

PUBLIC PROTECTION CABINET
(Emergency Amended After Comments)

800 KAR 1:020E. Team Western Kentucky Tornado Relief Fund.

RELATES TO: KRS 12.270, 11.065, 39A.180, EO 2021-923, EO 2021-925

STATUTORY AUTHORITY: KRS 12.270, 11.065, 39A.180, EO 2021-925, 22 RS HJR 29

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 11.065, the Secretary of the Public Protection Cabinet ("Secretary") is a member of the Governor's Executive Cabinet and shall, among other things, perform duties the Governor may require. To fulfill these duties, under KRS 12.270(2), the secretary of each cabinet is authorized to accept and expend funds from any public or private source. Executive Order 2021-925 ("Order") requires the Public Protection Cabinet ("Cabinet") to establish the Team Western Kentucky Tornado Relief Fund ("Fund") to be administered by the Secretary of the Public Protection Cabinet. The Order commands that the Fund, consisting of monies received from public or private sources, shall be used to provide financial assistance to those who are or will be affected due to the severe weather events of December 10 and 11, 2021. The Order further requires the Secretary establish standards, consistent with the public purpose of the Order to provide assistance to impacted Kentuckians, regarding acceptance and expenditure of funds based on eligibility and qualifications for assistance provided to a recipient. The standards shall include establishing eligibility criteria and a process for receiving, adjudicating, and paying requests for assistance from the Fund. KRS 39A.180(1) allows political subdivisions of the state and other agencies designated or appointed by the Governor to make, amend, and rescind orders and promulgate administrative regulations necessary for disaster and emergency response purposes. 22 RS HJR 29 extended Executive Orders 2021-923 and 2021-925 to April 14, 2022.

Section 1. Definitions.

- (1) "Administrative Purposes" means expenditures that are not direct aid to Kentucky residents affected by the severe weather events of December 10 and 11, 2021, including but not limited to overhead expenses of a Qualified Nonprofit Organization.
- (2) "Affected Counties" means the Kentucky counties listed in the Federal Emergency Management Agency (FEMA) Disaster Declaration 4630-DR-KY where individuals are eligible for FEMA assistance, including Barren, Caldwell, Christian, Fulton, Graves, Hart, Hickman, Hopkins, Logan, Lyon, Marion, Marshall, Muhlenberg, Ohio, Taylor, and Warren counties.
- (3) "Cabinet" means the Kentucky Public Protection Cabinet.
- (4) "Fund" means the Team Western Kentucky Tornado Relief Fund, established by Executive Order 2021-925.
- (5) "Qualified Nonprofit Organization" means a non-profit organization, entity, or institution, including but not limited to tax-exempt organizations under Internal Revenue Code Section 501(c)(3) or 501(c)(4) and religious organizations.
- (6) "Small Business" means any business entity organized for profit, including a sole proprietorship, partnership, limited partnership, corporation, limited liability company, joint venture, association, or cooperative, that:
 - (a) Had fifty (50) or fewer full-time employees on December 9, 2021;
 - (b) Is not an affiliate or subsidiary of a larger corporate structure, unless the total number of employees of all the affiliates and subsidiaries within that structure is fifty (50) or fewer;
 - (c) Had at least one (1) business location in an affected county on December 9, 2021;

- (d) Sustained damage to a business location in an affected county or experienced business interruption as a result of the severe weather events of December 10 and 11, 2021;
- (e) Is presently in operation or will be in operation; and
- (f) Is in good standing with the Kentucky Department of Revenue and the Kentucky Secretary of State.

Section 2. Acceptance of Funds. Pursuant to KRS 12.270(2) and Executive Order 2021-925, the Cabinet may accept monies from any source, public or private, for deposit into the Fund.

Section 3. General eligibility requirements. Notwithstanding Sections 8 and 9 of this emergency administrative regulation, to be eligible to receive a financial award from the Fund, a recipient shall:

- (1) Be a Qualified Nonprofit Organization and agree to use all awarded funds to serve Kentucky residents affected by the severe weather events of December 10 and 11, 2021, by assisting with the provision of food, clothing, shelter, utilities, medical expenses, household needs, or other necessities of life. Funds can also be used to provide long-term financial or other assistance and rebuilding to those impacted by severe weather events of December 10 and 11, 2021; or
- (2) Be a small business and agree to use all awarded funds to maintain business operations in an affected county or counties or rebuild or repair a business location in an affected county or counties.

Section 4. Financial Assistance.

- (1) A recipient meeting the requirements of Section 3 of this emergency administrative regulation may receive a financial award which shall be paid directly to the recipient in the sole discretion of the Cabinet or its designee.
- (2) Awards may be made in any amount; however, a qualified nonprofit organization shall agree not to expend financial awards made from the Fund for Administrative Purposes or fees.

Section 5. Documentation of Expenditures. Any Qualified Nonprofit Organization or small business that receives a financial award from the Fund shall document expenditures of all awarded monies. The documentation must be retained for at least two (2) years following the distribution of all awarded funds and shall be subject to inspection during that time by the Cabinet or its designee.

Section 6. Administrative Fees. Administrative fees shall not be paid from the Fund to any agency of the Commonwealth of Kentucky or any contractor engaged to assist with the operation of the Fund, with the exception of processing fees imposed by merchant banks or credit card companies.

Section 7. Applicability of Open Records and Document Retention. With the exception of information otherwise exempt from disclosure pursuant to the Kentucky Open Records Act, KRS 61.870, et seq., all documents and materials submitted to either the Commonwealth or the Cabinet shall be considered a public record subject to the Kentucky Open Records Act. Accordingly, the Commonwealth and the Cabinet shall retain all documents described for a period of not less than two (2) years from the last distribution from the Fund.

Section 8. Direct Payment for Funeral Expenses. Notwithstanding Sections 3 through 5 of this regulation, the person who is responsible, or would be responsible absent donations, for the payment of funeral expenses for an individual whose death was related to the severe weather events of December 10 and 11, 2021, may receive direct financial assistance from the Fund in an amount not to exceed \$10,000 for the purpose of assisting in the payment of those funeral expenses or other expenses associated with the person's death. The Public

Protection Cabinet or its designee shall coordinate such direct payments and shall obtain all necessary information from the Kentucky Office of Vital Statistics, coroners, or other appropriate entities to verify eligibility for any direct payment under this paragraph.

Section 9. Other Acceptable Uses of Fund Monies. Subject to the availability of funds, the Cabinet, in its sole discretion, may elect to distribute funds, including but not limited to excess funds, to Kentucky residents affected by the severe weather events of December 10 and 11, 2021.

Section 10. No Entitlement. All awards shall be subject to the availability of funds, and all awards made from the Fund shall be purely a matter of grace and not subject to any appeal.

Section 11. No Intent to Create Individual or Organizational Interests. The establishment of the Fund is not intended to create and shall not create any individual or organizational right, privilege, property interest, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the Commonwealth of Kentucky, its agents, departments, political divisions, or other entities, or any officers, employees, or agents thereof, or any other persons.

Section 12. Expiration. This emergency administrative regulation shall not be replaced by a regular administrative regulation and shall expire at the latest date permitted by law.

RAY A. PERRY, Secretary

APPROVED BY AGENCY: March 14, 2022

FILED WITH LRC: March 15, 2022 at 8:50 a.m.

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