my tract is even a candidate?

A. Screen it against three questions. You need all three to be "**yes**":

- **Is it close to the threshold?** Far-off tracts cannot be bridged by a data correction.
- **Is the published estimate statistically fragile?** Small population, high margin of error, or a known boundary change, these are the types of estimates that can actually move.
- **Do you have, or can you affordably collect, real data proving the figure wrong?** No data, no case.

Q. What counts as "proof the data is wrong"?

A. Three recognized paths: **(1) a current survey** which produced a methodologically sound enumeration showing the true figures; **(2) administrative data**, e.g., Medicaid enrollment covering most of the tract mathematically establishes the poverty threshold. In all three, the burden is on you to produce Census-grade evidence; or **(3) other trustworthy datasets** that can be provided to make the case regarding MFI and poverty rate at a census tract level.

Q. What does that mean for my project?

A. It's a fair but demanding standard. If you bring solid, reproducible data, Treasury will consider it. But if you bring no data or weak data, the tract stays as published.

The Realities To Plan Around

Q. Does collecting data cost money?

A. Yes, there could be a potentially significant cost to collect data.. A defensible survey or a structured administrative-data analysis presents significant amounts of work. Budget for it before you commit. The one path that may not require new collection is administrative data (e.g., Medicaid) that already exists in state systems — though it still must be structured to Treasury's standard.

Q. What's the deadline?

A. The Treasury has requested that the data be submitted as soon as possible. The State of Maryland needs to receive data by **August 15th** to submit in time for the Treasury to review and provide a determination.

Q. Should I try, or focus my energy elsewhere?

A. For most counties, the honest answer is that the most efficient path is to focus your energy on making the strongest case for the tracts you have that are *already* on the Treasury's eligible list. The ineligible-tract pathway is very narrow and the State of Maryland will pursue the request only where a genuine data-accuracy case exists. If you think your tract clears the three-question screen above, contact us early and we'll help you assess it honestly — including telling you if it won't work, so you don't waste scarce time.

How Maryland Will Handle These Requests

Q. Will the State submit every request a county makes?

A. No. The State submits nominations under the Governor's authority, and will exercise the ineligible-tract pathway selectively where there is a genuine, data-based case. We will sort candidates using Treasury's own screen (close to threshold, fragile estimate, real data available), so the decision is grounded in the data.

Q. Who should I contact regarding this process?

A. Albert Bossar, Director of Strategic Business Initiatives, Division of Business Development. Contact email: albert.bossar@maryland.gov .

This FAQ is general guidance, not legal advice, and reflects general advice and positions as of the date of preparation. Treasury's guidance and timelines may evolve; confirm current requirements with the Division before submitting. Final nominations are made under the Governor's authority.