



OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM



# Investing in Texas

**A guide for foreign investment**

**February 2009**

**Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428  
512-936-0100**

**[www.TexasWideOpenForBusiness.com](http://www.TexasWideOpenForBusiness.com)**





## OFFICE OF THE GOVERNOR

RICK PERRY  
GOVERNOR

### Greetings:

As a global leader in economic development and commerce, Texas is committed to working with employers worldwide to ensure job creation and economic prosperity. Named as the "U.S. State of the Future" by *Foreign Direct Investment* magazine, the Lone Star State takes pride in its record-setting business climate.

Texas is wide open for business, as is evidenced by the fact that our state is America's largest exporting state for the seventh consecutive year, with 2008 exports valued at more than \$192 billion. Our diverse economy ranges from the traditional base of oil and gas to emerging industries such as nanotechnology and biotechnology.

Texas is among the states with the lowest business tax burden, and has no personal income tax and more Fortune 500 and Fortune 1000 companies than any other state. Our infrastructure, geographic location and business climate are optimal for business expansion and relocation. Throughout the state, employers have access to vast resources instrumental to their companies' ability to grow and prosper, including a well-educated, highly skilled workforce.

In 2004, Texas introduced a comprehensive job creation effort targeting six key industries: advanced technology and manufacturing; energy; aerospace and defense; biotechnology and life sciences; information and computer technology; and petroleum refining and chemical products. Texas presents unique advantages in these fields, including the potential for support from the Texas Emerging Technology Fund (ETF) and the Texas Enterprise Fund (TEF). More than \$367 million has been awarded through the deal-closing TEF, bringing more than 52,300 new jobs and generating more than \$13.8 billion in capital investments to the state.

In 2005, the Texas Legislature established the \$200 million ETF to create jobs and grow the economy over the long term. Already, more than \$140 million has been awarded by the ETF, which expedites the development and commercialization of new technologies. The 80<sup>th</sup> Texas Legislature reauthorized the ETF, making more than \$185 million available during the 2008-09 biennium.

Texas is doing what it takes so that businesses can be successful in our great state. To explore how your business could prosper in Texas, contact Aaron Demerson, executive director of my Economic Development and Tourism division, by phone at (512) 936-0001 or by e-mail at [ademerson@govomr.state.tx.us](mailto:ademerson@govomr.state.tx.us).

Sincerely,

A handwritten signature in black ink that reads "Rick Perry".

Rick Perry  
Governor



OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## TABLE OF CONTENTS

- 1) Texas Business Advantages
- 2) Texas in the Global Economy
  - a) International Relationships
  - b) Texas Exports
  - c) Foreign Trade Zones
  - d) Multinational Companies
- 3) Legal Requirements
  - a) Business Structure and Name
  - b) Business Tax Responsibilities
  - c) Permits and Licenses Required
  - d) Business Employer Requirements
  - e) Additional Resources
- 4) Tax Structure
  - a) Income Tax/Franchise Tax
  - b) Property Tax
  - c) Sales and Use Tax
  - d) Workers' Compensation
- 5) Incentives and Training
- 6) Hiring Foreign Workers / Targeted Employment Areas
- 7) Intellectual Property
  - a) Trademarks, Patents and Copyrights
  - b) Trade Secrets
- 8) Appendices
  - a) Business and Industry Data Center
  - b) Foreign Trade Zones in Texas
  - c) Foreign Bank Offices in Texas
  - d) Import and Export Regulations





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Texas Business Advantages

- Texas is America's Top State for Business according to the results of a CNBC study that scored each state on 40 different measures of competitiveness. (*CNBC*, July 2008)
- Texas ranked No. 1 according to corporate site seekers across the country polled for the Executive Survey Business Climate Rankings 2008. (*Site Selection*, November 2008)
- Texas ranks No.1 according to Financial Times "State of the US Economy," which ranked all 50 states, comparing employment rates, gross state product growth, personal income growth, and foreclosure rates. (*Financial Times*, October 2008)
- Texas ranks No. 1 on the 2008 *FORTUNE* 500 and 1000 lists, for the most number of corporate headquarters located within the state (*FORTUNE*, April 2008) and # 2 on Fortune's "100 Best Companies to Work For" list, with 23 companies. (*FORTUNE*, January 2009)
- Texas has the second largest civilian workforce in the nation with 11.83 million workers.
- Texas now has an estimated 1.25 million students enrolled in institutions of higher education (both public and independent institutions), and Texas colleges and universities award more than 193,000 degrees in 2007.
- Texas has 143 public and independent institutions of higher learning, including 35 public universities, 39 private colleges and universities, 50 public community college districts, nine medical schools or health science centers and four technical college campuses.
- More than \$3.3 billion was spent on research and development at Texas universities and health related institutions in fiscal year 2007, with over \$1.2 billion spent on medical sciences, over \$827 million spent on biological and other life sciences and almost \$429 million spent on engineering research alone.
- Texas ranks No. 3 in the nation for science and engineering doctorates with 1,930 awarded in 2006 according to the National Science Foundation's Science and Engineering State Profiles.





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

- The location of the state reinforces the tremendous market potential. Texas shares a 1,254 mile border with Mexico. Texas is a gateway to trade with Latin America, representing an estimated 75 percent of America's commerce with Mexico traveling through the state.
- Texas has 26 border points of entry, providing direct access to the markets of Mexico and Latin America.
- Texas is the nation's largest exporting state for the sixth consecutive year, with 2007 exports valued at more than \$168 billion.
- Texas won the Gold Shovel award for economic development and job creation. The shovel awards are based on information about 10 of the top job-creating and investment projects in 2007. (*Area Development*, June/July 2008)
- If Texas were its own nation it would represent the world's 12th largest economy.
- Texas is the only state with its own power grid. Our state boasts one of the most robust, well-functioning electric markets in the world, and has ambitious energy grid expansion plans to keep up with the state's projected growth. Additionally, Texas is the number one wind energy producing state.
- Texas has been labeled as one of the most affordable places to live. The cost of living composite index for most metro areas in Texas is lower than the national composite index of 100.
- Texas is home to 58 of the nation's Fortune 500 companies, more than any other state in the U.S. (*Fortune* magazine, April 2008)
- Houston ranks 3rd on *Forbes'* top 10 lists of the best places for business and careers.

**Don't Like High Taxes? Come to Texas!**

- Texas has one of the lowest tax burdens in the U.S. ranking 43<sup>rd</sup> nationally by total tax per capita in 2008.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

- There is no personal income tax.
- There is no state tax on goods in transit.
- Sales and use tax exemptions are offered on machinery & equipment used in the manufacturing process and on natural gas and electricity when sold to commercial businesses that are “predominately” manufacturing.

### **Reliable Transportation**

- Texas’ central location provides easy access to national and international markets by air, rail, road, and water.
- Fort Worth Alliance Airport is the first purely industrial airport in the Western Hemisphere.
- Dallas/Fort Worth International Airport is the third busiest airport in the nation and sixth largest in the world in 2004. George Bush Intercontinental Airport in Houston ranked sixth in the nation and 18th in the world in 2004.
- Forty-five railroads operate on almost 12,000 miles of track to carry more than 335 million tons of freight a year.
- Texas has 301,700 miles of public roads; more than any other state.
- Texas has 13 deep-water ports with channels at least 30 feet deep, and 29 seaports line the Gulf Coast.
- The Port of Houston is ranked first in the nation in foreign waterborne commerce, and ranks second in the nation and sixth in the world in total tonnage.
- Texas has eight airports providing international service.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Quality of Life

With its beautiful landscapes, warm weather, excellent schools, and southern hospitality, Texas remains a popular choice for people looking to relocate. Texas' beaches, rugged mountains, endless prairies, and piney woods provide a spectacular diversity of geography and wildlife. The same diversity extends to the people who call Texas home, creating a rich cultural heritage that makes Texas great. More information is just a click away on our popular tourism website <http://www.traveltex.com/>

- Texas' largest cities have a rich and diverse arts tradition. The Menil Collection in Houston, Kimball Art Museum in Fort Worth, and the Dallas Museum of Modern Art, are just a few examples of our art offerings.
- In the Dallas/Fort Worth Metroplex, sports fans can root for the Cowboys, Rangers, Mavericks, Stars and FC Dallas. In Houston, you have the Texans, Astros, Rockets, and Comets. San Antonio has the 2003 world champion Spurs, as well as the Silver Stars. And that doesn't even include the numerous minor league franchises in urban and mid-sized cities all across Texas, as well as nationally ranked collegiate and high school teams.
- Texas has 600 miles of sparkling coastline; 19 wildlife refuges; 13 national parks; and 123 state parks, historic sites and natural areas - not to mention an abundance of world-class theme parks, water parks, zoos and campgrounds.
- Speaking of outdoor activities, few states – if any – can match the quality and diversity Texas golf courses offer. With more than 900 courses throughout the Lone Star State, Texas offers a variety of links to challenge golfers' skills. That means you could play a different golf course in Texas every single day of the year for three years!





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Texas in the Global Economy

Texas is at the forefront of economic development in the United States and has positioned itself to become one of the world's economic powerhouses. If Texas were a nation, its gross domestic product would rank 12th in the world. By fostering relationships with our international business partners and keeping our business climate attractive to domestic and international companies, a prosperous relationship has developed to create amazing results.

### International Relationships

Texas has always prioritized international business and leads the nation with more than \$168 billion dollars of export revenues in 2007, a position that the state has held for the past six years. U.S. subsidiaries in Texas have consistently supported a significant number of jobs in the state. They now employ 368,200 Texas workers and represent investments of over \$96.6 billion in 2006. There are approximately 143 consulates throughout Texas that represent 96 different countries, all of which helps to maintain successful relationships with our friends and business partners. <http://www.sos.state.tx.us/border/intlprotocol/embassies/index.shtml>

### Texas Exports

In 2008, for the seventh year in a row, Texas was ranked as the No. 1 state by export revenues. [Texas exports](#) for 2008 totaled over \$192 billion, which is \$23.9 billion more than 2007 and represents a 14 percent increase. The state's top value-added Texas exports in 2008 were Chemicals, Computer and Electronic Products, Machinery, Except Electrical, Petroleum and Coal Products and Transportation Equipment. Total 2008 exports for the United States increased over 11.8 percent to over \$1.3 trillion from \$1.16 trillion in 2007.

Mexico and Canada, followed by China, the Netherlands and Brazil, were the leading destinations for Texas exports in 2008. The state's largest export market continued to be its NAFTA trading partners, which accounted for approximately 42 percent of total state exports during 2008. Mexico continued as the top export destination with \$62 billion in Texas exports, representing a 10.86 percent increase from \$56 in 2007. Canada ranked second with over \$19.2 billion, representing a 13.89 percent increase from \$16.8 billion in 2007. China ranked third at \$8.4 billion, representing a 2 percent increase from \$8.2 billion in 2007. The Netherlands ranked







OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

fourth at over \$7 billion, a 33.5 percent increase from \$5.2 billion in 2007. Brazil ranked fifth at \$5.9 billion with a 52.6 percent increase from \$3.9 billion in 2007.

In 2008, [Port Level data](#) from the Bureau of Economic Analysis indicated Texas Port Level imports totaled over \$329 billion, up from \$287.1 billion in 2007. 2008 Texas Imports for the top 10 countries of origin accounted for \$251.5 billion. NAFTA trading partner, Mexico, was the top country of origin for Texas imports with approximately \$143.1 billion in imported goods – or 43% of Texas imports. NAFTA trading partner, Canada, does not rank in the top 10 for Texas imports, in striking contrast to its number two ranking for Texas exports in 2008. Mineral Fuel, Oil; Electric Machinery; Industrial Machinery, including Computers; Vehicles, except Railway or Tramway, and Parts; and Articles of Iron or Steel were top ranked for the 2008 Texas Port Level imports by commodities. Mineral Fuel, Oil accounted for \$133.6 billion or 40% of 2008 Texas Port Level imports.

## Foreign Trade Zones

Texas is currently home to 33 Foreign Trade Zones (FTZs), more than any other state.

FTZs are sites in or near a U.S. Customs port of entry where foreign and domestic merchandise is generally considered to be in international trade. Goods can be brought into a zone without formal Customs entry or without incurring Customs duties or excise taxes unless and until they are imported into the United States. FTZs are intended to promote U.S. participation in trade and commerce by eliminating or reducing the unintended costs or obstacles associated with U.S. trade laws.

Employment that might normally be shifted to a foreign country is thereby encouraged to remain in the United States.

Zone projects may be at one or multiple sites, a single building, all or a portion of an industrial park, at a deep-water port, or within an international airport. When a firm intends to utilize its own plant or cannot be accommodated within an existing zone, "subzone" status may be granted to the site.

Currently, there are about 250 general purpose Foreign Trade Zones and over 450 subzones in the United States. This represents a dramatic increase from 1980 figures, when there were only 59 general-purpose zones. <http://ia.ita.doc.gov/ftzpage/letters/ftzlist.html#Texas>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Benefits

Benefits derived by businesses using FTZs include:

- **Duty Exemption.** No duties on or quota charges on re-exports.
- **Duty Deferral.** Customs duties and federal excise tax deferred on imports.
- **Inverted Tariff.** In situations where zone manufacturing results in a finished product that has a lower duty rate than the rates on foreign inputs (inverted tariff), the finished products may be entered at the duty rate that applies to its condition as it leaves the zone -- subject to public interest considerations.
- **Logistical Benefits.** Companies using FTZ procedures may have access to streamlined customs procedures (e.g. "weekly entry" or "direct delivery").
- **Other Benefits.** Foreign goods and domestic goods held for export are exempt from state/local inventory taxes. FTZ status may also make a site eligible for state/local benefits which are unrelated to the FTZ Act.

Benefits derived by the public include:

- Help facilitate and expedite international trade.
- Provide special customs procedures as a public service to help firms conduct international trade related operations in competition with foreign plants.
- Encourage and facilitate exports.
- Help attract offshore activity and encourage retention of domestic activity.
- Assist state/local economic development efforts.
- Help create employment opportunities.

*Sources: Foreign-Trade Zones Board website, U.S. Department of Commerce at <http://ia.ita.doc.gov/ftzpage>, accessed March 2006 & PR Newswire from the National Association of Foreign-Trade Zones (NAFTZ), February 7, 2006*

## Multinational Companies





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

The economy of Texas and its ability to prosper depends heavily on foreign investment. According to the Bureau of Economic Analysis, foreign-controlled companies accounted for 9.9 percent, almost one in ten jobs, of total manufacturing employment in Texas in 2006.

[http://www.ita.doc.gov/TD/Industry/OTEA/state\\_reports/texas.html](http://www.ita.doc.gov/TD/Industry/OTEA/state_reports/texas.html)

Foreign investment in Texas was responsible for 4.3 percent of the state's total private-industry employment in 2006.

**Prominent Foreign Owned Companies in Texas**

<b>Company</b>	<b>Country</b>
Alcatel-Lucent	France
Bayer Corporation	Germany
BBVA Bank	Spain
Bombardier	Canada
British Petroleum	United Kingdom
CEMEX	Mexico
Daimler	Germany
Eni	Italy
Ericsson	Sweden
Fujitsu	Japan
Gerdau	Brazil
Nestle	Switzerland
Nokia	Finland
Philips Electronics	Netherlands
Royal Dutch Shell	Netherlands
Samsung Semiconductor	South Korea
Siemens	Germany
Sony	Japan
Toyota	Japan
UBS	Switzerland





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Legal Requirements

### Business Structure and Name

The first step in starting a business is to determine the basic legal structure of the business, and to properly record the business name. This step is important when starting a business, since financial implications vary depending on which legal structure is selected. These range from corporation responsibilities for annual franchise tax fees to personal liability for business dealings as a sole proprietorship. The business name selected is the identifying and marketing component of the business. It should be given much thought and consideration. A professional tax consultant, accountant, and/or attorney should always be consulted before determining legal structure and business name.

### Legal Structure

There are several legal structures available for businesses operating in Texas. Each structure is listed below with a brief description of the entity.

#### Sole Proprietorship

A sole proprietorship exists when a single individual operates a business and owns all assets. A sole proprietor is personally liable for all debts, and business ownership is nontransferable. Under a sole proprietorship, the life of the business is limited to the life of the individual proprietor. The sole proprietorship makes no legal distinction between personal and business debts, and it does not require a separate income tax return. A sole proprietorship is often operated under the name of the owner. Whenever operating a business under a name other than the sole proprietor, an Assumed Name Certificate must be filed with the county clerk. Assumed Name Certificates are discussed later in this section.

#### General Partnership

A general partnership exists when two or more individuals or businesses join to operate a business. Under a general partnership, a separate business entity exists, but creditors can still look to the partners' personal assets for satisfaction of debts. General partners share equally in assets and liabilities. A general partnership requires an annual partnership income tax return





## OFFICE OF THE GOVERNOR

### ECONOMIC DEVELOPMENT & TOURISM

(separate from the partners' personal returns). A general partnership may be operated under the names of the owners, or a different name. In either case, an Assumed Name Certificate must be filed with the county clerk.

#### **Limited Partnership**

A limited partnership is a partnership formed by two or more persons or entities, under the laws of Texas, and having one or more general partners and one or more limited partners. General partners share equally in debts and assets, while limited partners have limited debt obligations. A limited partnership must be registered with the Secretary of State. (See next section for details on the business name.)

#### **Registered Limited Liability Partnership**

A registered limited liability partnership is a general partnership that has been registered with the Secretary of State. A partner's liability in a registered limited liability partnership differs from that of an ordinary partnership. In a registered limited liability partnership, a partner is not individually liable, under some circumstances, for debts and obligations of the partnership arising from errors, omissions, negligence, incompetence, or malfeasance committed in the course of business by others in the partnership.

#### **Corporation**

A corporation (Subchapter C or S) is created when two or more individuals, partnerships, or other entities join together to form a separate entity for the purpose of operating a business in the state. A corporation has its own legal identity, separate from its owners. The corporation offers protection to the business owners' personal assets from debts and liabilities relating to the operation of the corporation. Taxation of the corporation varies depending on the *type* of corporation formed. A corporation must be registered with the Secretary of State.

A Subchapter C Corporation is taxed at a higher rate than an individual. The owners are not taxed personally for profits; however, the owners do pay personal taxes on any salaries and/or dividends, and the corporation is also taxed on the profits.





## OFFICE OF THE GOVERNOR

### ECONOMIC DEVELOPMENT & TOURISM

Owners of Subchapter S Corporations may deduct business losses on personal income tax returns, similar to a partnership. The Subchapter S Corporation also offers alternative methods for distributing the business income to the owners.

#### **Limited Liability Company**

A limited liability company is an unincorporated business entity which shares some of the aspects of Subchapter S Corporations and limited partnerships, and yet has more flexibility than more traditional business entities. The limited liability company is designed to provide its owners with limited liability and pass-through tax advantages without the restrictions imposed on Subchapter S Corporations and limited partnerships. A limited liability company must be registered with the Secretary of State.

#### **Business Name**

Once the legal structure of the business has been determined, and if a separate business name will be used, the business name must be registered with the county clerk's office and/or the Secretary of State.

It is very important to do a thorough search when considering a business name. If a corporation and an unincorporated company have very similar names, neither automatically has the right to the name. If both parties have properly filed the Assumed Name Certificate, the courts will most likely have to decide this matter. Taking the time necessary to conduct the name research up front will help avoid legal costs after the business is opened and operating.

#### **State Registration**

All businesses operating in Texas as limited partnerships, registered limited liability partnerships, limited liability companies, corporations, professional corporations, nonprofit corporations, and professional associations **must** register with the Secretary of State. The Secretary of State provides a summary of requirements for the creation of these entities, but does not provide forms except for registration of a limited liability partnership. The Secretary of State publishes the [Filing Guide](#), which offers guidelines for registering business entities. The guide also includes administrative rules and sample forms promulgated by the Secretary of State.





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

Corporations, limited partnerships, and limited liability companies organized in other states or countries may transact business in Texas by obtaining a certificate of authority through the Secretary of State. The Secretary of State can provide forms for the certificate of authority. An out-of-state business may also consider the option of creating a Texas corporation, limited partnership, or limited liability company for transaction of business in Texas.

A name **may not** be used by more than one **corporation** in the state. The Secretary of State will perform a name search to verify that no other corporation, limited partnership, or limited liability company in Texas is using the exact name selected. To find out if a business name is available, call the Secretary of State and they will do an immediate computer search. The search is only for business names registered with the Secretary of State, and does not include business names registered only a county clerk.

If a corporation will transact business under names other than that stated in the articles of incorporation, the corporation must file an Assumed Name Certificate with the Secretary of State, and with the county clerk in which the principal office and registered office of the corporation are located. (See next section for details on Assumed Name Certificates.)

For more information, contact the [Secretary of State, Corporations Section](#), P.O. Box 13697, Austin, Texas 78711-3697.

General information and business name searches 512/463-5555

### **Local Registration (Assumed Name Certificate)**

If the business will operate as a sole proprietorship or a general partnership, an Assumed Name Certificate or d.b.a. (doing business as) for each name (or deviation of that name) the business will use must be on file with the county clerk in each county where a business premise will be maintained. If no business premise will be maintained, it should be filed in each county where business will be conducted.

If the business will operate as a corporation, limited partnership, or limited liability company, and the business will be identified by a name other than the name on file with the Secretary of State, an Assumed Name Certificate must be filed with the Secretary of State and each county in which the business will have a registered or principal office.





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

Neither the filing of an Assumed Name Certificate nor the reservation or registration of a company name imparts any real protection to the party filing the certificate. It is merely a formal process that informs the general public of the registered agent for a business and where official contact with the business can be made.

### **Filing the Assumed Name Certificate**

Each county clerk office may use a different form; however, the information requested should be the same. Be prepared to provide the business name, mailing address, city, state, zip, expected period of operation, business type, and owner information.

Period of operation is the period of time the business will use the name. Ten years is the maximum length of time an assumed name filing is valid. However, if the name will be used for a period of less than ten years, indicate this on the form. Note that names must also be renewed every ten years.

Business type refers to the legal structure of the business. Indicate whether the business will operate as a corporation, partnership, sole proprietorship, etc.

Owner information is the name(s) of the owner(s), personal address(es), and signature(s). All owners' signatures must be notarized. This service is sometimes offered at the county clerk's office. The form cannot be filed until all owners have signed it and all signatures have been notarized.

The following information will be helpful in filing the Assumed Name Certificate in the county the business will operate.

First, write down the name of the business you will be considering. Pay close attention to capitalization, spacing, punctuation, etc. Consider this carefully as this name will identify the business to the public.

Next, search the county records for that exact business name in the assumed name books or computer. An assumed name filing is valid for ten years, so search records for the last ten years to verify that the name is available. One book will not necessarily encompass one year of filings, so check the front of the book for dates. Some records are computerized; however, a computerized index may not contain ten years of filing history. Use the computer for the







OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

period it covers, and then use the books for any of the remaining ten years. If the business name has been used, look in the margin to see if it has been abandoned. If the name has been abandoned, it can legally be used again. Many county clerk offices will provide a name search service for a nominal fee. The whole search process will often be taken care of through the mail. Please contact the local county clerk for verification of their process.

Finally, if the company name is available, fill out the assumed name form and have it notarized. Then file it with the county clerk's office. The county clerk will keep the original Assumed Name Certificate, so be sure to request several certified copies (at least one for the bank and one for your business records). For filing fee information and accepted form of payment, contact the local county clerk's office. Most county clerk offices accept cash, certified checks, or money orders. If processing via mail, send the forms by certified mail with a return receipt requested to verify receipt by the county clerk.

Business Organization FAQs:

<http://www.sos.state.tx.us/corp/businessfaqs.shtml>

Texas Business Portal: <http://www.business.texasonline.com/>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## **Business Tax Responsibilities**

The second step for starting a business is to determine the federal, state, and local tax obligations. The following sections briefly discuss each of these areas. It is strongly recommended that a professional tax advisor, accountant, and/or attorney be consulted before starting a business.

### **Federal Taxes**

Information regarding federal income taxes, tax identification numbers, business tax credits, and employment tax regulations may be obtained by contacting the following agencies:

#### **Income Taxes, Tax Identification Numbers, and Business Tax Credits**

Internal Revenue Service

825 East Rundberg Lane, Suite H-4

Austin, Texas 78753

800/829-1040 or 800/829-4059 (TDD)

Business Tax Kit and other publications 800/829-3676 or 800/829-4059 (TDD)

<http://www.irs.gov/businesses/index.html>

### **Employment Taxes**

[Social Security Administration](#)

903 San Jacinto

Austin, Texas 78701

512/916-5404 or 800/772-1213

### **State Taxes**

#### **Business Taxes**

The Comptroller of Public Accounts is charged with the administration and collection of state and local sales tax from businesses operating in Texas, and also collects any franchise taxes owed by Texas corporations. There is no state income tax in Texas. The Comptroller maintains [field offices](#) in most major Texas cities to provide assistance and aid in complying with tax regulations. For further information on these taxes, contact:





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

Comptroller of Public Accounts  
111 East 17th Street  
Austin, Texas 78711  
512/463-4600 or 800/252-5555

The permits required for taxes collected by the Comptroller are defined and outlined in the section titled [Listing of Business Licenses and Permits](#).

### Employment Taxes

The Texas Workforce Commission collects all unemployment taxes for workers employed in Texas. For information regarding these taxes, to obtain a state employer's identification number, and for information on tax credits, contact:

Texas Workforce Commission  
Tax Department  
101 East 15th Street  
Austin, Texas 78778

New Employer Accounts/Status of Accounts	512/463-2731 or 800/832-9394
Quarterly Reports and Rates	512/463-2407
Unemployment Insurance Customer Service	512/463-2542
Labor Market Information	512/491-4922
Work Opportunity Tax Credit (WOTC)	512/463-2488 or 800/695-6879

### Local Taxes

#### Business Taxes

If the business owns tangible personal property that is used to produce income, the property must be reported on a rendition form to the local county appraisal district, after January 1 and no later than March 31, each year. Business owners must report all inventories, equipment, and machinery. For additional information, contact the local county appraisal district. See the government pages of your local telephone directory for telephone numbers.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Tax Reference Table

The following information pertains to state and federal taxes. The [IRS Business Site](#) assist businesses structured as Corporations, International Business, Partnerships and Small Businesses Self-Employed. The site has vital links to other Texas government entities. The [IRS Employee ID Numbers](#) (EINs) sites assist in obtaining an EIN. The site provides information on changing Ownership and information on EIN for Health Transactions. Businesses may need a National Standard Employer Identifier (NSE) for electronic health transactions. Further assistance on Texas tax can be viewed on the [Texas State Comptroller](#) website which includes information on electronic filing and online assistance through the [STAR](#) system.

## Permits and Licenses Required

A listing of permits and licenses required for conducting business are available on the Governor's website. This includes an alphabetical listing of licenses, permits and registrations by name or type. [http://governor.state.tx.us/ecodev/business\\_resources/sba/](http://governor.state.tx.us/ecodev/business_resources/sba/)

## Business Employer Requirements

The final step in starting a business is determining the federal and state employer requirements. As an employer, you have labor, safety, and tax obligations. The information below is the labor, safety, access, and new hire reporting regulations administered by federal and state agencies.

### Federal Requirements

#### Americans with Disabilities Act Requirements

The Americans with Disabilities Act (ADA) provides protection for people with disabilities in the areas of employment, public services and transportation, public accommodation, and telecommunications. For more federal information on how the Americans with Disabilities Act will affect a business and for technical assistance with provisions applying to employment, contact:





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

[U.S. Equal Employment Opportunity Commission](#)

1801 L Street N W  
Washington, D.C. 20507  
800/669-4000 or 800/669-6820 (TDD)

For technical assistance on the ADA standards for accessible design and other ADA provisions applying to businesses, nonprofit agencies, and state and local government services, contact:

[Office on the Americans with Disabilities Act: Civil Rights Division](#)

U.S. Department of Justice  
P.O. Box 66738  
Washington, DC 20035  
800/514-0301 or 800/514-0383 (TDD)

For specific information regarding the ADA requirements for telecommunications, contact:

[Federal Communications Commission](#)

1919 M Street N W  
  
Washington, D.C. 20554  
202/418-0600 or 202/418-7233 (TDD)

For information regarding the ADA requirements for accessible design in new construction and alterations, contact:

[U.S. Architectural and Transportation Barriers Compliance Board](#)

1331 F Street N W, Suite 1000  
Washington, DC 20004  
800/872-2253 or 800/993-2822 (TDD)

For information regarding the ADA requirements for transportation, contact:

[U.S. Department of Transportation](#)

400 Seventh Street SW  
Washington, DC 20590  
888/446-4511 or 800/877-8339 (TDD)





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Equal Employment Requirements

Federal and state laws prohibit employment discrimination. The United States Equal Employment Opportunity Commission (EEOC) and the [Texas Workforce Commission, Human Rights Division](#) are charged with enforcing fair employment laws which prohibit discrimination on the basis of race, color, sex, religion, disability, age, or national origin. Current statutes cover all employment transactions. All employers with 15 or more employees engaged in an industry affecting commerce, employment agencies, and labor unions are prohibited from denying equal employment opportunities. Regardless of the number of individuals employed, a county, municipality, and any state agency or instrumentality including public institutes of education, are also prohibited from denying equal employment opportunities. The TWC, Human Rights Division will assist local governments in establishing human rights commissions and provide technical assistance and training to employers to facilitate compliance with laws prohibiting employment discrimination. The TWC, Human Rights Division has jurisdiction for investigating employment complaints in Texas. The EEOC promotes voluntary programs that allow employers and organizations to implement equal employment opportunity programs within their businesses. For information regarding federal equal employment requirements, contact:

### [U.S. Equal Employment Opportunity Commission](#)

Dallas District Office  
207 South Houston, 3rd Floor  
Dallas, Texas 75202  
214/655-3355 or 214/655-3363 (TDD)

El Paso District Office  
Commons Building C, Suite 100  
4171 North Mesa Street  
El Paso, Texas 79902  
915/534-6550 or 915/534-6545 (TDD)

Houston District Office  
1919 Smith Street, 7th Floor





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

Houston, Texas 77002  
713/209-3320 or 713/209-3367 (TDD)

San Antonio District Office  
5410 Fredericksburg Road, Suite 200  
Mockingbird Plaza, Plaza II  
San Antonio, Texas 78229  
210/229-4810 or 210/229-4858

### **Safety Requirements**

The Occupational Safety and Health Consultations (OSHCON) program is administered by the Texas Department of Insurance, Department of Workers' Compensation. Free on-site safety and health inspections are available to alert the employer of possible federal Occupational Safety and Health Administration (OSHA) violations. Employers with fewer than 150 employees, who take advantage of the free inspection and meet the federal requirements, will be exempted from a scheduled inspection for 12 months. For more information regarding state occupational safety and health requirements, contact:

OSHCON  
Texas Department of Insurance  
Division of Workers' Compensation  
7551 Metro Center Drive, Ste. 100  
Austin, Texas 78744  
512/804-4636

For information regarding federal occupational safety requirements, contact:

[Occupational Safety and Health Administration \(OSHA\)](#)

U.S. Department of Labor, Regional Office  
525 Griffin Street, Room 602  
Dallas, Texas 75202  
214/767-4731





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

**Wage and Labor Requirements**

For information on federal minimum wage laws, overtime, and other questions regarding wages and hours, contact:

[U.S. Department of Labor](#)

Regional Wage and Hour Offices

Corpus Christi: 512/888-3520

Dallas: 214/767-6294

Houston: 713/339-5500

San Antonio: 210/229-4515

For general information regarding federal labor laws, contact:

[U.S. Department of Labor](#)

Regional Office

525 Griffin Street, Suite 800

Dallas, Texas 75202

214/767-6895

**State Requirements**

**Americans with Disabilities Act Requirements**

For information and technical assistance on the Americans with Disabilities Act, state disability policy information, disability statistics, and local disability resources, contact:

[Texas Governor's Committee on People With Disabilities](#)

P.O. Box 12428

Austin, Texas 78711

512/463-5739 or 512/463-5746 (TDD)

The Texas Department of Licensing and Regulation reviews construction documents for the construction or substantial renovation, modification, or alteration of buildings or facilities defined as public or commercial accommodations for architectural barriers. This review is mandated through the Americans with Disabilities Act. For additional information on architectural barriers, contact:







OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

[Texas Department of Licensing and Regulation](#)

E.O. Thompson State Office Building  
P.O. Box 12157  
Austin, Texas 78711  
512/463-3211 or 800/803-9202

**Drug-Free Workplace**

Advice is available to Texas employers with 15 or more employees who maintain workers' compensation coverage. Employers must comply with certain drug-free workplace requirements, and are also subject to federal regulations. These federal regulations include the Drug-Free Workplace Act of 1988 and U.S. Department of Transportation regulations requiring drug and alcohol testing. For information, contact:

Texas Drug-Free Workplace Initiative  
2525 Wallingwood, Bldg. 5  
Austin, Texas 78746  
512/328-1144 or 800/343-3822

**Equal Employment Requirements**

See listing under Federal Requirements for general explanation. For information regarding state equal employment requirements, contact:

[Texas Workforce Commission, Human Rights Division](#)

101 East 15th Street  
Austin, Texas 78778  
512/463-3222

**New Hire Program**

Effective October 1, 1998, in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, all Texas employers are required to report certain information on newly hired and rehired employees to the State Directory of New Hires.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

To receive an employee packet from the [Texas Workforce Commission](#), contact:

Texas Employer New Hire Reporting  
Operations Center  
P.O. Box 149224  
Austin, Texas 78714-9224  
888/TEX-HIRE (888/839-4473)

### **Plant Closings**

The Worker Adjustment and Retraining Notification Act (WARN), Public Law 100-379 (29 U.S.C. 2101 et seq.), requires certain employers to provide notice 60 days in advance of covered (employees subject to the Texas Unemployment Compensation Act) plant closings and covered mass layoffs. Notice must be made to either the affected workers or their representatives (e.g., a labor union), to the EDWAA Unit at TWC, and to the appropriate unit of local government. For more information or a copy of the Act, contact:

EDWAA Unit  
[Texas Workforce Commission](#)  
101 East 15th Street, Suite 104T  
Austin, Texas 78778-0001  
512/936-0361

### **Safety Requirements**

The Occupational Safety and Health Consultation (OSHCON) program is a free service available to private Texas employers through the Texas Department of Insurance, Division of Workers' Compensation. Professional safety and health consultants across the state are available to help identify and eliminate occupational hazards in your workplace, whether or not your company carries workers' compensation insurance.

- For more information contact:

OSHCON  
[Texas Workers Compensation Commission](#)  
[OSHCON@tdi.state.tx.us](mailto:OSHCON@tdi.state.tx.us)





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

E-mail users, please include your company name, address, city, state, zip code, phone number and contact person information.

Toll-Free Request Line 800-687-7080

### Wage and Labor Requirements

The Texas Workforce Commission is charged with investigating and notifying appropriate county and/or district attorneys regarding all labor law violations. The Labor Law Department is charged with the enforcement of state and federal labor laws as well as the prosecution of offenders of these laws. State statutes include the Pay Day and Child Labor laws. For additional information, contact:

Labor Law Department

[Texas Workforce Commission](#)

101 East 15th Street

Austin, Texas 78778

512/837-9559 or 800/832-9243

The Texas Workforce Commission provides a general employer information package for employers. To obtain this package, contact:

Employer's Representative

[Texas Workforce Commission](#)

101 East 15th Street

Austin, Texas 78778

512/463-2826 or 800/832-9394

For information relating to labor questions, please contact:

Labor's Representative

[Texas Workforce Commission](#)

101 East 15th Street





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

Austin, Texas 78778  
512/463-2829 or 800/832-2829

Standards for apprenticeship training programs in Texas follow guidelines set forth by the U.S. Department of Labor, Bureau of Apprenticeship and Training. Specific details on these programs may be obtained by contacting:

Bureau of Apprenticeship and Training  
[U.S. Department of Labor](#)  
525 Griffin Street, Suite 628  
Dallas, Texas 75202  
214/767-9263

### **Workers' Compensation Insurance**

The Texas Workers' Compensation Commission publishes a new law guide, a quarterly newsletter, and an information brochure for employers to help them become more familiar with the basic requirements for workers' compensation in Texas. To obtain these publications, contact:

For information on workers' compensation classifications groups, contact:

Texas Department of Insurance  
Division of Workers' Compensation  
7551 Metro Center Drive, Suite 100  
Austin, Texas 78744-1609  
512-804-4000  
[www.tdi.state.tx.us/wc](http://www.tdi.state.tx.us/wc)  
[Texas Department of Insurance](#)  
333 Guadalupe  
Austin, Texas 78701  
512/322-3493  
[www.tdi.state.tx.us](http://www.tdi.state.tx.us)





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

### **Labor Poster Requirements**

The following is a list of federal and state labor posters required to be posted at a place of business. Please contact the agency indicated to request copies for posting.

"Federal Minimum Wage" and "Employee Polygraph Protection Act"

[U.S. Department of Labor, Wage and Hour Division](#)

1-866-487-9243 / (817) 861-2150 / (713) 339-5525 / (210) 308-4515

"Occupational Safety and Health Administration Notice"

[U.S. Department of Labor, Occupational Safety and Health Administration](#)

214/767-4731

"Equal Employment Opportunity is the Law"

[U.S. Equal Employment Opportunity Commission](#)

214/655-3355; 713/209-3320; 210/229-4810

"Texas Unemployment Compensation Act" and "Schedule of Paydays"

[Texas Workforce Commission](#)

512/463-2747

"The Law in Texas" (Optional Poster)

Texas Workforce Commission, Human Rights Division

512/437-3450

### **Additional Resources**

U.S. Department of Labor eLaws: <http://www.dol.gov/elaws/>

Summary of Major Laws of the Department of Labor:

<http://www.dol.gov/opa/aboutdol/lawsprog.htm>

Texas Workforce Commission's publication, ESPECIALLY FOR TEXAS EMPLOYERS

<http://www.twc.state.tx.us/news/efte/tocmain.html>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Tax Structure

With no corporate income tax and no individual income tax, Texas has one of the lowest tax burdens in the country. Texas friendly is the mantra and that translates into one of the best business climates in the United States.

### Income Tax/Franchise Tax

Texas does not have a corporate income tax nor an individual income tax. However, our corporate franchise tax does have a component based on earned surplus. In 2008, Texas will replace its franchise tax with a Margins Tax, a tax of 1percent on gross receipts less compensation or cost of goods sold. (retailers and wholesalers will have a rate of 0.5percent) Sole proprietorships and general partnerships are exempt. Businesses with revenue under \$300,000 are also exempt.

<http://www.cpa.state.tx.us/taxinfo/franchise/index.html>

### Property Tax

Texas has no property tax at the state level. Local governments and special taxing districts levy taxes on real and tangible personal property. All property is appraised at full market value and are assessed on 100% of appraised value. The total tax rate is the sum of all taxing units including cities, counties, schools and special districts.

Local governments have the option to exempt goods in transit, or “freeport goods”, from ad valorem taxation. Freeport goods are inventories acquired or brought into the state by businesses and held for no more than 175 days before being shipped out of the state.

Local governments can offer to businesses an abatement of local ad valorem taxes on real and personal property for up to ten years.

<http://www.cpa.state.tx.us/taxinfo/proptax/index.html>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Sales and Use Tax

The state levies a sales and use tax of 6.25 percent on sales of tangible personal property and certain services. Additionally, cities, counties and transit authorities may add to the rate for a combined state and local rate of 8.25 percent.

Sales and use tax exemptions are offered on machinery and equipment used in the manufacturing process and on natural gas and electricity when sold to commercial businesses that are “predominately” manufacturing.

<http://www.cpa.state.tx.us/taxinfo/sales/index.html>

## Unemployment Insurance

Businesses that employ one or more individuals may be subject to unemployment tax. New employers will pay 2.7 percent on the first \$9,000 of wages per employee. A minimum of six quarters is required to obtain an experience rating.

<http://www.twc.state.tx.us/ui/bnfts/employerinfo.html>

## Workers’ Compensation

The Texas Department of Insurance, Division of Workers’ Compensation (Division) is a state agency that regulates the delivery of workers’ compensation benefits to injured workers and to eligible family members of employees killed on the job. Benefits are paid by workers’ compensation insurance companies, by employers certified by the Division to self-insure, or by self-insured governmental entities. Workers’ compensation is not mandatory in Texas. The Texas Department of Insurance publishes a rate guide to assist employers in comparison shopping for worker’ compensation and employers’ liability insurance in Texas.

<http://www.tdi.state.tx.us/wc/indexwc.html>

**Additional information** on taxation in Texas is available on the State Comptroller’s website at <http://www.cpa.state.tx.us/taxes/>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

**Call an expert directly, toll-free.**

[Comptroller Toll-free Numbers](#)

**Get assistance locally.**

[Comptroller Field Offices](#)

**Comptroller's Office Directories**

[Search](#) by name, phone number, or subject

**Get help by [email](#)**

**To Contact the Comptroller**

Email: [susan.combs@cpa.state.tx.us](mailto:susan.combs@cpa.state.tx.us)

Mailing Address

Texas Comptroller of Public Accounts  
Post Office Box 13528, Capitol Station  
Austin, Texas 78711-3528

Location:

Texas Comptroller of Public Accounts  
Lyndon B. Johnson State Office Building  
111 East 17<sup>th</sup> Street  
Austin, Texas 78701







OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Incentives and Training

### Texas Enterprise Fund

The 78<sup>th</sup> Texas Legislature established the Texas Enterprise Fund to provide financial resources to help strengthen the state's economy. The Governor, Lieutenant Governor, and the Speaker of the House must unanimously agree to support the use of the Texas Enterprise Fund for each specific project.

Projects that are considered for Enterprise Fund support must demonstrate a project's worthiness, maximize the benefit to the State of Texas and realize a significant rate of return of the public dollars being used for economic development in Texas. Capital investment, job creation, wages generated, financial strength of the applicant, applicant's business history, analysis of the relevant business sector, and federal and local government and private sector financial support of a project will all be significant factors in approving the use of the Enterprise Fund.

### Emerging Technology Program

The \$165 million Texas Emerging Technology Program is designed to help Texas create jobs and grow the economy over the long-term by expediting the development and commercialization of new technologies and attracting and creating jobs in technology fields that will form the backbone of our economy. The program will work through partnerships between the state, institutions of higher education and private industry to focus greater attention on the research, development and commercialization of emerging technology. The Emerging Technology Program is dedicated to three areas:

1. Regional Centers of Innovation and Commercialization (RCICs). These centers will become concentrated with applied R&D activities, be incubators (including specialized workforce training) for startup firms and encourage expansion of existing companies resulting from commercializing their developments.
2. Matching grant funds. Applied technology research and development projects that accelerate commercialization into production and have a demonstrated ability to receive or have received federal grants or non-state grants may apply for matching dollars from the Emerging Technology Fund. Grants such as Small Business Innovation Research grants, Small Business Technology Transfer grants, etc





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

3. Attracting research talent. The state will help Texas public universities attract highly renowned research teams from universities and institutions in other states.

For more information regarding the application process or funding, please contact the Office of the Governor at 512-463-1472.

### **Texas Enterprise Zone Program**

A community with less than 250,000 in population may have up to four enterprise projects. A community with 250,000 in population or greater may have up to six enterprise projects.

Upon a community designating a business as an enterprise project, and upon that project's designation being approved by the state, the business would be eligible for the following incentives:

#### State Sales and Use Tax refunds

Beginning September 1, 2003 an enterprise project is eligible for a refund for state sales and use taxes paid for building materials, machinery and equipment, electricity and natural gas purchased and consumed in the normal course of business and depending on investment amount and number of jobs created/retained.

The refund can be an amount ranging from a minimum of \$2,500 per job to a maximum of \$7,500 per job as follows:

1. If project investment amount is greater than \$40,000 and less than \$400,000, then refund amount is \$2,500 per job up to a maximum of 10 jobs created/retained;
2. If project investment amount is equal to or greater than \$400,000 and less than \$1 million, then refund amount is \$2,500 per job up to a maximum of 25 jobs created/retained;
3. If project investment amount is equal to or greater than \$1million and less than \$5 million, then refund amount is \$2,500 per job up to a maximum of 125 jobs created/retained;





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

4. If project investment amount is equal to or greater than \$5million and less than \$150 million, then refund amount is \$2,500 per job up to a maximum of 500 jobs created/retained;
5. If project investment amount is equal to or greater than \$150 million and less \$250 million, then refund amount is \$5,000 per job up to a maximum of 500 jobs created/retained;
6. If project investment amount is equal to or greater than \$250 million, then refund amount is \$7,500 per job up to a maximum of 500 jobs created/retained;

Receipts for purchases of building materials and machinery and equipment and payroll information are required to be retained as part of the audit process. (Note: All contracts should separate the costs for building materials and/or equipment from the costs of labor and services in order to be eligible.)

The refund for sales and use tax must be for all eligible items for use at the qualified business site.

### **Texas Capital Fund Infrastructure Program**

The Texas Capital Fund Infrastructure Program is an economic development tool designed to provide financial resources to non-entitlement communities. Funds from this program can be utilized for public infrastructure (water, sewer, roads, etc.) needed to assist a business, which commits to create and/or retain permanent jobs, primarily for low and moderate-income persons. The minimum award is \$50,000 and the maximum is \$750,000. The award may not exceed fifty percent (50 percent) of the total project cost.

The Texas Department of Agriculture administers the Texas Capital Fund Program. For further details on the program, please call 512-936-0281.

### **Texas Capital Fund Real Estate Development Program**

The Texas Capital Fund Real Estate Development Program is designed to provide financial resources to non-entitlement communities. Funds must be used for real estate development (acquisitions, construction and/or rehabilitation) to assist a business, which commits to create





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

and/or retain permanent jobs, primarily for low and moderate-income persons. This program encourages business development and expansions located in non-entitlement communities. The minimum award is \$50,000 and the maximum is \$750,000. The award may not exceed fifty percent (50 percent) of the total project cost. Funds are provided with no interest accruing and with payments based on a 20-year amortization schedule.

The Texas Department of Agriculture administers the Texas Capital Fund Program. For further details on the program, please call 512-936-0281.

\*\* Total Texas Capital Fund participation from both Infrastructure program and Real Estate

Development program may not exceed \$750,000.

### **Rural Municipal Finance Program**

The Rural Municipal Finance Program was created by the Texas Agricultural Finance Authority (TAFA) to stimulate economic activity in rural Texas. TAFA was created in 1987 as a Public Authority within the Texas Department of Agriculture

This loan program is designed for eligible applicants located within rural areas of the state that provide significant benefits for the rural area, and provide evidence of ability to repay the commitments. Applicants can include: city and county governments; economic development corporations; hospital districts; rail districts; utility districts; special districts; agricultural districts; and private water and wastewater corporations.

An applicant must certify to TAFA that:

1. The project is located in a non-metropolitan statistical area (county); or
2. If in a metropolitan statistical area, the project is in an unincorporated area; or
3. Located in a city with a population of under 20,000, that is not adjoining a city or group of cities with an aggregate population of 50,000 or greater.





## OFFICE OF THE GOVERNOR

### ECONOMIC DEVELOPMENT & TOURISM

Loan amounts range from \$50,000 to an amount approved by TAFE's board of directors, but target projects for less than \$1,000,000. Loans may be used for real estate purchase, building construction, site improvements, equipment, water and wastewater systems, municipal infrastructure projects and any other use that can be identified to improve or assist in the economic development of the rural area.

The Texas Department of Agriculture administers the Rural Municipal Finance Program. For further details on the program, please call 512-936-0281.

### **State Sales & Use Tax Exemptions**

#### Manufacturing Machinery & Equipment

Leased or purchased machinery, equipment, replacement parts, and accessories that have a useful life of more than six months, and that are used or consumed in the manufacturing, processing, fabricating, or repairing of tangible personal property for ultimate sale, are exempt from state and local sales and use tax. Texas businesses are exempt from paying state sales and use tax on labor for constructing new facilities.

Texas businesses are exempt from paying state sales and use tax on the purchase of machinery exclusively used in processing, packing, or marketing agricultural products by the original producer at a location operated by the original producer.

#### Natural Gas & Electricity

Texas companies are exempt from paying state sales and use tax on electricity and natural gas used in manufacturing, processing, or fabricating tangible personal property. The company must complete a "predominant use study" that shows that at least 50% of the electricity or natural gas consumed by the business directly causes a physical change to a product.

### **Chapter 380**

Section 380.001 of the Local Government Code authorizes municipalities to offer a range of incentives designed to promote state or local economic development. Specifically, it allows for the provision of loans and grants of city funds, as well as the use of city staff, city facilities or city services, at minimal or no charge.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

To establish a loan or grant or to offer discounted or free city services, the city must meet the requirements contained in the Texas Constitution and in applicable Texas statutes. Additionally, cities must review their city charters and any other local provisions that may limit the city's ability to provide such a grant or loan. To determine the latitude of whether a municipality is able to offer a particular incentive or combination of incentives, local communities should consult their city attorney.

### **Texas Industry Development**

The Office of the Governor Economic Development and Tourism Division hereby gives notice that The Texas Small Business Industrial Corporation is accepting applications for loans to be funded through the Texas Industry Development Revolving Loan program.

The Texas Industry Development Revolving Loan Program, provides capital to Texas communities and eligible 501(c) 3 corporations at favorable market rates. The program supports eligible tax exempt public purpose projects that stimulate economic development within the community. The loans are available with low cost, variable rate long term financing with the term of the loan not extending beyond the useful life of the assets and up to bond maturity in 2025.

Eligible projects must meet the project definition as described in the Development Corporation Act of 1979, the Texas Industry Development Program Guidelines and all appropriate state and federal regulations as applicable to the program. Examples of public projects include: public facilities; community infrastructure (i.e. water, wastewater, drainage, streets); remediation on public land/facilities, and public transportation. Loan terms are available for participants with a credit rating of an A or above with a term not to exceed December 2025.

A project must be found to be required or suitable for the promotion of economic development as deemed by the Corporation's board of directors in the performance of its public purposes, functions and duties.

A project will not be eligible for funding under the program for moving existing jobs from one municipality or county in Texas to another municipality or county within the state.

Applications will be accepted at any time during a quarterly round. The initial quarterly round will close at 5:00 p.m. June 1<sup>st</sup>, 2009. Application may be found at:

[http://www.governor.state.tx.us/divisions/ecodev/ed\\_bank/TID\\_loan\\_program](http://www.governor.state.tx.us/divisions/ecodev/ed_bank/TID_loan_program)





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

For additional information please contact Donna Weinberger-Rourke with The Office of the Governor Economic Development and Tourism Division at 512/936-6443.

### **Texas Leverage Fund**

The Texas Leverage Fund (TLF) is an "economic development bank" offering an added source of financing to communities that have passed the economic development sales tax. Approximately 500 communities in Texas have adopted the local economic development sales tax. EDT may loan funds directly to a local Industrial Development Corporation (IDC) to finance eligible projects. Sales tax revenues pledged by the IDC need only be sufficient to cover projected annual debt service as specified in the Texas Leverage Fund Program Guidelines. This allows cities to leverage their economic development sales tax and to pursue additional projects.

### **Bonds**

#### Sales Tax Bonds

Sales Tax Bonds do not fall under the volume cap and are eligible to communities that have passed the economic development sales tax. Ineligible projects include for-profit hospitals, multi-family projects and municipal services.

#### Exempt-Facility Bonds

Bonds can be issued to finance certain facilities such as airports, dock and wharf facilities, mass commuting facilities, high-speed inter-rail facilities, or certain qualified hazardous waste facilities (including certain training and storage facilities). There is no limit on the amount of the issue and these issues do not require a reservation under the volume cap. Although the facility must be governmentally owned, it may be leased or subject to management contracts with the business.

Other types of exempt bonds include projects for water, sewage and solid waste facilities, facilities for the local furnishing of electricity or gas, local district heating or cooling facilities. These types of exempt-facility issues must reserve a portion of the volume cap. Exempt-facility bonds that are not governmentally owned may reserve up to \$25 million in tax-exempt volume cap allocation each year, however, there is no restriction to project size.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

Tax-Exempt Industrial Revenue Bonds

Tax-Exempt Industrial Revenue Bonds are designed to provide tax-exempt financing to finance land and depreciable property for eligible industrial or manufacturing projects. The maximum bond amount is \$10 million (which can include certain capital and administrative costs). (On January 1, 2007, the maximum bond amount will increase to \$20 million.) These issues must receive a reservation under the State's volume limitation ("volume cap") managed by the Texas Bond Review Board.

The Tax Reform Act of 1986 imposes a volume ceiling on the aggregate principal amount of "private activity bonds" that may be issued with the State during any calendar year. Generally, the reservation of state ceiling issues is allocated by lottery in October each program year.

For more information on the "volume cap" or the lottery dates, contact the Texas Bond Review Board at 512-463-1741.

**SECTION 108**

Entitlement communities may access the Section 108 program through HUD. The program allows entitlement communities the ability to borrow funds guaranteed by Section 108 through pledging their current and future Community Development Block Grant (CDBG) allocations (up to the loan amount) as security for the loan. HUD provides additional security for the loan (as a loan-loss reserve or debt-service) to reduce the exposure of a community's CDBG funds. Economic Development Initiative (EDI) provides grants to local governments that can be used to enhance both the security of loans guaranteed through Economic Development Loan Fund and the feasibility of the large economic development and revitalization projects they finance. The guaranteed amount may be extended up to five times the community's most recent CDBG allocation. Eligible activities include property acquisition; rehabilitation of publicly owned property; economic development activities; installation of public facilities; and other site improvements.

**Texas Economic Development Act**

In 2001, the 77th Texas Legislature enacted House Bill 1200 creating Tax Code Chapter 313, Texas Economic Development Act, to encourage large-scale manufacturing, research and







OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

development, and renewable energy capital investment projects to the State of Texas. It requires companies to invest a specified amount of money to qualify for a tax credit and an eight-year limitation on the appraised value of a property for the maintenance and operations portion of the school district property tax. The local school district must elect to participate in order for the Company to recognize this benefit.

The qualifying investment amount is determined on a sliding scale that begins at \$100 million for large urban areas and \$30 million for rural areas. The qualifying investment amount is reduced for areas with a lower tax base.

For detailed information regarding this incentive, please contact the Comptroller of Public Accounts at 512-305-9838.

**Ad Valorem/ Property Tax Exemption**

A Texas constitutional amendment providing an exemption from property taxation for pollution control was approved in 1993. The intent was to ensure that compliance with environmental mandates, through capital investments, did not result in an increase in a facility's property taxes. A facility must first receive a determination from the Texas Commission on Environment Quality (TCEQ) that property is for pollution control purposes. That positive use determination is then provided to the local appraisal district, which must accept the TCEQ's decision and grant the property an exemption from property taxes.

To be eligible for a positive use determination, the property must have been purchased, acquired, constructed, installed, replaced, or reconstructed after January 1, 1994 to meet or exceed federal, state, or local environmental laws, rules, or regulations.

For detailed information regarding this incentive, please contact the Texas Commission on Environmental Quality at 512-239-5344.

**Property Tax Rule 9.105**

The Texas Comptroller of Public Accounts offers a refund of State franchise and sales/use taxes paid by companies owning certain abated property. A company who meets the following three conditions may apply for a refund:





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

1. Paid property taxes to a school district on property that is located in a reinvestment zone established under Chapter 312.
2. Is exempt in whole or in part from property tax imposed by a city or county under a tax abatement agreement established under Chapter 312.
3. Is not in a tax abatement agreement with a school district.

The refund is equal to the amount of property taxes that would have been paid had the company entered into a school district abatement agreement with terms identical to the city or county abatement agreement, not to exceed the net state sales and use taxes and state franchise taxes paid or collected and remitted during that calendar year. The refund amount may also be limited by a statewide appropriation per year for this refund program.

For more information and assistance on this incentive, contact the Comptroller of Public Accounts at 800-252-9121 or 512-305-9999.

### **Freeport Exemption**

A community may choose to offer the Freeport exemption for various types of goods that are detained in Texas for a short period of time. Freeport property includes goods, wares, merchandise, ores, and certain aircraft and aircraft parts. Freeport property qualifies for an exemption from ad valorem taxation only if it has been detained in the state for 175 days or less for the purpose of assembly, storage, manufacturing, processing, or fabricating. For more information, please visit the following links:

Texas Constitution Article 8, Section 1-J:  
<http://www.tlc.state.tx.us/pubslegref/TxConst.pdf>

Administrative Code:  
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=34&pt=1&ch=9&rl=415](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=34&pt=1&ch=9&rl=415)

### **Renewable Energy Incentives**

Wind and Solar Energy Tax Exemptions and Deductions

Tax Code Section 171.056 extends a franchise tax exemption to manufacturers, sellers, or installers of solar energy devices. The state also permits a corporate deduction from the state's





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

franchise tax for renewable energy sources. Business owners may deduct the cost of the system from the company's taxable capital or deduct 10% from the company's income.

Wind energy qualifies under the term "solar energy" for the exemption and deduction under Sections 171.056 and 171.107.

For more information on the tax exemption, visit the State Energy Conservation Office's website at [http://www.seco.cpa.state.tx.us/re\\_incentives.htm](http://www.seco.cpa.state.tx.us/re_incentives.htm) or contact the Comptroller of Public Accounts.

Texas property tax code permits a 100% exemption on the appraised value of solar, wind or biomass energy devices installed or constructed for the production and use of energy on-site. See Texas property tax Form 50-123, "Exemption Application for Solar or Wind-Powered Energy Devices" to claim this exemption.

Texas also offers a loan program for eligible efficiency technologies. The "LoanSTAR" program is available to schools, hospitals and local governments. The low interest loans are capped at a \$5 million maximum and are required to meet certain technical guidelines including a detailed energy assessment report.

Website: <http://seco.cpa.state.tx.us/lis.htm>

Franchise tax questions

1-800-531-5441, ext. 5-9952 or (512) 305-9952

Property tax questions

1-800-531-5441, ext. 5-9806 or (512) 305-9806

### **Permit Assistance**

The Texas Commission on Environmental Quality (TCEQ) and the Office of the Governor Economic Development & Tourism division have established a relationship to assist companies, which may experience unwarranted delays in their environmental permitting process for projects that could affect job creation or have a high economic impact.





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

**Economic Development & Diversification  
In-State Tuition for Employees**

The Economic Development and Diversification In-state Tuition incentive may be offered to qualified businesses that are in the decision-making process to relocate or expand their operations into Texas. The incentive allows employees and family members of the qualified businesses to pay in-state tuition fees if the individual files with a Texas institution of higher education. Without this incentive designation, a student must reside in Texas for a 12-month period to be entitled to pay the tuition fees of a Texas resident.

**Training Programs**

**Skills Development Fund**

The Skills Development Fund program assists businesses and trade unions by financing the design and implementation of customized job training projects. This fund successfully merges business needs and local customized training opportunities into a winning formula to increase the skills level and wages of the Texas workforce. The 80<sup>th</sup> Legislature appropriated \$51 million to the Skills Development Fund, an increase of \$11 million over the past biennium.

During Fiscal Year 2006 (September 1, 2005 - August 31, 2006), TWC awarded 31 grants totaling \$10,384,566, which served 125 businesses, generated 3,127 new jobs and upgraded the skills of 10,963 workers in existing jobs. For Fiscal Year 2007, TWC has \$25 million in Skills Development Funds to support high quality, customized job training projects across the state. Grants for a single business may be limited to \$500,000.

**Applying for Skills Development Funds**

Businesses and trade unions must partner with an eligible applicant in order to be considered for Skills Development Fund grants. Eligible applicants are public community or technical colleges, the Texas Engineering Extension Service or a community-based organization working in partnership with one of these institutions. For more detailed information, please see the Proposal Submission Guidelines or call (512) 463-8844.

<http://www.twc.state.tx.us/svcs/funds/sdfintro.html>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## **Self-Sufficiency Fund**

The Self-Sufficiency Fund Program, administered by the Texas Workforce Commission (TWC), assists businesses by designing, financing and implementing customized job training programs in partnership with public community and technical colleges, a higher education extension service, & community-based organizations for the creation of new jobs and/or the retraining of existing workforce. The goal of the Self-Sufficiency Fund is to assist recipients of Temporary Assistance for Needy Families (TANF), Food Stamps, and Needy Parents to obtain training, get jobs, and become independent of government financial assistance.

### **Applying for Self Sufficiency Funds**

Businesses and trade unions must partner with an eligible applicant in order to be considered for Self-Sufficiency Fund grants. Eligible applicants are public community or technical colleges, community-based organizations that have been given 501(c)(3) status by the Internal Revenue Service, or the Texas Engineering Extension Service. For more detailed information, please see the Proposal Submission Guidelines. <http://www.twc.state.tx.us/svcs/funds/ssfintro.html>

### **On-the-Job and Customized Training**

On-the-Job Training (OJT) and Customized Training provide unique opportunities for participants who already possess some job-related skills and the knowledge to "learn as they earn". By participating in training as an employee, the participant not only acquires new skills and knowledge, but also receives the same wages and benefits as current employees in same or similar positions. The employer benefits by being reimbursed for part of the participant's wages during the training period, while having the services of a full-time employee.

Customized Training further benefits an employer by tailoring a training program to the specific needs of the employer, especially in the area of introducing new technologies or procedures. Training can even be offered to incumbent employees in order to upgrade their skills and knowledge.

Eligible participants are those who, as determined by the [Local Workforce Development Board \(Board\)](#), have not been earning a self-sufficient wage. Eligible employers must commit to hiring and retaining participants who successfully complete their training programs. Employers who





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

have exhibited a pattern of not retaining participants are not allowed to continue participating in these types of training. The actual terms and duration of the training activities are formalized contractually after negotiations between the employer and the local program operator. *All Boards do not provide OJT and/or Customized Training services.*

<http://www.twc.state.tx.us/svcs/ojtcust.html>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Hiring Foreign Workers

### Foreign Labor Certification Overview

The Department of Labor issues labor certifications for permanent and temporary employment under the following programs:

[Permanent Labor Certification](#)

[H-1B Specialty \(Professional\) Workers](#)

[H-1C Nurses in Disadvantaged Areas](#)

[H-2A Temporary Labor Certification \(Seasonal Agricultural\)](#)

[H-2B Temporary Labor Certification \(Non-agricultural\)](#)

[D-1 Crewmembers Certification](#)

Foreign labor certification programs permit U.S. employers to hire foreign workers on a temporary or permanent basis to fill jobs essential to the U.S. economy. Certification may be obtained in cases where it can be demonstrated that there are insufficient qualified U.S. workers available and willing to perform the work at wages that meet or exceed the [prevailing wage](#) paid for that occupation in the area of intended employment.

Foreign labor certification programs are designed to assure that the admission of foreign workers into the United States on a permanent or temporary basis will not adversely affect the job opportunities, wages, and working conditions of U.S. workers.

Employment based immigration is a complex process that may involve a number of government agencies within the Federal Department of Labor, the State Department of Labor, the U.S. Citizenship and Immigration Services (CIS) and the Department of State. The Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq.) regulates the admission of foreign workers into the United States. The INA designates the Attorney General and the Secretary of State as the principal administrators of its provisions.

[About the Foreign Labor Certification Process](#)

**Program Regulations & FAQs**   [20 CFR 655.0 - .99](#)   [FAQs](#)





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

### **Compensation of Foreign Workers**

Regulations require that the wages attested to on foreign labor certification applications must be the average wage paid to all other workers in the requested occupation in the area of intended employment. This average wage is referred to as the prevailing wage. See [Prevailing Wages](#) for more information.

The employer is not precluded from paying nonimmigrant(s) more than the prevailing wage.

### **Employer Compliance**

The employer should be aware that in filing for a foreign labor certification, the employer is obligated to comply with all employment related laws and regulations. In the case of H-1B Specialty (Professional) Workers and [H-2A](#) Temporary Seasonal Agricultural workers, additional obligations also apply. The details on these obligations may be found in the sections detailing [H-1B](#) and [H-2A](#). Failure to comply with the established laws and regulations may potentially result in penalties and possible legal action.

The [Wage and Hour Division of the Employment Standards Administration \(ESA\)](#) at the Department of Labor is responsible for investigating and determining an employer's misrepresentation in or failure to comply with the [H-1B](#) and [H-2A](#) program requirements and with employment laws, principally the Fair Labor Standards Act.

### **Non-DOL Employment Visas**

For information regarding other employment based visas which do not require Department of Labor certification, see the U.S. Department of State's website at [http://travel.state.gov/visa/visa\\_1750.html](http://travel.state.gov/visa/visa_1750.html) or the U.S. Citizenship and Immigration Service's website at <http://www.uscis.gov/portal/site/uscis> .







OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Targeted Employment Areas

### EB-5 IMMIGRANT INVESTORS

Congress created the fifth employment-based preference (EB-5) immigrant visa category in 1990 for immigrants seeking to enter to engage in a commercial enterprise that will benefit the U.S. economy and create at least 10 full-time jobs. The basic amount required to invest is \$1 million, although that amount may be \$500,000 if the investment is made in a “targeted employment area.”

### Where are targeted employment areas (TEA) in Texas?

Wherever the definition of the term is met and certified. Definition:

A targeted employment area is defined as a rural area or an area which has experienced high unemployment of at least 150 percent of the national average rate. A rural area is an area not within a metropolitan statistical area or not within the outer boundary of any city or town having a population of 20,000 or more.

### Who certifies the targeted employment areas?

The Texas Workforce Commission certifies that an area meets federal requirements. Contact Mark Hughes at 512-491-4802.

### Once an area is designated as a TEA, where are the central records kept?

There is no central depository. The immigration officer handling the application, attaches the documentation to the application, and is kept in the requestor’s file.

### If a foreign company would like to obtain an investors visa (EB-5), where do they obtain the application?

Applications are through the [Texas Service Center](#) in Mesquite, Texas. Their fax numbers are 214-962-5525 and 214-962-5520.

### Does a foreign investor automatically become a permanent resident of the U.S.?

No. There is a two year conditional residency period. If all requirements have been met and certified, a permanent residence status is granted.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Intellectual Property and Intellectual Property Rights Overview

*Intellectual property (IP)* are creations of the mind including materials that are invented, created, or named; are saleable; and can be legally protected. IP materials or “IP assets” include patents, trademarks/service marks, copyrights, and trade secrets.

**Patents** - (Utility, Design, or Plant) protect inventions and improvements to existing inventions. Patents provide rights for up to 20 years in three broad categories.

**Utility patents** protect useful processes, machines, articles of manufacture, and compositions of matter. Some examples: fiber optics, computer hardware, medications.

**Design patents** guard the unauthorized use of new, original, and ornamental designs for articles of manufacture. The look of an athletic shoe, a bicycle helmet, the *Star Wars* characters are all protected by design patents.

**Plant patents** are the way we protect invented or discovered, asexually reproduced plant varieties. Hybrid tea roses, Silver Queen corn, Better Boy tomatoes are all types of plant patents.

**Trademarks (Service marks)** - are words, names, symbols, devices and/or use images which are applied to products or used in connection with goods or services to identify their source. Trademarks, unlike patents, can be renewed forever as long as they are being used in business.

**Copyrights** - protect the expression of ideas in literary, artistic and musical works. The U.S. Library of Congress registers copyrights which last the life of the author plus 50 years. *Gone With The Wind* (the book and the film), Beatles recordings, and video games are all works that are copyrighted.

**Trade Secrets** - information that companies keep secret to give them an advantage over their competitors. The formula for *Coca-Cola* is the most famous trade secret.

*IP rights (IPR)* are the legal protections to secure IP assets against unauthorized and unpaid for use. If IP rights aren’t adequately protected, they can be lost or stolen. In the U.S., some IPR – copyrights and trademark rights – are automatically inferred upon the creation or use of the IP assets. Other U.S. IPR – patents, in particular – require their purchase and active, ongoing





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

protection. IPR vary by geography, although the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is acting to globally standardize them. Most U.S. IPR handling is done on the national level. The Texas Secretary of State recommends consulting a private patent attorney concerning trademarks, service marks, and other intellectual property matters.

*The United States Patent and Trademark Office (USPTO)* is the U.S. federal government agency overseeing most IP issues. The USPTO administers the patent and trademark laws as they relate to the granting of patents for utility inventions, designs and plants, and the issuing of trademark registrations; examines patent applications to determine if the applicants are entitled to patents; and grants the patents when they are so entitled. The USPTO also examines trademark applications to determine if the applicants are entitled to register their trademarks and issues trademark registrations. The USPTO publishes issued patents, approved trademark registrations and other publications concerning patents and trademarks; records assignments of patents and trademarks; and maintains search facilities and a national network of Patent and Trademark Depository Libraries (PTDL) for the use by the public to study issued patents, registered trademarks, and pending trademark applications and records relating to both patents and trademarks. The USPTO also supplies copies of records and other papers. The USPTO doesn't file applications or provide marketing, financing, licensing, and legal assistance. Free basic information on the patent and trademark system, forms, fees, products and services of the USPTO is available by calling the USPTO's toll-free line, 800-PTO-9199 or by calling 703-308-HELP. Also check the USPTO website for information, such as the Inventor Resources area at <http://www.uspto.gov/web/offices/com/iip/index.htm>.

The USPTO Patent and Trademark Depository Libraries (PTDL) facilities in Texas are listed at [http://www.uspto.gov/go/ptdl/ptdlib\\_1page3.html](http://www.uspto.gov/go/ptdl/ptdlib_1page3.html).

Sources:

<http://www.sos.state.tx.us/corp/businessfaqs.shtml>  
<http://www.uspto.gov/main/glossary/index.html#i>  
[http://www.uspto.gov/go/ptdl/ptdlib\\_1page3.html](http://www.uspto.gov/go/ptdl/ptdlib_1page3.html)  
<http://www.uspto.gov/web/offices/ac/ahrpa/opa/museum/1intell.htm>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Trademarks, Patents and Copyrights

A **trademark** may be a word, symbol, logo, slogan, or any combination thereof that is used to identify and distinguish one person's goods or services from the goods or services of another, and serves as an indicator of source of the goods or services. A consumer encountering a trademark identifies products bearing the same mark to be sold by, or produced by, the same producer, even if the name of that producer is unknown to the consumer. Trademarks used in interstate commerce may be registered under federal law. Trademarks used in connection with the sale of goods or services in Texas may be registered under state law.

[Click here](#) for information on filing an application for registration of a federal trademark or service mark with the United States Patent and Trademark Office.

[Click here](#) for information on filing an application for registration of a state trademark or service mark with the Texas Secretary of State.

A **patent** is a property right granted by the U.S. Government to an inventor "to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States." A patent is granted for a limited time in exchange for public disclosure of the invention when the patent is granted.

[Click here](#) for information on filing a patent application with the United States Patent and Trademark Office.

A **copyright** is a form of protection afforded by the laws of the United States to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works.

[Click here](#) for information on filing a copyright registration with the United States Copyright Office in the Library of Congress.

<http://www.sos.state.tx.us/corp/tradepatents.shtml>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Trademark FAQ's

### 1. What is a trademark?

A trademark may be a word, symbol, logo, slogan, or any combination thereof that is used to identify and distinguish one person's goods or services from the goods or services of another, and serves as an indicator of source of the goods or services. A consumer encountering a trademark identifies products bearing the same mark to be sold by, or produced by, the same producer, even if the name of that producer is unknown to the consumer.

### 2. What is the difference between a service mark and a trademark?

A service mark is used in connection with services, while a trademark is used in connection with tangible goods. The general terms "mark" or "trademark" may be used to describe both trademarks and service marks.

### 3. Can I reserve a trademark?

No. In order to make an application for a state trademark or service mark, the trademark must be in use in Texas. An application made prior to use is considered void and will be refused registration by the secretary of state. A state registration that was obtained prior to actual use may be subject to judicial cancellation.

### 4. How are trademark rights acquired?

Trademark rights are not acquired through the registration process. Common law ownership rights are acquired through actual use of the mark in commerce. Generally, the first person to use a trademark is the first person to acquire rights to the mark.

### 5. Do I need to register my trademark?

No. It is not required that you register your trademark or service mark in order to establish ownership rights. However, besides providing constructive notice throughout the state regarding your claim to ownership of the trademark, registration provides the trademark owner with certain procedural advantages should it become necessary to judicially enforce your trademark rights. Registration of the trademark creates a legal presumption of the registrant's ownership of the





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

mark and the registrant's exclusive right to use the mark in Texas commerce in connection with the goods or services described in the application.

**6. Are there any special requirements for obtaining a state trademark registration?**

Yes. The requirements for state trademark registration may be found in Chapter 16 of the Texas Business & Commerce Code and in the administrative rules adopted by the secretary of state. There are two basic requirements for state trademark registration. A mark must be in use in Texas and must be inherently distinctiveness or, if not inherently distinctive, it must have acquired distinctiveness through a person's substantial and exclusive use.

A mark used in association with tangible goods is considered in use in Texas when: 1) the mark is used on, or affixed or attached to the product; and 2) the product is sold or otherwise publicly distributed for sale in Texas. A mark used in association with services is considered in use in Texas when: 1) the mark is used in association with the sale or advertising of the services; and 2) the services are rendered in Texas.

Only distinctive words, names, symbols, or logos are entitled to registration. Non distinctive designations or devices include: surnames, terms that are geographically descriptive of the origin of the goods or services, and terms that are commonly used in describing the product or service, or that directly describe the qualities or characteristics of the product or service.

**7. Do you need to be a corporation to obtain a trademark?**

No. The trademark applicant is the person who owns the mark. Normally, this is the person who produces the goods or who renders the services associated with the mark and who controls the use of the mark. That person can be an individual sole proprietor, a general partnership, a limited partnership, joint venture, corporation, limited liability company, unincorporated nonprofit association or other legal entity.

**8. Can a state trademark application be used to register a trade name statewide?**

No. There is no state trade name registration act. In addition, a trade name, per se, is not entitled to registration under the provisions of Texas Trademark Act (Chapter 16 of the Texas Business & Commerce Code). However, a trade name that also functions as a trademark is entitled to registration. Whether a trade name also functions as a trademark is generally based upon the





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

manner in which it is used and displayed. Generally, a trade name functions only as a trade name when it is followed closely by the business address or telephone number of the enterprise, or when it is accompanied by such phrases as "Manufactured by," "Distributed by," or "Serviced by."

**9. Can I use the "TM" or "SM" notation without first registering my trademark?**

Yes. Prior approval is not required in Texas to use the "tm" or "sm" (trademark or service mark) notation. There is in fact no symbol or designation to indicate state trademark registration. The "tm" designation does not mean that the mark is registered with the state or that the mark is entitled to registration with the state. The "tm" notation is merely a means of informing third parties that the person claims trademark rights to the word, slogan, or phrase associated with "tm" or "sm" notation.

**10. Do I need to use an attorney to make an application to register a trademark?**

No. Although it is not required that you use an attorney to pursue a trademark application, it is often desirable to employ an attorney who is familiar with trademark matters.

**11. How do I find out whether the mark I've chosen is already registered?**

Information on active state trademark registrations is available by calling (512) 463-5555 or by faxing your inquiry to (512) 463-5709. You also may e-mail your inquiry to [corpinfo@sos.state.tx.us](mailto:corpinfo@sos.state.tx.us). It is strongly suggested that you search federally registered trademarks and service marks, since a federally registered mark generally preempts a state issued registration. The United States Patent and Trademark Office offers on-line searching of its trademark database at <http://www.uspto.gov/main/trademarks.htm>.

**12. Does the secretary of state search federally registered trademarks, or any other databases, when examining a state application?**

No. The provisions of Chapter 16, Business & Commerce Code only require the secretary of state to search the active state trademark registrations for identical or confusingly similar marks for purposes of state registration. The secretary of state does not search the state assumed name records, state corporation, limited liability company or limited partnership names, or the United States Patent and Trademark Office when examining a submitted trademark application. The





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

responsibility of performing a more substantial search to avoid infringement situations is placed upon the person seeking to register a trademark or service mark.

**13. Can I expedite the review of a trademark application?**

No. Pursuant to Chapter 16, Business & Commerce Code, trademark applications are examined in the order in which the applications are filed; including applications concurrently processed for registration of the same or confusingly similar marks. Consequently, due to the nature of the examination process a trademark application is not processed on an expedited basis.

**14. I am unsure which international classification applies to my specific goods or services, where can I obtain information on the appropriate class?**

A more detailed listing of the goods and services identified under various International Classifications can be found in [Rule §93.101](#) of the administrative rules adopted by the secretary of state. However, the applicant may omit identification of the International Class if the applicant is unsure of the appropriate classification. The trademark examiner may change the classification to a more appropriate class or suggest the appropriate class to the applicant during the examination process. <http://www.sos.state.tx.us/corp/tradefaq.shtml>

**Trade Secrets**

- State the general company policy regarding trade secrets.
- Define a trade secret and provide examples peculiar to the company's business and industry.
- Explain that the unauthorized taking, copying, or communication of the company's trade secrets constitutes a third degree felony.
- State the company's policy requiring employees to sign an Acknowledgment of Confidentiality or a Confidentiality Agreement.
- Describe the company policy for violations of the Acknowledgment of Confidentiality or Confidentiality Agreement, including the company's right to seek immediate legal action, injunctive relief, money damages or criminal prosecution.
- Outline the company's procedures for access to and use of confidential information or trade secrets.







OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

Employees who leave the company, whether voluntarily or involuntarily, could pose a threat to former employers if they join competitors or form competing businesses. There is always the risk that employees will attempt to divert business away from the company. To combat this problem, some employers have employment agreements containing restrictive covenants.

[Non-competition agreements](#), agreements by former employees not to compete with a former employer for a specified period of time in a specified geographical area, must meet strict requirements to be enforceable in Texas. Since they are so difficult to enforce in courts, employers should consult an attorney before designing such agreements.

To be enforceable, the covenant not to compete must have independent consideration. Moreover, the courts have said mere employment alone is not sufficient consideration for an agreement not to compete. Examples of sufficient consideration might be the promise of guaranteed employment for a specified period of time or a severance package of some sort.

*(Note: non-competition agreements connected with the sale of a business, as distinguished from non-competition agreements connected with employment, have a greater chance of being enforced. The courts have held that the sale price is generally sufficient independent consideration to support the agreement.)*

Despite Texas' restrictions on non-competition agreements, there are some actions employers can take to better protect themselves from theft of their trade secrets and valuable confidential information. And, even though employees may be free to compete with former employers, they must do so fairly. It is unfair competition to steal, copy, transmit, or otherwise communicate a former employer's trade secret information.

A trade secret is defined as "the whole or any part of any scientific or technical information, design, process, procedure, formula, or improvement that has value and that the owner has taken measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes." The hallmarks of a trade secret are that the information or device is not readily available to the public and cannot be duplicated without great expense and time.

Employers should make clear what information is considered confidential or a trade secret. They must also take certain precautions in connection with that information. For example, employers should label restricted information as confidential. In the case of computer data files, password-





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

protecting such files would help show that the employer intended to restrict the availability of the information.

Some companies require employees to sign a confidentiality or non-disclosure agreement. Such documents will identify the kinds of information that is to be treated as a trade secret. These agreements, which are usually easier to enforce than non-competition agreements, may also notify employees of the remedies the employer will pursue in the event there is an unauthorized use of this information.

[http://www.twc.state.tx.us/news/eft/trade\\_secrets.html](http://www.twc.state.tx.us/news/eft/trade_secrets.html)





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## **The Texas Business and Industry Data Center**

With over 3,600 links to federal, state, local and non-profit sources, the Business and Industry Data Center (BIDC) provides quick and accurate pathways to economic, demographic and industry data and information.

[http://governor.state.tx.us/ecodev/business\\_research/](http://governor.state.tx.us/ecodev/business_research/)

### **A-Z**

A look inside the web site reveals an A-Z listing with easy access to everything from aerospace to wages. Each entry within a category is broken down by geographic area – State – Workforce Development Board – Metropolitan Area – County – City – Zip Code.

[http://governor.state.tx.us/ecodev/business\\_research/subjects/](http://governor.state.tx.us/ecodev/business_research/subjects/)

### **The Texas Economy**

An overview of the economy in Texas provides highlights on our economic strength and current labor and industry conditions. As information is released from the federal government, the overview is updated.

[http://governor.state.tx.us/ecodev/business\\_research/texas\\_economy/](http://governor.state.tx.us/ecodev/business_research/texas_economy/)

### **Publications**

In support of the trade shows that we participate in at the state level, industry reports were developed and used to provide industry a better look at what Texas has to offer in biotechnology, automotive manufacturing, nanotechnology, semiconductors and aerospace and aviation.

[http://governor.state.tx.us/ecodev/business\\_research/publications/](http://governor.state.tx.us/ecodev/business_research/publications/)

### **The BIDC Maproom**

Various maps have been developed specifically for highlighting Texas assets and for regional reference. Additional links are provided for national and international maps.

[http://governor.state.tx.us/ecodev/business\\_research/maproom/](http://governor.state.tx.us/ecodev/business_research/maproom/)





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Texas and General Foreign Trade Zones Information

### Texas Leads the Nation in Number of Foreign Trade Zones

- Texas has 33 Foreign Trade Zones (FTZs), more than any other state in the nation.

Source: <http://ia.ita.doc.gov/ftzpage/letters/ftzlist.html>

### Texas Foreign Trade Zones Generate Billions

- Texas' FTZs led the nation with over \$4.7 billion in exports in 2004 - the most recent data available. South Carolina ranked second with approximately \$4.6 billion in exports.
- Texas ranked first in the nation for FTZ employment in 2004 with over 61,600 employed. Second-place Ohio had just over 29,500 employed.
- In 2004, the combined value of shipments entering all U.S. FTZs totaled \$298 billion, a 22 percent increase over the \$245 billion reported in 2003.

Source: National Association of Foreign-Trade Zones (NAFTZ), February 7, 2006 Press Release\*

\*This press release containing the latest available state breakout figures is no longer posted to the NAFTZ website. It is referenced at <http://memphis.bizjournals.com/memphis/stories/2006/02/06/daily20.html>.

### Texas Foreign Trade Zones

ZONE	SUBZONES	CBP PORT OF ENTRY
FTZ No. 12 McAllen Grantee/Operator: McAllen Economic Development Corporation 6401 South 33rd Street, McAllen, TX 78501 Joyce Dean (956) 682-2875 Fax (956) 682-9111 <a href="http://www.mftz.org">www.mftz.org</a>		Hidalgo/Pharr





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

<p>FTZ No. 36 Galveston Grantee: Board of Trustees of the Galveston Wharves Operator: Port of Galveston P.O. Box 328, Galveston, TX 77553 Diane Falcioni (409) 766-6121 Fax (409) 766-6107</p>	<p>36A Deepsea Flexibles 36B M-I L.L.C.</p>	<p>Houston</p>
<p>FTZ No. 39 Dallas/Fort Worth Grantee/Operator: Dallas/Fort Worth International Airport Board P.O. Drawer 619428, DFW Airport, TX 75261 Michael Pyles (972) 973-4653 Fax (972) 574-8069</p>	<p>39B GM 39C Sanden 39E Fossil Partners 39F Zale Corporation 39G Exel Global Logistics, Inc. 39H American Eurocopter LLC 39I Turbomeca U.S.A. 39J The Apparel Group</p>	<p>Dallas/Fort Worth</p>
<p>FTZ No. 62 Brownsville Grantee/Operator: Brownsville Navigation District 1000 Foust Road, Brownsville, TX 78521 Jo Lynne Saban (956) 831-4592 Fax (956) 831-5353</p>		<p>Brownsville/Los Indios</p>
<p>FTZ No. 68 El Paso Grantee: City of El Paso 501 George Perry, Suite i, El Paso, TX 79906 Jose Quinonez (915) 771-6016 Fax (915) 772-2491 Quinonezji@elpasotexas.gov <a href="http://www.elpasotexas.gov/ftz">www.elpasotexas.gov/ftz</a></p>		<p>El Paso</p>
<p>FTZ No. 80 San Antonio Grantee: City of San Antonio Economic Development Department P.O. Box 839966, San Antonio, TX 78283 Carmelina Davis (210) 207-6529 Fax (210) 207-8151 carmelinad@sanantonio.gov <a href="http://www.saftz.com">www.saftz.com</a></p>	<p>80A Bausch &amp; Lomb 80B Colin Medical Instruments 80C Friedrich Air Conditioning 80D R. G. Barry</p>	<p>San Antonio</p>
<p>FTZ No. 84 Harris County</p>	<p>84C DuPont</p>	<p>Houston</p>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

<p>Grantee: Port of Houston Authority 111 East Loop North Houston, TX 77029 Jack Beasley (713) 670-2604 Fax (713) 670-2564</p>	<p>84E Gulf Coast Maritime 84F Valero Refining 84H Shaffer, Inc. 84I Tuboscope Vetco Int'l 84J Shell Oil Co. 84K Dril-Quip 84L Tadiran Microwave Networks 84M Hydril USA Manufacturing LLC 84N Pasadena Refining System, Inc. 800 EXXON Mobil 84P Houston Refining LP 84Q Equistar Chemicals 84R Michelin North America, Inc. 84S Academy Sports &amp; Outdoors</p>	
<p>FTZ No. 94 Laredo Grantee: City of Laredo Operator: Laredo International Airport Operator of Foreign-Trade Zone No. 94 5210 Bob Bullock Loop, Laredo, TX 78041 Humberto Garza (956) 795-2000 Fax (956) 795-2572</p>		<p>Laredo</p>
<p>FTZ No. 95 Starr County Grantee/Operator: Starr County Industrial Foundation P.O. Box 502, Rio Grande City, TX 78582 Hector Soliz (956) 487-2709 Fax (956) 716-8560</p>		<p>Rio Grande City</p>
<p>FTZ No. 96 Eagle Pass Grantee: City of Eagle Pass Operator: Maverick Co. Dev. Corp. P.O. Box 3693, Eagle Pass, TX 78853 Judith A. Canales (830) 773-6166 Fax (830) 773-6287</p>		<p>Eagle Pass</p>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

jacanales@eaglepassmcdc.com		
<p>FTZ No. 113 Ellis County Grantee: Midlothian Trade Zone Corporation Operator: Trade Zone Operations, Inc. 1500 North Service Road, Highway 67 Midlothian, TX 76065 Mark Nichols (800) 235-7378 Fax (949) 706-7994</p>		Dallas/Fort Worth
<p>FTZ No. 115 Beaumont Grantee: Foreign-Trade Zone of Southeast Texas, Inc. P.O. Drawer 2297, Beaumont, TX 77704 David C. Fisher (409) 835-5367 Fax (409) 835-0512</p>	<p>115A BASF Corporation 115B EXXON Mobil</p>	Port Arthur
<p>FTZ No. 116 Port Arthur Grantee: Foreign-Trade Zone of Southeast Texas, Inc. P.O. Drawer 2297, Beaumont, TX 77704 David C. Fisher (409) 835-5367 Fax (409) 835-0512</p>	<p>116A Motiva Enterprises 116B Total Petrochemicals USA 116C Premcor Refining Group 116D US DoE Strategic Petroleum Reserve</p>	Port Arthur
<p>FTZ No. 117 Orange Grantee: Foreign-Trade Zone of Southeast Texas, Inc. P.O. Drawer 2297, Beaumont, TX 77704 David C. Fisher (409) 835-5367 Fax (409) 835-0512</p>		Port Arthur
<p>FTZ No. 122 Corpus Christi Grantee/Operator: Port of Corpus Christi Authority 1305 N. Shoreline Blvd. Corpus Christi, TX 78401 Sonya Lopez-Sosa (361) 885-6187 Fax (361) 881-5162 sonya@pocca.com <a href="http://www.portofcorpuschristi.com/ftzdefined.htm">www.portofcorpuschristi.com/ftzdefined.htm</a></p>	<p>122C BTB Refining, LLC 122D Gulf Marine Fabricators 122E Bay Ltd. 122H TOR Minerals Intl 122I Citgo Refining &amp; Chemicals 122J Valero Refining Co. 122K Sherwin Alumina Co. 122L Flint Hills Resources LP 122M Valero Three Rivers Refinery 122N Equistar Chemicals</p>	Corpus Christi





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

	122O International Resistive Company 122P Kiewit Offshore Services 122Q Baker Hughes, Inc. 122R Haliburton Energy Services, Inc.	
FTZ No. 149 Freeport Grantee: Port Freeport P.O. Box 615, Freeport, TX 77542-0615 Phyllis Saathoff (979) 233-2667 x4258 Fax (979) 233-5625 saathoff@portfreeport.com <a href="http://www.portfreeport.com">www.portfreeport.com</a>	149A BASF 149B DSM Nutritional Products, Inc. 149C ConocoPhillips 149D Seaway Crude Pipeline 149E BP Products North America 149F Equistar Chemicals 149G Dow Chemical	Freeport
FTZ No. 150 El Paso Grantee: Westport Economic Development Corporation 1865 Northwestern Dr., El Paso, TX 79912 Brent Harris (915) 877-4300		El Paso
FTZ No. 155 Calhoun/Victoria Counties Grantee: Calhoun-Victoria Foreign-Trade Zone, Inc. P.O. Drawer 397, Point Comfort, TX 77978 Charles Hausmann (361) 987-2813 Fax (361) 987-2189	155C Alcoa	Port Lavaca-Point Comfort
FTZ No. 156 Weslaco Grantee: City of Weslaco 255 S. Kansas Ave., Weslaco, TX 78596 Anthony Covacevich (956) 968-3181 Fax (956) 968-6672		Progreso
FTZ No. 165 Midland Grantee: City of Midland c/o Midland International Airport 9506 Laforce Blvd., P.O. Box 60305, Midland, TX 79711 Tommy Martin (432) 560-2200 Fax (432) 560-2237	165A WRB Refining LLC	Midland







OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

<p>FTZ No. 168 Dallas/Fort Worth Grantee: Metroplex International Trade Development Corporation Operator: Foreign Trade Zone Operating Co. of Texas P.O. Box 742916, Dallas, TX 75374-2916 (Ms.) Lou Thomas (972) 915-0083 Fax (972) 929-7228</p>	<p>168A B&amp;F Systems 168B Ultrak</p>	<p>Dallas/Fort Worth</p>
<p>FTZ No. 171 Liberty County Grantee: Liberty County Economic Development Corporation Foreign-Trade Zone 171 P.O. Box 857, Liberty, TX 77575 John Hebert (936) 336-7311 Fax (936) 336-9285</p>		<p>Houston</p>
<p>FTZ No. 183 Austin Grantee: Foreign Trade Zone of Central Texas, Inc. City of Round Rock 301 W. Bagdad Ave. # 210 Round Rock, TX 78664-5835 Joe Vining (512) 255-5805 Fax (512) 218-3286</p>	<p>183A Dell Computer Corporation 183B Samsung Austin Semiconductor, LLC</p>	<p>Austin</p>
<p>FTZ No. 196 Fort Worth Grantee: Alliance Corridor, Inc. c/o Hillwood Development Corporation 13600 Heritage Pkwy., Suite 200 Fort Worth, TX 76177 Tom Harris (817) 224-6008 Fax (817) 224-6060</p>		<p>Dallas/Fort Worth</p>
<p>FTZ No. 199 Texas City Grantee: Texas City Foreign-Trade Zone Corporation P.O. Box 2608, Texas City, TX 77592 Doug Hoover (409) 643-5927 Fax (409) 942-1073</p>	<p>199A BP Products North America 199B Marathon Petroleum Company LLC 199C Valero Refining 199D Seaway Crude Pipeline Co. 199E ISP Technologies</p>	<p>Houston</p>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

FTZ No. 234 Gregg County Grantee: Gregg County, Texas 269 Terminal Circle, Longview, TX 75603 Shelby Keys (903) 643-3031 Fax (903) 643-7371	234A Eubank Manufacturing Enterprises, Inc. 234B Letourneau, Inc.	Shreveport-Bossier City
FTZ No. 246 Waco Grantee: City of Waco, Texas c/o Economic Development Division Greater Waco Chamber of Commerce P.O. Box 1220, Waco, TX 76703 Kris Collins (254) 752-6551 Fax (254) 752-6618 <a href="mailto:kcollins@wacochamber.com">kcollins@wacochamber.com</a>		Dallas/Fort Worth
FTZ No. 251 Edinburg Grantee: City of Edinburg 602 W. University Drive, Suite B Edinburg, TX 78539 Ramiro Garza (956) 383-7124 Fax (956) 383-7111		Hidalgo/Pharr
FTZ No. 252 Amarillo Grantee: City of Amarillo c/o Amarillo Economic Development Corporation 801 South Fillmore Street, Suite 205 Amarillo, TX 79101 Brian Jennings (806) 379-6411 Fax (806) 371-0112		Amarillo
FTZ No. 258 Bowie County Grantee: Red River Redevelopment Authority 107 Chapel Lane, New Boston, TX 75570 Randy Mansfield (903) 223-9841 Fax (903) 223-8742		Shreveport-Bossier City
FTZ No. 260 Lubbock Grantee: City of Lubbock Lubbock International Airport Reese Technology Center 5401 North Martin Luther King Boulevard		Lubbock





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

Lubbock, TX 79403 Warren Warner (806) 775-2048 Fax (806) 775-3133		
FTZ No. 265 Conroe (Montgomery County) Grantee: City of Conroe P.O. Box 3066, Conroe, TX 77305 Jerry S. McGuire (936) 539-4431	265A WLS Drilling Products, Inc. 265B Sondex, L.P.	Houston
FTZ No. 269 Athens Grantee: Athens Economic Development Corporation 100 W. Tyler St., Athens, TX 75751 Chris Potter (903) 675-4617 Fax (903) 675-4830 <a href="mailto:cpotter@athensedc.com">cpotter@athensedc.com</a> <a href="http://www.athensedc.com">www.athensedc.com</a>		Dallas/Fort Worth

*Source: Foreign-Trade Zones Board website, U.S. Department of Commerce at <http://ia.ita.doc.gov/ftzpage/letters/ftzlist.html#Texas>, accessed February 2009*

**Foreign Trade Zones Information**

**Foreign trade zones overview**

Foreign trade zones (FTZs) are sites in or near a U.S. Customs port of entry where foreign and domestic merchandise is generally considered to be in international trade. Goods can be brought into a zone without formal Customs entry or without incurring Customs duties or excise taxes unless and until they are imported into the United States. FTZs are intended to promote U.S. participation in trade and commerce by eliminating or reducing the unintended costs or obstacles associated with U.S. trade laws.

Employment that might normally be shifted to a foreign country is thereby encouraged to remain in the United States.

Zone projects may be at one or multiple sites, a single building, all or a portion of an industrial park, at a deep-water port, or within an international airport. When a firm intends to utilize its own plant or cannot be accommodated within an existing zone, "subzone" status may be granted to the site.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

Currently, there are about 250 general purpose Foreign Trade Zones and over 450 subzones in the United States. This represents a dramatic increase from 1980 figures, when there were only 59 general-purpose zones. Texas is currently home to 33 FTZs, more than any other state. The FTZ program was created by the U.S. government to facilitate international trade and increase the global competitiveness of U.S.-based companies. The program, which has existed since the 1930s, continues to thrive and change to better meet the needs of American companies in the global economy.

*Activities Permitted in a Foreign-Trade Zone*

Merchandise entering a Zone may be:

- Assembled
- Tested
- Sampled
- Relabeled
- Manufactured\*
- Stored
- Salvaged
- Processed
- Repackaged
- Destroyed
- Mixed
- Manipulated

\*The user must receive special approval from the FTZ Board for manufacturing.

**Definition of a Foreign Trade Zone and Subzone**

A *foreign-trade zone (FTZ)* is a designated site licensed by the Foreign-Trade Zones (FTZ) Board at which special customs procedures may be used. These procedures allow domestic activity involving foreign items to take place prior to formal customs entry. Duty-free treatment is accorded items that are re-exported and duty payment is deferred on items sold in the U.S. market, thus offsetting customs advantages available to overseas producers who compete with producers located in the United States. A site which has been granted zone status may not be used for zone activity until the site has been separately approved for FTZ activation by local U.S. Customs and Border Protection (CBP) officials, and the zone activity remains under the supervision of CBP. FTZ sites and facilities remain within the jurisdiction of local, state or federal governments or agencies.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

*General-purpose zones* are usually located at ports or industrial parks. They must be opened to multiple zone users. Although manufacturing is permitted within general-purpose zones, the most common activity use is for warehouse and distribution activity.

*Subzones* are special-purpose zones, usually at manufacturing plants. A subzone of a general-purpose zone can be approved if the company is unable to relocate existing facilities into a general-purpose zone site. Subzones are approved for use by one company for a specific activity. Applications for subzone status must demonstrate a significant public benefit for approval.

### **Purpose of Foreign Trade Zones**

The purpose of FTZs is to stimulate desired economic activity in the community consistent with national policy. Zones are designated to create employment, not simply divert it from one region of the country to another.

### **Where zones can be located**

Zone sites must be inside the U.S. and within or adjacent to a U.S. Customs and Border Protection (CBP) port of entry.

The adjacency requirement can be satisfied if one of the following factors is met:

1. The zone or subzone site is within the limits of a Customs port of entry.
2. The zone or subzone site is within 60 statute miles of the outer limits of a CBP port of entry.
3. The zone or subzone site is within 90 minutes' driving time from the outer limits of a CBP port of entry as verified by the CBP Service Port Director.
4. For subzones only: if a subzone site does not meet the adjacency requirement, it may alternatively qualify to be considered adjacent if they work with the CBP Port Director to ensure that proper oversight measures are in place.

### **Review criteria**

- Each U.S. port of entry is entitled to a zone project -- more only if need is shown.
- Applicants (usually public entities) must have a suitable plan including provisions for facilities and financing.
- Need for the proposed zone must be shown in terms of the local economy and overall economic development objectives.





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

- Subzones/Zone manufacturing applications are reviewed under "public interest" criteria – authorization is limited to activity that is consistent with trade policy and yields net positive economic effects, taking into account potential impact on other domestic plants.
- Subzone applicants must demonstrate a significant public benefit in addition to meeting the general manufacturing criteria.

**FTZ public and zone user benefits**

FTZ public benefits:

- Help facilitate and expedite international trade.
- Provide special customs procedures as a public service to help firms conduct international trade related operations in competition with foreign plants.
- Encourage and facilitate exports.
- Help attract offshore activity and encourage retention of domestic activity.
- Assist state/local economic development efforts.
- Help create employment opportunities.

Zone user benefits

- Duty Exemption. No duties on or quota charges on re-exports.
- Duty Deferral. Customs duties and federal excise tax deferred on imports.
- Inverted Tariff. In situations where zone manufacturing results in a finished product that has a lower duty rate than the rates on foreign inputs (inverted tariff), the finished products may be entered at the duty rate that applies to its condition as it leaves the zone - subject to public interest considerations.
- Logistical Benefits. Companies using FTZ procedures may have access to streamlined customs procedures (e.g. "weekly entry" or "direct delivery").
- Other Benefits. Foreign goods and domestic goods held for export are exempt from state/local inventory taxes. FTZ status may also make a site eligible for state/local benefits which are unrelated to the FTZ Act.

**Application Process**

Application for zone status is made to the Foreign Trade Zone Board. A detailed application must be submitted to the Board providing extensive information on the zone project. The usual applicants are state or local government entities, port or airport authorities, economic development agencies, and not-for-profit corporations. More information on the application process is available at <http://www.ia.ita.doc.gov/ftzpage/applications.html>.





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

### **Allowable merchandise**

Any foreign and domestic merchandise may be brought into a zone without being subject to the custom laws of the U.S. governing the entry of goods or the payment of duty. Excluded are those goods which are prohibited by law or which the foreign trade zone board orders to be excluded as detrimental to the public interest, health or safety.

### **Allowable Activities**

- Merchandise in a zone may be assembled, exhibited, cleaned, manipulated, manufactured, mixed, processed, relabeled, repackaged, repaired, salvaged, sampled, stored, tested, displayed and destroyed.
- Manufacturing, processing and any activity that results in a change of the tariff classification must be specifically approved by the FTZ Board.
- Retail trade is prohibited in zones.

### **Eligible Applicants**

Applications for new general-purpose zones are made by a public or public-type corporation (this could include port authorities, cities, counties, economic development organizations or others). If the zone is approved, this organization is referred to as the “grantee”. The grantee then may apply for expansions to the zone, manufacturing or subzone authority on behalf of interested companies.

### **Number and Location of Zones**

There are zones in all 50 states and Puerto Rico. Currently, there are about 250 general purpose Foreign Trade Zones and over 450 subzones in the U.S. The current FTZ listing is at <http://ia.ita.doc.gov/ftzpage/letters/ftzlist.html>.

### **Current FTZ Statistics**

- U.S. communities with zones: over 250
- States with zone projects: 50
- Pending cases for new zones and expansions: 60
- Value of merchandise handled by zones: over \$490 billion
- Employment at active zone facilities: over 340,000
- Exports: \$30 billion





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

- Of incoming zone shipments, over 60% is of domestic status (most of this figure represents domestic origin goods, but a small percentage would be duty paid/duty free foreign items).

Source: *ITA website* at <http://www.ia.ita.doc.gov/ftzpage/info/summary.html>

**Primary products and industries using FTZs**

The largest industry currently using zone procedures is the petroleum refining industry. Significant zone manufacturing also occurs in the automotive, electronic, and pharmaceutical product areas.

Sources: *Foreign-Trade Zones Board website*, U.S. Department of Commerce at <http://ia.ita.doc.gov/ftzpage>, accessed January 2009; *National Association of Foreign Trade Zones website* at <http://www.naftz.org/>, accessed January 2009.







OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

**Active Foreign Bank Agencies in Texas**

To get more detailed information about the Institution, press the Charter # link.

<b>Charter #</b>	<b>Name Contact Home Office</b>	<b>Home Office's Phone Number Mailing Address</b>
<a href="#">5032-36</a>	Royal Bank of Canada Daniel Smith 17950 Preston Rd., Ste 660 Dallas, TX 75252	-- 17950 Preston Rd., Ste. 600 Dallas, TX 75252
<a href="#">5007-21</a>	Societe Generale Robert Delph 2911 Turtle Creek, Ste. 300 Dallas, TX 75219	214-979-2764 2911 Turtle Creek, Ste. 300 Dallas, TX 75219
<a href="#">5030-03</a>	BBVA Bancomer, S.A. Lena H. Tan  5075 Westheimer, Suite 1260W Houston, TX 77056	713-341-8236  5075 Westheimer, Suite 1260 West Houston, TX 77056
<a href="#">5025-25</a>	BNP Paribas John Stacy 1200 Smith Street, Ste. 3100 Houston, TX 77002	713-659-4811 1200 Smith Street, Suite 3100 Houston, TX 77002
<a href="#">5013-05</a>	Bank of Montreal Charles Prioleau  700 Louisiana Street, Suite 4400 Houston, TX 77002	713-223-4400  700 Louisiana St., Suite 4400 Houston, TX 77002
<a href="#">5022-07</a>	Riyad Bank Bill Shepard 440 Louisiana St., Ste. 4770	713-331-2023 440 Louisiana St., Ste. 1050





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

	Houston, TX 77002	Houston, TX 77002
<a href="#">5031-30</a>	Royal Bank of Canada Richard Martinez 5700 Williams Tower, 2800 Post Oak Blvd., 43rd Fl. Houston, TX 77056	713-403-5606  2800 Post Oak Blvd., Ste. 4325 Houston, TX 77056
<a href="#">5003-34</a>	The Bank of Tokyo-Mitsubishi UFJ, Ltd. Ataru Orihashi 1100 Louisiana, Suite 2800 Houston, TX 77002	713-658-1160 1100 Louisiana, Suite 2800 Houston, TX 77002
<a href="#">5020-32</a>	The Toronto-Dominion Bank Nicholas Renna 909 Fannin Street, Ste. 1950 Houston, TX 77010	713-653-8200 909 Fannin St., Ste 1950 Houston, TX 77010

Source: Texas Department of Banking

<http://www.banking.state.tx.us/asp/entities/respond.asp?entity=21&ename=&ecity=&ecounty=&status=active&Branches=Yes&Sort=city&Submit=Submit>





OFFICE OF THE GOVERNOR  
ECONOMIC DEVELOPMENT & TOURISM

## Import and Export Regulations

The U.S. Department of Commerce provides Texas companies with access to all International Trade Administration programs and services through their seven Export Assistance Centers in Texas.

<http://www.buyusa.gov/home/us.html>

Office Information For: Austin U.S. Export Assistance Center

Phone: (512) 916-5939 or 936-0039  
Fax: (512) 916-5940  
Email: [Karen.Parker@mail.doc.gov](mailto:Karen.Parker@mail.doc.gov)  
Address: 221 E. 11th St., 4th Floor  
Austin, TX 78701  
Mailing: P.O. Box 12428,  
Austin, TX. 78711

Office Information For: Fort Worth U.S. Export Assistance Center

Phone: (817) 392-2673  
Fax: (817) 392-2668  
Email: [Fort.Worth.Office.Box@mail.doc.gov](mailto:Fort.Worth.Office.Box@mail.doc.gov)  
Address: 808 Throckmorton Street  
Fort Worth, TX 76102-6315

Office Information For: Houston U.S. Export Assistance Center

Phone: (281) 449-9402  
Fax: (281) 449-9437  
Email: [Houston.Office.Box@mail.doc.gov](mailto:Houston.Office.Box@mail.doc.gov)  
Address: 15600 John F. Kennedy Blvd.  
Suite 530  
Houston, TX 77032

Office Information For: North Texas U.S. Export Assistance Center

Phone: (817) 310-3744  
Fax: (817) 310-3757  
Email: [daniel.swart@mail.doc.gov](mailto:daniel.swart@mail.doc.gov)





OFFICE OF THE GOVERNOR

ECONOMIC DEVELOPMENT & TOURISM

Address: North Texas USEAC  
1450 Hughes Rd Suite 220  
Grapevine, TX 76051

Office Information For: San Antonio U.S. Export Assistance Center

Phone: (210) 228-9878  
Fax: (210) 228-9874  
Email: [Daniel.Rodriguez@mail.doc.gov](mailto:Daniel.Rodriguez@mail.doc.gov)  
Address: 203 South Saint Mary Street  
Suite 360  
San Antonio, TX 78205

Office Information For: South Texas U.S. Export Assistance Center

Phone: (956) 661 – 0238  
Fax: (956) 661 – 0239  
Email: [South.Texas.Office.Box@mail.doc.gov](mailto:South.Texas.Office.Box@mail.doc.gov)  
Address: South Texas Export Assistance Center  
6401 S. 36th Street, Suite # 4  
McAllen, Texas 78503

Office Information For: West Texas U.S. Export Assistance Center

Phone: (432) 552-2490  
Fax: (432) 552-3490  
Email: [West.Texas.Office.Box@mail.doc.gov](mailto:West.Texas.Office.Box@mail.doc.gov)  
Address: 1400 North FM 1788  
Room 1303  
Midland, TX 79707-1423

Basic information on the exporting process is available from the Export.gov website:

[http://www.export.gov/salesandmarketing/exp\\_counseling\\_resources.asp](http://www.export.gov/salesandmarketing/exp_counseling_resources.asp)

<http://www.export.gov/exportbasics/>

### Import Regulations

The U.S. Customs Service provides a guide for commercial importers.

[http://www.cbp.gov/xp/cgov/trade/basic\\_trade/](http://www.cbp.gov/xp/cgov/trade/basic_trade/)

