

STATEMENT OF EMERGENCY
800 KAR 1:020E.

Pursuant to KRS 12.270(2), KRS 11.065, KRS 13A.190(1), KRS 39A.180, Executive Order 2021-923, and Executive Order 2021-925, this emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, or welfare. On December 10, 2021, and continuing, a powerful severe weather system generating heavy rain, thunderstorms, tornadoes, and strong straight-line winds impacted the Commonwealth of Kentucky, causing death and injury, flash flooding, loss of power, and damage to public infrastructure and private properties. This devastating severe weather system will continue to affect the lives of Kentuckians and have consequences across the Commonwealth. The Team Western Kentucky Tornado Relief Fund was established in response to this catastrophic weather event, and for the purpose of protecting and safeguarding the public health, safety, and welfare of Kentuckians. Under Executive Order 2021-925, the Governor directed the Secretary of the Public Protection Cabinet to administer the Team Western Kentucky Tornado Relief Fund. This emergency administrative regulation will expire at the latest date permitted by law under KRS 13A.190 and will not be replaced by an ordinary administrative regulation.

RAY PERRY, Secretary
ANDY BESHEAR, Governor

PUBLIC PROTECTION CABINET
(New Emergency Administrative Regulation)

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

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 an applicant. 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.

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) "Cabinet" means the Kentucky Public Protection Cabinet.
- (3) "Fund" means the Team Western Kentucky Tornado Relief Fund, established by Executive Order 2021-925.
- (4) "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.

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 9 and 10 of this emergency administrative regulation, to be eligible to receive a financial award from the Fund, an applicant shall:

- (1) Be a Qualified Nonprofit Organization;
- (2) Submit a complete application for a financial award to the Cabinet via an online portal available at <https://teamwkyrelieffundapp.ky.gov/> that includes the proper name of the organization, the current status of the organization, the charitable purpose or purposes of the organization, the geographic area the organization intends to serve with any awarded funds, and a description of the proposed project and how any financial award will be used;
- (3) Include a description in the application explaining how those who are or will be impacted by the severe weather events of December 10 and 11, 2021 will be positively impacted should a financial award be provided to the applicant.

Section 4. Financial Assistance.

- (1) An applicant meeting the requirements of Section 3 of this emergency administrative regulation may receive a financial award which shall be paid directly to the applicant in the sole discretion of the Cabinet or its designee.
- (2) Awards may be made in any amount; however, no financial awards made from the Fund shall be expended on Administrative Purposes.
- (3) All funds received shall be used 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 the severe weather events of December 10 and 11, 2021.

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

Section 6. Incomplete Applications. An incomplete application shall be denied. However, an applicant shall be permitted to submit an updated application if the applicant's prior application was denied solely on the basis of being incomplete.

Section 7. 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 8. 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 9. Direct Payment for Funeral Expenses. Notwithstanding Sections 3 through 6 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 10. Other Acceptable Uses of Fund Monies. Subject to the availability of funds, the Cabinet, in its sole discretion, may elect to allocate funds, including but not limited to excess funds, to Qualified Nonprofit Organizations located within the Commonwealth of Kentucky that provide for the health and welfare of Kentuckians or may directly distribute funds to Kentucky residents affected by the severe weather events of December 10 and 11, 2021.

Section 11. 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 12. 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 13. 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: December 17, 2021

FILED WITH LRC: December 17, 2021 at 4:17 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 a.m. EST on February 22, 2022 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the emergency administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the emergency administrative regulation. Written comments shall be accepted through 11:59 p.m. on February 28, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Benjamin Long, General Counsel, 500 Mero Street, 218 NC, Frankfort, Kentucky 40601, phone (502) 782-2736, fax (502) 546-3639, email Benjamin.Long@ky.gov.