

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

MAGISTRATE REFERRAL

CIVIL ACTION NO. 4:25-cv-01361

Freddie America

v.

Texas Controller of Public Accounts, et al.

Pursuant to a Standing Order, certain civil suits are referred at the time of the filing equally among magistrate judges. Therefore, the above-entitled action has been referred to:

Magistrate Judge Davis

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

NOTICE OF CASE ASSIGNMENT

Judge Jordan

CAUSE STYLE:

CAUSE NO:

Freddie America

4:25-cv-01361

V.

Texas Controller of Public Accounts, et al.

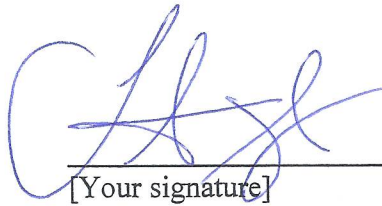
This is to advise you that the above cause has been filed/transferred and bears the above case number and style. All future instruments should be referred to by this number and filed with the appropriate divisional office of the Eastern District of Texas.

You are further advised that this case has been assigned to the above named judge.

Date: 12/9/2025

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded by first class mail [or, delivered in person] to each attorney/party of record on this 9 day of Dec, 2015.


[Your signature]

Notice of Filing – Request to Open (RTO)

To Whom It May Concern:

Please be advised that, in accordance with applicable procedural requirements and out of an abundance of caution, I am providing your office with formal notice of my filing related to statewide tax administration and the Texas Historically Underutilized Business (HUB) program.

Enclosed is a copy of my **Request to Open (RTO)** that pertains to the actions of the Texas Comptroller of Public Accounts. This filing is being transmitted to all relevant state offices to ensure proper notice, transparency, and preservation of the record.

This notice is provided pursuant to standard legal practice regarding communication with state agencies who may be affected by, referenced in, or responsible for matters arising from the issues contained in my filing.

Kindly acknowledge receipt by retaining this copy for your internal records. No response is required unless your office deems it necessary.

Thank you for your attention.

A handwritten signature in black ink, appearing to be 'Freddie America', written in a stylized, cursive-like font.

Respectfully,
Freddie America

a/k/a **Freddie Lopez**

Electrical Contractor & Energy Consultant

Freddie America LLC

AO 440 (Rev. 06/12) Summons in a Civil Action

To: KELLY HANCOCK, Acting Comptroller

Office of the Texas Comptroller of Public Accounts

111 E. 17th Street

Austin, Texas 78774

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint.

If you fail to respond, judgment by default will be entered against you.

I. PLAINTIFFS

Freddie America a/k/a Freddie Lopez
Freddie America LLC
12289 County Road 800
Nevada, Texas 75173

FILED

DEC 09 2025

CLERK, U.S. DISTRICT COURT
TEXAS EASTERN

DEFENDANTS

Texas Comptroller of Public Accounts
Kelly Hancock, Acting Comptroller (official capacity)
111 E. 17th Street
Austin, Texas 78774

II. BASIS OF JURISDICTION (Check One)

- ☒ 1. U.S. Government Plaintiff
☒ 2. Federal Question (28 U.S.C. § 1331)

III. CITIZENSHIP OF PRINCIPAL PARTIES

Plaintiff: Texas Defendant: Texas
(This is required but does not destroy jurisdiction)

IV. NATURE OF SUIT (Check One)

- ☒ 890 – Other Statutory Actions
☒ 440 – Civil Rights: Other
☒ 950 – Constitutional challenge to state action

V. ORIGIN

- ☒ 1 – Original Proceeding

VI. CAUSE OF ACTION

Equal Protection challenge; Texas Administrative Procedure Act challenge.

ultra vires state-official action; separation of powers; arbitrary and capricious agency action.

VII. REQUESTED IN COMPLAINT

☒ Declaratory Relief ☒ Injunctive Relief

VIII. RELATED CASES

None known.

DATE: 9 Dec 2025 SIGNATURE: /s/ Freddie
America

To: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
c/o Office of the Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

You are hereby summoned and required to serve an answer
within 21 days.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
SHERMAN DIVISION

FREDDIE AMERICA a/k/a FREDDIE LOPEZ,
Plaintiff,

v. Civil Action No. _____

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS;
and KELLY HANCOCK, Acting Texas Comptroller,
in his official capacity,
Defendants.

ORDER GRANTING TEMPORARY RESTRAINING
ORDER

Before the Court is Plaintiff's Emergency Motion for
Temporary Restraining Order.

Having considered the motion, the pleadings, the applicable
law, and the evidence, the
Court finds that Plaintiff has demonstrated:

- (1) a substantial likelihood of success on the merits;
- (2) a substantial threat of irreparable harm absent immediate relief;
- (3) that the balance of equities favors the Plaintiff; and
- (4) that an injunction is in the public interest.

IT IS THEREFORE ORDERED that Defendants, their officers, agents, employees, and all persons acting in concert with them, are hereby ENJOINED from enforcing or giving any effect to the emergency rule amending 34 Tex. Admin. Code § 20.14 that eliminates statutory HUB classifications.

This Temporary Restraining Order is effective immediately and shall remain in force until the hearing on Plaintiff's Motion for Preliminary Injunction.

SO ORDERED.

DATED: _____

UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FILED

DEC 09 2025

CLERK, U.S. DISTRICT COURT
TEXAS EASTERN

FREDDIE America, d/b/a Freddie America,
AKA FREDDIE L. LOPEZ
Plaintiff,

v.

TEXAS COMPTROLLER OF PUBLIC ACCOUNTS; and
KELLY HANCOCK, in his official capacity as Acting Texas
Comptroller,
Defendants.

Civil Action No. 4:25-cv-1301-SJS/MD

****PLAINTIFF'S EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER**

AND PRELIMINARY INJUNCTION**

Plaintiff Freddie America, d/b/a Freddie America, AKA
Freddie L. Lopez, respectfully moves for a Temporary
Restraining Order and Preliminary Injunction under Fed. R.
Civ. P. 65, prohibiting Defendants from enforcing the
December 2, 2025 "Emergency Rule" purporting to suspend
and restructure Texas's Historically Underutilized Business
("HUB") program.

This Motion seeks to preserve not merely a statutory scheme, but the constitutional architecture that prevents executive officers from governing by decree.

I. INTRODUCTION

This case arises from an extraordinary assertion of executive power unseen in modern Texas history. On December 2, 2025, Acting Comptroller Kelly Hancock unilaterally declared that he was **suspending a legislatively enacted civil-rights program**—the HUB program—replacing it with an entirely new system (VetHUB) that erases statutory classifications and eliminates entire protected classes with the stroke of a pen.

No statute authorizes this.

No emergency justifies this.

No constitutional framework tolerates this.

What the Comptroller has attempted is nothing less than a **suspension of law**, an act the Texas Constitution expressly forbids since 1876.

And he has done so **without filing the rule in the Texas Register**, without a TRD number, without public notice, and without any legal predicate. Nevertheless, the Comptroller's office has begun **enforcing** this unpublished rule against Plaintiff and thousands of similarly situated businesses.

Plaintiff—who timely sought HUB recertification—was denied eligibility solely because the Comptroller now requires 20–25% service-connected disability status. This is not a standard authorized by the Legislature. It is not part of Chapter 2161. It is not the law.

This Court’s intervention is the only mechanism capable of halting a constitutional injury already underway.

II. FACTUAL BACKGROUND

A. October 28, 2025 — The Freeze

Acting Comptroller Hancock issued a statewide “suspension” freezing all new and renewed HUB certifications. The announcement was premised on Executive Order GA-55 and purported “constitutional concerns.” No emergency rule was published. No statutory authority permitted a freeze.

Plaintiff, whose HUB recertification was pending, received nothing—no notice, no determination, no process.

B. December 2, 2025 — The Emergency Rule Announcement

On December 2, 2025, the Comptroller publicly announced new “Emergency Rules” eliminating HUB categories for:

- women-owned businesses,
- minority-owned businesses,

- the very groups Chapter 2161 was enacted to protect.

In their place, the Comptroller implemented "VetHUB," restricting eligibility solely to disabled veterans. The agency began enforcing this rule immediately, even though the rule **has never appeared in the Texas Register** as required by law.

C. Direct Harm to Plaintiff

When Plaintiff called the Comptroller's office, he was informed:

1. **He may not reapply** under prior HUB categories.
2. Only **service-disabled veterans (20-25% disability)** may qualify under the new standard.
3. His HUB status is effectively **extinguished** due solely to the Comptroller's unpublished rule.

This is executive lawmaking, not administration.

III. LEGAL STANDARD

Relief under Rule 65 is warranted where the movant demonstrates:

1. Substantial likelihood of success on the merits;
2. Irreparable harm;

3. Balance of hardships favoring the movant;
4. Public interest supporting injunctive relief.

Winter v. NRDC, 555 U.S. 7, 20 (2008).

IV. ARGUMENT

A. Plaintiff Is Substantially Likely to Succeed

1. The Comptroller's Rule Violates Separation of Powers

Texas's separation-of-powers doctrine is explicit and unforgiving:

"No person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others."

— TEX. CONST. art. II, § 1.

Only the Legislature may amend or suspend statutes.

Only the Legislature may redefine HUB categories.

Only the Legislature may repeal Chapter 2161.

The Comptroller has attempted all three.

This is an archetypal violation condemned in *GTE Southwest v. PUC*, 901 S.W.2d 401 (Tex. 1995), where

the Texas Supreme Court held that agencies may not rewrite statutory schemes under the guise of regulation.

The Comptroller's assertion of power here is **far more extreme**.

2. The Rule Exceeds Statutory Authority and Is Void

Chapter 2161 gives the Comptroller **administrative duties**, not legislative power.

An agency cannot nullify a statute by rule. *FM Props.*, 22 S.W.3d at 873.

Nor may an agency enforce a rule that:

- has **never been published**,
- lacks a TRD number,
- lacks notice,
- lacks legal effect.

Unpublished rules are void. Enforcement of unpublished rules violates due process.

3. The Rule Is Arbitrary and Capricious

The Comptroller cites no "emergency" justifying immediate implementation.

Rulemaking requires **reasoned decisionmaking**, not unilateral decrees.

The sudden erasure of long-standing statutory classifications, based on no evidence and contrary to legislative policy, is the epitome of arbitrary government action. *State Farm*, 463 U.S. at 42.

B. The Rule Violates the Equal Protection Clause

Elimination of remedial classifications disproportionately harms:

- minority-owned businesses,
- women-owned businesses,
- Plaintiff personally.

Where discriminatory impact combines with procedural irregularity, *Arlington Heights* demands heightened scrutiny. No compelling interest supports the Comptroller's actions; indeed, no legitimate interest can justify suspending a statute.

C. NEW COUNT IV — Due Process Violation: Enforcement of Unpublished Rule

The Comptroller is enforcing a rule that:

- has not been published in the Texas Register,
- has not taken legal effect,
- was never subject to public notice or comment,
- was applied retroactively to Plaintiff,

- eliminated statutory rights without process.

This violates:

- **U.S. Const. amend. XIV,**
- **Tex. Const. art. I, § 19,**
- **Texas Administrative Procedure Act,**
- **bedrock principles of fair notice.**

A person cannot comply with a rule that does not legally exist.

V. IRREPARABLE HARM

This case presents all three forms of irreparable injury recognized in federal jurisprudence:

1. Constitutional Injury

Loss of constitutional protections—separation of powers, equal protection, due process—is irreparable per se. *Elrod v. Burns*, 427 U.S. at 373.

2. Economic Injury That Cannot Be Recovered

Lost HUB opportunities are not compensable in damages and cannot be restored retroactively. *Janvey*, 647 F.3d at 600.

3. Destruction of Legislative Status Quo

Each day the Comptroller's illegal rule operates reshapes the competitive market and eliminates statutory rights. Courts consistently enjoin such disruptions. *Callaway*, 489 F.2d at 573.

VI. BALANCE OF EQUITIES

The equities tilt decisively toward Plaintiff:

- Plaintiff seeks only to preserve the law as written.
- Defendants suffer no harm from obeying statutory limits.
- Constitutional rights always outweigh agency convenience.

De Leon v. Perry, 975 F. Supp. 2d at 651.

VII. PUBLIC INTEREST

The public interest is best served by:

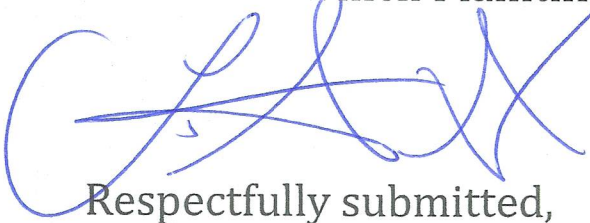
- preventing unlawful suspension of statutes,
- ensuring agencies do not govern by decree,
- protecting small businesses,
- maintaining constitutional order.

When government exceeds its lawful authority, federal courts must intervene. *Texas v. EPA*, 829 F.3d at 433.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. **Issue a Temporary Restraining Order** immediately prohibiting enforcement of the purported December 2, 2025 emergency rule;
2. **Order full reinstatement and continuation** of the HUB program as enacted in Tex. Gov't Code Ch. 2161;
3. **Set an expedited hearing** on a preliminary injunction;
4. **Waive bond** under Rule 65(c);
5. Grant all other relief, at law or in equity, to which Plaintiff is entitled.



Respectfully submitted,

/s/ **Freddie America, AKA Freddie Lopez**, Plaintiff Pro Se
d/b/a Freddie America LLC
Freddie America Family Ranch
12289 County Road 800
Nevada, Texas 75173
Phone: (214) 537-5287
Email: freddie1@freddieamerica.com

EXHIBIT A – HUB CERTIFICATION FOR FREDDIE AMERICA LLC

This is a true and correct copy of Plaintiff's Historically Underutilized Business (HUB) Certificate, issued by the Texas Comptroller of Public Accounts in 2014 under Certificate/VID Number 1465292168600. This certificate demonstrates Plaintiff's prior eligibility, statutory classification, participation in the HUB Program, and reliance on HUB protections in government contracting.

Texas Historically Underutilized Business (HUB) Certificate



Certificate/VID Number:	1465292168600
File/Vendor Number:	485695
Approval Date:	26-JUN-2014
Scheduled Expiration Date:	26-JUN-2018

The Texas Comptroller of Public Accounts (CPA), hereby certifies that

FREDDIE AMERICA LIMITED LIABILITY COMPAN

has successfully met the established requirements of the State of Texas Historically Underutilized Business (HUB) Program to be recognized as a HUB. This certificate printed 27-JUN-2014, supersedes any registration and certificate previously issued by the HUB Program. If there are any changes regarding the information (i.e., business structure, ownership, day-to-day management, operational control, business location) provided in the submission of the business' application for registration/certification as a HUB, you must immediately (within 30 days of such changes) notify the HUB Program in writing. The CPA reserves the right to conduct a compliance review at any time to confirm HUB eligibility. HUB certification may be suspended or revoked upon findings of ineligibility.

Paul A. Gibson

Paul Gibson, Statewide HUB Program Manager
Texas Procurement and Support Services

Note: In order for State agencies and institutions of higher education (universities) to be credited for utilizing this business as a HUB, they must award payment under the Certificate/VID Number identified above. Agencies and universities are encouraged to validate HUB certification prior to issuing a notice of award by accessing the Internet (<http://www.window.state.tx.us/procurement/cmb/cmbhub.html>) or by contacting the HUB Program at 1-888-863-5881 or 512-463-5872.

Rev. 09/12

IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I. INTRODUCTION

This case arises from an extraordinary assertion of executive power unseen in modern Texas history. On December 2, 2025, Acting Comptroller Kelly Hancock unilaterally declared that he was suspending a legislatively enacted civil-rights program—the HUB program—and replacing it with an entirely new system (“VetHUB”) that erases statutory classifications and eliminates entire protected classes with the stroke of a pen.

No statute authorizes this.

No emergency justifies this.

No constitutional framework tolerates this.

The Comptroller’s action is nothing less than the **suspension of law**, an act the Texas Constitution has expressly forbidden since 1876. And he has done so **without filing the rule in the Texas Register, without a TRD number, without public notice, and without any legal predicate.**

Nevertheless, the Comptroller’s office has begun enforcing this unpublished rule against Plaintiff and thousands of similarly situated businesses.

This Court's intervention is the only mechanism capable of halting a constitutional, statutory, and economic injury already underway.

I-A. JURISDICTION AND VENUE

This Court has jurisdiction under **28 U.S.C. §1331** because Plaintiff brings federal constitutional claims, including violations of Due Process and Equal Protection. The Court has authority to issue injunctive relief under **28 U.S.C. §1343(a)** and **42 U.S.C. §1983**.

Venue is proper in this District under **28 U.S.C. §1391(b)** because Defendants reside in this District and the events giving rise to these claims occurred within this District.

II. FACTUAL BACKGROUND

A. October 28, 2025 — The Freeze

Acting Comptroller Hancock issued a statewide "suspension" freezing all new and renewed HUB certifications. No statute authorized a freeze. No emergency rule was published.

Plaintiff, whose HUB recertification was pending, received no notice, no determination, and no process.

B. December 2, 2025 — The Emergency Rule Announcement

The Comptroller publicly announced new “Emergency Rules” eliminating HUB categories for:

- women-owned businesses,
- minority-owned businesses,
- veteran-owned businesses,
- disability-owned businesses, and
- Plaintiff personally.

In their place, the Comptroller implemented “VetHUB,” restricting eligibility solely to disabled veterans with 20–25% VA disability ratings.

The Comptroller’s office **immediately enforced this new standard**, even though:

- no rule has ever appeared in the Texas Register,
- no TRD number exists,
- no notice or comment was provided,
- no statutory authority justifies the change.

C. Direct Harm to Plaintiff

When Plaintiff called the Comptroller’s office, he was informed:

1. He may **not reapply** under prior HUB categories;
2. Only 20–25% disabled veterans may qualify under the new (unpublished) standard;
3. Plaintiff’s HUB status is effectively **extinguished**, solely due to the Comptroller’s unpublished rule.

This is executive lawmaking, not administration.

II-C. THE EMERGENCY RULE AT ISSUE

The December 2, 2025 Emergency Rule:

- has **never been published** in the Texas Register,
 - has **no TRD number**,
 - has **no legal effect**,
 - was enforced immediately,
 - eliminates long-standing statutory classifications,
- and
- was applied retroactively to Plaintiff.

Unpublished rules are **void**.

Enforcement of unpublished rules violates **due process** and the **Texas Administrative Procedure Act**.

III. LEGAL STANDARD

Relief under Fed. R. Civ. P. 65 is warranted where the movant demonstrates:

1. **Substantial likelihood of success on the merits;**
2. **Irreparable harm;**
3. **Balance of equities** favor movant;
4. **Public interest** supports injunctive relief.

Winter v. NRDC, 555 U.S. 7, 20 (2008).

IV. ARGUMENT

A. Plaintiff Is Substantially Likely to Succeed

1. The Rule Violates Separation of Powers

Texas's Constitution is explicit:

"No person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others."

— TEX. CONST. art. II, §1.

Only the Legislature may amend or suspend statutes.

Only the Legislature may redefine HUB categories.

Only the Legislature may repeal Chapter 2161.

The Comptroller attempted all three.

This is the exact conduct condemned in **GTE Southwest v. PUC**, 901 S.W.2d 401 (Tex. 1995), where the Court held agencies may not rewrite statutory schemes under the guise of regulation.

2. The Rule Exceeds Statutory Authority and Is Void

Chapter 2161 assigns the Comptroller **administrative duties**, not legislative powers.

An agency cannot nullify a statute by rule.

FM Props., 22 S.W.3d at 873.

An agency may not enforce a rule that:

- has never been published,
- lacks a TRD number,
- lacks notice,
- lacks legal effect.

Unpublished rules are void.

3. The Rule Is Arbitrary and Capricious

The Comptroller cites **no emergency** and provides **no justification** for immediately eliminating statutory classifications.

Rulemaking requires **reasoned decisionmaking**, not unilateral decrees.

This violates:

- U.S. Const. amend. XIV,
- Tex. Const. art. I, §19,
- Texas APA,
- basic fairness and notice principles.

4. Equal Protection Violation

Elimination of classifications disproportionately harms:

- minority-owned businesses,
- women-owned businesses,
- Plaintiff personally.

When discriminatory impact combines with procedural irregularity, **Arlington Heights** demands heightened scrutiny.

No compelling interest justifies the Comptroller's action.

V. IRREPARABLE HARM

This case presents all three recognized forms of irreparable injury:

1. Constitutional Injury

Loss of constitutional protections — separation of powers, due process, equal protection — is irreparable **per se**.

Elrod v. Burns, 427 U.S. 347 (1976).

2. Economic Injury Not Recoverable

Lost HUB opportunities cannot be compensated in damages. Janvey, 647 F.3d at 600.

3. Destruction of Legislative Status Quo

The Comptroller's illegal rule rewrites the competitive marketplace daily.

Callaway, 489 F.2d at 573.

VI. BALANCE OF EQUITIES

The equities tilt decisively toward Plaintiff:

- Plaintiff seeks only to preserve the law as written.
 - Defendants suffer no harm from obeying statutory limits.
 - Constitutional rights outweigh agency convenience.
- De Leon v. Perry, 975 F. Supp. 2d at 651.

VII. PUBLIC INTEREST

The public interest is best served by:

- preventing unlawful suspension of statutes,
- ensuring agencies do not govern by decree,
- protecting small businesses,
- maintaining constitutional order.

When government exceeds lawful authority, courts **must intervene**.

Texas v. EPA, 829 F.3d 433 (5th Cir. 2016).

VIII. RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests this Court:

1. **Issue a Temporary Restraining Order** prohibiting enforcement of the December 2, 2025 Emergency Rule;
2. **Set an expedited hearing** on a Preliminary Injunction;

3. **Order reinstatement** of Plaintiff's HUB status and continuation of the HUB program as enacted in Chapter 2161;

4. **Waive bond** under Rule 65(c);

5. Grant all other relief, at law or equity, to which Plaintiff is entitled.

A handwritten signature in black ink, appearing to be 'FL Lopez', written over a horizontal line.

Respectfully submitted,

/s/ Freddie America

AkA Freddie L. Lopez

d/b/a Freddie America LLC

Freddie America Family Ranch

12289 County Road 800

Nevada, Texas 75173

(214) 537-5287

freddie1@freddieamerica.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FILED

DEC 09 2025

CLERK, U.S. DISTRICT COURT
TEXAS EASTERN

**FREDDIE AMERICA, d/b/a Freddie America LLC a/k/a
FREDDIE LUIS LOPEZ,
Plaintiff,**

v.

**TEXAS COMPTROLLER OF PUBLIC ACCOUNTS; and
KELLY HANCOCK, in his official capacity as Acting Texas
Comptroller,
Defendants.**

Civil Action No. 4:25-cv-1361 SDJ/BD

SB SDJ/BD

****PLAINTIFF'S ORIGINAL COMPLAINT**

FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

1. This action challenges an unprecedented and unlawful attempt by the Acting Texas Comptroller to suspend, nullify, and replace a legislatively mandated

civil-rights program — the Historically Underutilized Business (“HUB”) program — without legislative approval, without statutory authority, and **without lawful rulemaking procedures.**

2. On October 28, 2025, Acting Comptroller Kelly Hancock issued a statewide “freeze” halting all new and renewed HUB certifications. On December 2, 2025, he then announced a new “emergency rule” that eliminates HUB eligibility for minority-owned and women-owned businesses, restricts HUB certification exclusively to service-disabled veterans, and effectively dismantles large portions of Tex. Gov’t Code Chapter 2161.

3. Critically, this “emergency rule” has **never been filed, published, or made legally effective** in the Texas Register. Nevertheless, the Comptroller’s office is actively **enforcing** it. Plaintiff personally contacted the Comptroller’s office and was informed that he **cannot reapply or recertify as a HUB** unless he is a **20–25% disabled veteran** — a criterion wholly absent from statute and created solely by the unpublished rule.

4. Executive officials may not govern by decree. They may not suspend statutes. They may not enforce unpublished or legally void rules. They may not extinguish constitutional protections through administrative fiat.

5. The Acting Comptroller’s actions violate the Texas Constitution’s separation of powers, exceed statutory authority, constitute ultra vires action, violate procedural and substantive due process, and

deny Plaintiff equal protection under the Fourteenth Amendment.

6. Plaintiff — a certified HUB, minority-owned Texas business — faces **immediate and irreparable harm** from the unlawful rule, including the denial of recertification, loss of statutory bidding protections, exclusion from competition, and destruction of legislatively conferred economic opportunity.

7. Plaintiff seeks declaratory and injunctive relief to restore the HUB program as enacted by the Legislature and to prevent further enforcement of the void emergency rule.

II. JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the United States Constitution and 42 U.S.C. § 1983.

9. Plaintiff seeks prospective injunctive relief against a state official in his official capacity, which is permitted under *Ex parte Young*, 209 U.S. 123 (1908).

10. Supplemental jurisdiction exists over state-law claims under 28 U.S.C. § 1367(a), as they arise from the same case or controversy.

11. Venue is proper under 28 U.S.C. § 1391(b)(2) because Plaintiff resides in Collin County, Texas, within the Sherman Division, and the injuries occurred here.

III. PARTIES

12. Plaintiff **Freddie America**, d/b/a Freddie America LLC a/k/a Freddie Luis Lopez, is a minority business owner residing in Collin County, Texas. Plaintiff is a certified HUB whose rights and opportunities under state law have been unlawfully extinguished by Defendants' actions.

13. Defendant **Texas Comptroller of Public Accounts** is the state agency responsible for administering and enforcing Tex. Gov't Code Chapter 2161.

14. Defendant **Kelly Hancock**, Acting Texas Comptroller, is sued in his official capacity as the final policymaker responsible for issuing and enforcing the emergency rule described herein.

IV. FACTUAL BACKGROUND

A. Statutory Mandate

15. The Texas Legislature created the HUB program to "promote full and equal business opportunities for all businesses in state contracting," including minority-owned and women-owned businesses. Tex. Gov't Code § 2161.001.

16. Chapter 2161 requires agencies to meet participation goals, mandates certification

procedures, and assigns the Comptroller ministerial duties to administer — not suspend — the program.

B. Plaintiff's Reliance

17. Plaintiff invested substantial resources to obtain and maintain HUB certification. His business depends on statutory bidding protections, listing privileges, and equal-opportunity contracting rights.

C. October 28 Freeze

18. Without notice or statutory authority, Acting Comptroller Hancock issued an “emergency freeze” suspending HUB certification and renewal.

D. December 2 Unpublished Rule

19. On December 2, 2025, the Comptroller publicly declared an “emergency rule” eliminating HUB eligibility categories and replacing them with a veteran-only standard.

20. **This rule has never been published in the Texas Register**, has no TRD number, and has not legally taken effect.

E. Enforcement of an Unpublished Rule

21. Plaintiff contacted the Comptroller's office and was informed that:

- He is **not eligible** for HUB recertification;

- Only businesses with **20-25% disabled veteran status** may qualify;
- This denial is based solely on the unpublished emergency rule.

22. Texas law prohibits enforcement of unpublished rules.

23. The Comptroller is enforcing a rule that has **no legal validity**, contradicts statute, and strips Plaintiff of statutory rights.

V. CAUSES OF ACTION

****COUNT I — Separation of Powers Violation**

(Tex. Const. art. II, § 1)**

24. Plaintiff incorporates all prior allegations.

25. Only the Legislature may amend, repeal, or suspend a statute.

26. By nullifying Chapter 2161 through emergency rule, the Comptroller exercised legislative authority he does not possess. *FM Props.*; *GTE-Southwest*.

****COUNT II — Exceeding Statutory Authority**

(Tex. Gov't Code § 2001.038)**

27. Plaintiff incorporates all prior allegations.

28. Agencies may not issue rules that conflict with statute.

29. Chapter 2161 expressly protects minority- and women-owned businesses. The Comptroller eliminated these categories without legislative approval.

30. The rule is void ab initio.

****COUNT III — Equal Protection Violation**

(14th Amendment & § 1983)**

31. Plaintiff incorporates all prior allegations.

32. The suspension disproportionately harms minority-owned and women-owned businesses, frustrating a remedial program created to counter discrimination.

33. No compelling governmental interest justifies the rule; it is not narrowly tailored; it lacks factual support.

34. Disparate impact and procedural irregularities show unconstitutional motive under *Arlington Heights*.

****COUNT IV — Ultra Vires Action**

(Heinrich; Houston Belt)**

35. Plaintiff incorporates all prior allegations.

36. A state officer acts ultra vires when he acts without legal authority.

37. The Comptroller has **no authority** to suspend or rewrite Chapter 2161.

38. Enforcement of an unpublished, unauthorized rule is ultra vires and void.

****COUNT V — Arbitrary and Capricious Action**

(State Farm; Charter Medical)**

39. Plaintiff incorporates all prior allegations.

40. Emergency rulemaking requires "imminent peril." None exists.

41. The Comptroller reversed decades of policy without justification, factual support, or reasoned explanation.

42. This is arbitrary and capricious agency action.

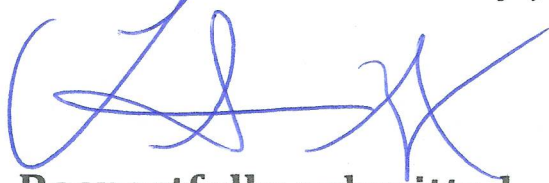
VI. PRAYER FOR RELIEF

Plaintiff respectfully requests that this Court:

- A. Declare the Comptroller's emergency rule invalid, unconstitutional, and unenforceable;
- B. Issue a Temporary Restraining Order and Preliminary Injunction restoring full operation of the HUB program;
- C. Permanently enjoin Defendants from enforcing the rule;
- D. Award attorney's fees under 42 U.S.C. § 1988;
- E. Grant all further relief to which Plaintiff is entitled.

VII. JURY DEMAND

Plaintiff demands trial by jury.

A handwritten signature in blue ink, appearing to be 'Freddie America', written over the text 'Respectfully submitted,'.

Respectfully submitted,

/s/ Freddie America AKA Freddie Lopez

Plaintiff, Pro Se

Freddie America LLC

Freddie America Family Ranch

12289 County Road 800

Nevada, Texas 75173

Phone: (214) 537-5287

Email: freddie1@freddieamerica.com

EXHIBIT A – HUB CERTIFICATION FOR FREDDIE AMERICA LLC

This is a true and correct copy of Plaintiff's Historically Underutilized Business (HUB) Certificate, issued by the Texas Comptroller of Public Accounts in 2014 under Certificate/VID Number 1465292168600. This certificate demonstrates Plaintiff's prior eligibility, statutory classification, participation in the HUB Program, and reliance on HUB protections in government contracting.

Texas Historically Underutilized Business (HUB) Certificate



Certificate/VID Number: 1465292168600
File/Vendor Number: 485695
Approval Date: 26-JUN-2014
Scheduled Expiration Date: 26-JUN-2018

The Texas Comptroller of Public Accounts (CPA), hereby certifies that

FREDDIE AMERICA LIMITED LIABILITY COMPAN

has successfully met the established requirements of the State of Texas Historically Underutilized Business (HUB) Program to be recognized as a HUB. This certificate printed 27-JUN-2014, supersedes any registration and certificate previously issued by the HUB Program. If there are any changes regarding the information (i.e., business structure, ownership, day-to-day management, operational control, business location) provided in the submission of the business' application for registration/certification as a HUB, you must immediately (within 30 days of such changes) notify the HUB Program in writing. The CPA reserves the right to conduct a compliance review at any time to confirm HUB eligibility. HUB certification may be suspended or revoked upon findings of ineligibility.

Paul A. Gibson

Paul Gibson, Statewide HUB Program Manager
Texas Procurement and Support Services

Note: In order for State agencies and institutions of higher education (universities) to be credited for utilizing this business as a HUB, they must award payment under the Certificate/VID Number identified above. Agencies and universities are encouraged to validate HUB certification prior to issuing a notice of award by accessing the Internet (<http://www.window.state.tx.us/procurement/cmb/cmbhub.html>) or by contacting the HUB Program at 1-888-863-5881 or 512-463-5872.

Rev. 09/12