



Office of the Inspector General

Finance and Administration Cabinet

REPORT OF INVESTIGATION

FILE ID NUMBER: OIG-2023-01

AGENCY: Public Protection Cabinet

SUBJECT: Administration of the Team Western Kentucky Tornado Relief
Fund and the Team Eastern Kentucky Flood Relief Fund

DATE OF REPORT: December 5, 2023

EXECUTIVE SUMMARY

Following the deadly tornadoes in western Kentucky that began on December 20, 2021, and took the lives of 81 Kentuckians, and after declaring a state of emergency in Executive Order 2021-923, Governor Andy Beshear signed Executive Order 2021-925 to establish the Team Western Kentucky Tornado Relief Fund. The sole purpose of the fund was to, through purely private donations, help Kentuckians recover and rebuild. The Public Protection Cabinet also promulgated an emergency administrative regulation, 800 KAR1:020E, to govern distributions from the fund. The emergency regulation sets forth the program guidelines for the fund, including, as the fund's website has noted, that no money privately donated to the fund may be used to pay for administrative fees other than credit card processing and treasury fees.

Fewer than eight months after the tornadoes, once-in-a-thousand-years flooding swept through eastern Kentucky on July 28, 2022, taking the lives of 45 Kentuckians. Again, Governor Beshear acted, declaring a state of emergency in Executive Order 2022-457, and directing the Secretary of the Public Protection Cabinet to create and administer the Team Eastern Kentucky Flood Relief Fund to, through private donations, provide assistance to those directly impacted by the flooding. As with the Team Western Kentucky Tornado Relief Fund, the Team Eastern Kentucky Flood Relief Fund is governed with program guidelines that the Cabinet published on the website for the fund at the time of its creation. Additionally, the website for the fund unambiguously states that no money privately donated to the fund may be used to pay for administrative fees other than credit card processing and treasury fees.

Governor Beshear directed the Public Protection Cabinet and its Secretary to create and administer each of the funds under the following statutory authority: KRS 11.065; KRS 12.270; KRS 12.020; KRS 12.250; KRS 12.252; KRS 39A.180; and KRS 45A.097. These statutory provisions provide the Governor and the Public Protection Cabinet the full authority to create and administer such funds consisting entirely of private donations, without the need for an executive order or an administrative regulation.

During the 2023 Regular Session the General Assembly adopted the program guidelines for each fund by passing Senate Bill 99, which Governor Beshear signed into law.

Following media reports about the Team Western Kentucky Tornado Relief Fund and with the Finance and Administration Cabinet having a clear statutory interest in financial matters within the executive branch and in protecting the financial interests of the Commonwealth, the Office of Inspector General within the Finance and Administration Cabinet reviewed the establishment and administration of the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund. Areas of review within the Public Protection Cabinet included: the establishment of each fund; the guidelines and procedures in the disbursement of money from each received through private donations; internal controls; transparency of the program; decisions in the use of the money from each fund; and verification that money from each fund went toward the intended purpose.

In reaching the findings and recommendations it details in this report, the OIG did the following: (1) conducted interviews with Cabinet employees directly involved in establishing

and administering the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund, including the Office of the Secretary, the Office of Legal Services (OLS), the Office of Administrative Services (OAS), and the Office of Information Technology (OIT); (2) analyzed 516 samples of payments; (3) analyzed the Commonwealth's electronic financial system (eMARS) data; (4) reviewed PPC reports to the legislature, testimony before legislative committee, and activities related to such testimony; and (5) reviewed the guidelines for each fund, correspondence, memoranda of agreement and applicable legal authority; and reviewed relevant websites and articles.

Below are the programs created within the funds that the OIG reviewed, with the findings and recommendations of the OIG that are detailed in this report.

- **Team Western Kentucky Tornado Relief Fund**
 - **Finding: The administration had statutory authority to establish and administer the Team Western Kentucky Tornado Relief Fund.**
 - **Funeral assistance program**
 - **Finding: The Public Protection Cabinet's administration of the funeral assistance program in the Team Western Kentucky Tornado Relief Fund exhibited strong segregation of duties and internal controls to guard against waste, fraud or abuse of funds. The Cabinet has shown substantial compliance with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.**
 - **Supplemental payments to uninsured homeowners and renters (First Payment)**
 - **Finding: In administering the uninsured homeowners' and renters' assistance program in the Team Western Kentucky Tornado Relief Fund, the Public Protection Cabinet worked with FEMA to obtain FEMA data to quickly identify those tornado survivors needing assistance and issuing payments supplemental to FEMA assistance payments based on the FEMA data. The Cabinet exhibited strong segregation of duties and overall effective internal controls to guard against waste, fraud or abuse of funds. The Cabinet also showed substantial compliance with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.**
 - **Supplemental payments to uninsured homeowners and renters (Second Payment)**
 - **Finding: The Public Protection Cabinet's administration of the second distribution of payments to individuals directly impacted by the tornadoes substantially complied with the program guidelines**

established for the fund and with SB 99. The Cabinet promptly addressed particular issues that arose from the FEMA data relating to this second distribution by taking corrective action to ensure that FEMA further “scrubbed” the data, thereby removing potentially fraudulent data prior to transmitting any additional data to the Cabinet. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

- **Supplemental payments to insured homeowners and renters (First Payment)**
 - **Finding: The Department of Insurance within the Public Protection Cabinet successfully worked with the private insurance industry to obtain highly-reliable data identifying those within the disaster designation who had filed insurance claims and therefore qualified for assistance from the fund. The Cabinet exhibited strong internal controls and segregation of duties to guard against waste, fraud and abuse of the fund. The Cabinet substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.**

- **Supplemental payments to insured homeowners and renters (Second Payment)**
 - **Finding: In similar fashion to the prior insured homeowners and renter’s program, the Department of Insurance within the Public Protection Cabinet obtained highly-reliable data from the private insurance industry to identify qualified survivors for payment. The Cabinet exhibited strong internal controls and segregation of duties to guard against waste, fraud and abuse of the fund. The Cabinet substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.**

- **Grain assistance program**
 - **Finding: The Public Protection Cabinet exhibited strong segregation of duties and internal controls in developing and implementing the grain elevator assistance program in the Team Western Kentucky Tornado Relief Fund to guard against duplicate payments and to ensure accuracy of payments. The Cabinet substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.**

- **Unmet needs program (using local long-term resource groups or “LTRGs”)**
 - **Finding: The Public Protection Cabinet demonstrated strong segregation of duties and overall effective internal controls to guard against waste, fraud and abuse of the fund in the administration of the unmet needs program in the Team Western Kentucky Tornado Relief Fund. The Cabinet has substantially complied with the program guidelines established for the fund and with SB 99. The Inspector General recommends that the Cabinet develop universal standard forms for greater uniformity. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.**

- **Home building and repair program**
 - **Finding: In its home rebuilding and assistance program in the Team Western Kentucky Tornado Relief Fund, the Public Protection Cabinet has shown strong segregation of duties and overall effective internal controls to guard against waste, fraud and abuse of the fund. The Cabinet has substantially complied with the program guidelines established for the fund and with SB 99. The Inspector General recommends that the Cabinet strive for even greater consistency in monitoring the progress of building efforts by the nonprofit builders. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.**

Overall Finding: For the entire Team Western Kentucky Tornado Relief Fund, the 53 payments for \$69,785 made in error represent 0.2645% of the 20,040 total number of payments and 0.14555% of the total amount of \$47,944,436.37. In comparison, last month the White House Office of Management and Budget released its annual data on improper payments from federal programs, noting a 5.43% rate for improper and insufficient documentation for Fiscal Year 2023. The White House, *OMB Releases Annual Data Showing Continued Progress in Reducing Improper Payments Across the Federal Government*, Nov. 22, 2023, <https://www.whitehouse.gov/omb/briefing-room/2023/11/22/omb-releases-annual-data-showing-continued-progress-in-reducing-improper-payments-across-the-federal-government/>. Additionally, the review of the eMARS data and of the sample payments does not indicate any sign of widespread fraud in either the Team Western Kentucky Tornado Relief Fund or the Team Eastern Kentucky Flood Relief Fund. Although there have been isolated instances of fraud reported in the second payment to uninsured program (see page 24), the overall percentage of fraudulent claims appears to be immaterial. *The Association of Certified Fraud Examiners’ Report to the Nations on Occupational Fraud and Abuse: 2016 Global Fraud Study* reported a typical organization is estimated to lose 5 percent (5%) of its income due to fraud. Cited in the U.S. Department of Homeland Security OIG Report, OIG-19-55, *FEMA Must Take Additional Steps to Demonstrate the Importance of Fraud Prevention and Awareness in FEMA Disaster Assistance Programs*, <https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-55-Jul19.pdf>.

- **Team Eastern Kentucky Flood Relief Fund**
 - **Finding:** The administration had statutory authority to establish and administer the Team Eastern Kentucky Flood Relief Fund.
 - **Funeral assistance program**
 - **Finding:** The Public Protection Cabinet has exhibited strong segregation of duties and internal controls to guard against waste, fraud or abuse of funds in its administration of the funeral assistance program in the Team Eastern Kentucky Flood Relief Fund and has substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.
 - **Supplemental payments to uninsured homeowners and renters**
 - **Finding:** In administering the uninsured homeowners' and renters' assistance program in the Team Eastern Kentucky Flood Relief Fund, the Public Protection Cabinet exhibited strong internal controls and segregation of duties, including instructing FEMA to take additional steps to remove any potentially fraudulent FEMA claims. The Cabinet also showed substantial compliance with the program guidelines established for the fund and with SB 99. Cabinet officials reported that they are not aware of a single claim of potential fraud in this program. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.
 - **Home building and repair program**
 - **Finding:** In administering the home building and repair program in the Team Eastern Kentucky Flood Relief Fund, the Public Protection Cabinet has shown strong segregation of duties and overall effective internal controls to guard against waste, fraud and abuse of the fund, and has substantially complied with the program guidelines established for the fund and with SB 99. The Inspector General recommends that the Cabinet strive for even greater consistency in monitoring the progress of building efforts by the nonprofit builders. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.
 - **Recommendation.** The OIG recommends that the Public Protection Cabinet continue to refine its analytics and review process to guard against errors in payment while continuing to produce and review eMARS reports. Going forward, the Cabinet should run its data analytics across all of the programs contained within the respective funds, rather than confining it to an individual program.

- **Overall Finding: The Public Protection Cabinet established and has administered the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund with complete transparency.**
- **Overall Recommendation: With a possibility of future natural disasters striking Kentucky and the Cabinet administering a program similar to these funds in the future because of its success in administering these funds, it is recommended that the Cabinet formalize its internal approval process (i.e., through manual, internal policy guidance).**

In this report, the OIG also addresses media reports in February 2023 of more than 200 checks issued from the Team Western Kentucky Tornado Relief Fund being canceled as “misdirected payments.” The OIG’s review revealed that with all checks issued for supplemental payments to uninsured homeowners and renters, the information for payees originated from data that FEMA shared with the Public Protection Cabinet under a written agreement. Regarding checks issued for supplemental payments to insured homeowners and renters, the vast majority of information for payees originated from data that private insurers shared with the Cabinet. A total of 193 checks were canceled, representing only 0.19% of the total issued by the Public Protection Cabinet (10,040) during the referenced time period. Thirty-three (33) checks were reissued, or 17% of the 193 canceled checks. In the end, 160 checks were canceled and not reissued, representing only 1.5% of total checks issued from the fund. Reasons for the canceled checks varied from: lost checks; wrong names; deaths of the payees; printing errors; potential fraud; and no known or determined reason. For the vast majority of these instances, PPC did not reissue checks except for those subsequently verified for payment.

The Cabinet took immediate action to address the issue by notifying FEMA and working with that federal agency to verify information. The OIG makes the overall recommendation that the Public Protection Cabinet continue to produce and review eMars reports to help guard against such irregularities and others.

The OIG also recommends that the Cabinet continue to refine and improve its analytics and review process to prevent errors in payments from the funds, including by running its data analytics across all of the programs of each fund. The OIG makes this recommendation following the Cabinet’s discovery of 61 payments issued in error in the Team Western Kentucky Tornado Relief Fund, attributing 38 of those payments to its data analytics not catching inconsistencies in the data because of the way the data was delivered to the Cabinet by insurance companies. Overall, the payments made in error represent 0.2645% of total number of payments and 0.1555% of total dollars paid from the Team Western Kentucky Tornado Relief Fund.

In conclusion, the OIG’s review of the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund showed that the Public Protection Cabinet acted quickly under Governor Beshear’s direction to provide assistance to Kentuckians in desperate need after these disasters. The Cabinet established programs and program guidelines for each fund to maximize the use of case management from public and private sectors to identify those qualified to receive assistance. The Cabinet created a system of segregating duties within and

across PPC offices to ultimately approve the disbursement of the donated funds. The Cabinet has administered and continues to administer each of the funds with complete transparency, as evidenced by its actions, its monthly legislative reports, and its multiple appearance before legislative committees. Again, the Kentucky General Assembly codified the funds and their program guidelines in Senate Bill 99 enacted during the 2023 Regular Session.

AUTHORITY

The Office of Inspector General (OIG), as established by KRS 42.0147, serves as the investigatory arm of the Finance and Administration Cabinet (FAC) and is responsible for conducting various investigations within the executive branch in accordance with KRS 45.131.

OBJECTIVES

With the FAC having a clear statutory interest in financial matters within the executive branch and in protecting the financial interests of the Commonwealth, the OIG has conducted a review of the administration of the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund (“Funds”) by the Public and Protection Cabinet (“PPC” or “Cabinet”). Areas of review included: the establishment of each fund; the guidelines and procedures in the disbursement of money from each received through private donations; internal controls; transparency of the programs; decisions in the use of the money from each fund; and verification that money from each fund went toward the intended purpose.

METHODOLOGY

The OIG makes findings and recommendations in this report based on the following: interviews with Cabinet employees directly involved in establishing and administering the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund, including the Office of the Secretary, the Office of Legal Services (OLS), the Office of Administrative Services (OAS) and the Office of Information Technology (OIT); analyses of 516 samples of payments; analyses of the Commonwealth’s electronic financial system (eMARS) data; review of PPC reports to the legislature, testimony before legislative committee and activities related to such testimony; review of the guidelines for each fund, correspondence, memoranda of agreement and applicable legal authority; and review of relevant websites, and articles.

The programs created within the Funds, subject to this review:

- Team Western Kentucky Tornado Relief Fund
 - Funeral assistance program
 - Supplemental payments to insured homeowners and renters
 - Supplemental payments to uninsured homeowners and renters
 - 2nd payments to insured
 - 2nd payments to uninsured
 - Grain assistance program
 - Unmet needs program (using local long-term resource groups or “LTRGs”)
 - Home building and repair program

- Team Eastern Kentucky Flood Relief Fund
 - Funeral assistance program
 - Supplemental payments to uninsured homeowners and renters (Federal Emergency Management Agency or “FEMA” recipients)
 - Home building and repair program

OVERVIEW OF FUNDS

Team Western Kentucky Tornado Relief Fund

On December 10, 2021, the worst tornadoes in the Commonwealth’s history swept through western Kentucky, devastating communities in their path and taking the lives of 81 Kentuckians. Thousands of our fellow citizens were left without their homes, their belongings, their businesses, their jobs, and so much more. The tornadoes left behind hundreds of millions of dollars in property and infrastructure damages, as well as rubble and debris that had to be removed so we could, together, begin rebuilding. In the hours after the tornadoes struck, Governor Andy Beshear was on the ground in western Kentucky, and he signed Executive Order 2021-923 declaring a state of emergency in the Commonwealth under the Kentucky Constitution and KRS Chapter 39A. That same day, the President of the United States declared an emergency for Kentucky, and then declared a major disaster area on December 12, 2021. During the 2022 Regular Session, the General Assembly extended that state of emergency and the emergency actions taken under it one time, to April 14, 2022. *See* House Joint Resolution 29 (R.S. 2022). At the written request of County Judge/Executives and Mayors, Governor Beshear has extended that state of emergency and the emergency actions taken under it multiple times, most recently on July 14, 2023, for the nine counties that requested it, through January 15, 2024. *See* Executive Order 2023-408.

Along with declaring a state of emergency, on December 11, 2021, Governor Beshear signed Executive Order 2021-925, establishing the Team Western Kentucky Tornado Relief Fund to, through purely private donations, help Kentuckians recover from the tornadoes and rebuild from the rubble they left behind. In his executive order, the Governor directed that the fund be created to provide direct assistance to individuals who were affected by the tornadoes. The Governor directed the Public Protection Cabinet and its Secretary to administer the fund, pursuant to the following statutory authority: KRS 11.065; KRS 12.270; KRS 12.020; KRS 12.250; KRS 12.252; KRS 39A.180; and KRS 45A.097.

Specifically, KRS 45A.097(1) allows a governmental body to accept donations and gifts from persons or businesses to further the governmental body’s mission or to benefit the Commonwealth. Under KRS 12.270(2), each cabinet secretary is authorized to accept and expend funds from any source, whether public or private, in support of the duties and responsibilities of the cabinet. Pursuant to KRS 11.065, the Secretary of the Public Protection Cabinet is a member of the Governor’s Executive Cabinet, which must assist the Governor in the proper operation of his office and perform other duties the Governor may require, and must advise and consult with the Governor on all matters affecting the welfare of the state. The Public Protection Cabinet is a program cabinet under KRS 12.250, and the Cabinet and the Secretary

are established under KRS 12.252 and KRS 12.255, which establishes the office of secretary for each program cabinet, each to be appointed by the Governor. The Public Protection Cabinet had prior experience in successfully creating and administering such funds as the Team Kentucky Fund and the Team Kentucky Healthy at Home Eviction Relief Fund, including in maintaining data for the funds.

As the Governor announced on December 11, 2021, the first payments issued were to families to cover the funeral expenses of those they lost. In all, the fund paid the funeral expenses for 81 grieving families, totaling \$810,000. The fund has helped and continues to help families who survived, from payments supplemental to those received from the Federal Emergency Management Administration (FEMA) and private insurance, to working with nonprofit organizations to build new homes for families. From the beginning, the fund has operated under program guidelines available for all the public to see and has been administered with complete transparency. The website for the fund – <https://secure.kentucky.gov/formservices/finance/wkyrelief> – has contained a statement that the fund is “fully transparent and is subject to open records and legislative oversight.” Again, all money donated to the fund is neither taxpayer dollars nor appropriated funds.

Establishment of the Team Western Kentucky Tornado Relief Fund

As previously stated, Executive Order 2021-925 established the Team Western Kentucky Tornado Relief Fund. The Public Protection Cabinet promulgated an emergency administrative regulation, 800 KAR 1:020E, to govern distributions from the fund. Under Section 3 of the regulation, small businesses that 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 are eligible to receive awards from the fund. Additionally, Qualified Nonprofit Organizations that agreed 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 or by providing long-term financial or other assistance and rebuilding were deemed eligible recipients. Under Section 5 of the emergency regulation, qualified nonprofits and small businesses are required to document expenditures of all awarded monies and retain those records for two years following distribution of all awarded funds.

Additionally, Section 8 of the regulation provides that the fund can be used to provide a person responsible for payment of funeral expenses for an individual whose death was related to the severe storm system with direct financial assistance of up to \$10,000 for funeral expenses or other expenses associated with the individual’s death. Further, Section 9 of the regulation permitted the Public Protection Cabinet to distribute funds directly to Kentucky residents affected by the severe weather events.

Under Section 6 of the emergency regulation, the fund cannot be used to pay administrative fees, with the exception of processing fees imposed by merchant banks or credit card companies. Under Section 7, documents and other materials submitted to the Commonwealth or the Public Protection Cabinet in the administration of the fund are made

public records subject to the Open Records Act, and all such records must be retained for two years from the date of the last distribution from the fund.

Notably, the emergency regulation was amended in response to comments from the State Treasurer. Specifically, in response to the Treasurer's comments, the Public Protection Cabinet clarified the regulation to state that qualified nonprofits must use awarded funds to benefit those affected by the relevant tornadoes and storms, and added a requirement that a qualified nonprofit enter into an agreement with the Commonwealth. The Cabinet, however, declined to add an appeals process, noting that the Fund does not disburse public funds, and thus no appeals process is necessary, and further explaining that an appeals process would require the Cabinet to set aside contingency funds, preventing the use of all available funds to benefit the people of western Kentucky. The Cabinet also declined to require an annual audit of the fund, noting that the fund is fully transparent and that an audit of the type proposed by the Treasurer would appear to require the fund to pay for it, which would take money away from those impacted by the tornadoes. Further, the Cabinet indicated that such a required audit to be paid for by the fund would violate the program mandate that no money in the fund be used to pay for administrative fees. The Cabinet filed a Statement of Consideration with the Legislative Research Commission regarding the State Treasurer's public comments, and separately provided the same responses to the State Treasurer by letter. The Cabinet did not receive any further communication from the State Treasurer regarding her public comments on the emergency administrative regulation.

In addition, the Cabinet adhered to the program guidelines it established for the fund in instances such as where some long-term recovery groups (LTRGs) proposed to receive money directly and then decide how to distribute money to individuals, which would have run contrary to the guideline of the fund providing assistance directly to individuals impacted by the tornadoes. Instead, the Cabinet sought proposals from these groups, and it does not distribute money to a group until a group has shown payment is necessary to directly help individuals with unmet needs. Other entities also asked the Cabinet for money directly from the fund, but the Cabinet has rejected those requests in order to follow the program guidelines.

During the 2023 Regular Session, the General Assembly adopted these program guidelines in Senate Bill 99, effectively stamping its approval on the guidelines and how they had worked to help the people of western Kentucky. Upon Senate Bill 99 taking effect, the Cabinet transferred money in the fund to a new account as required by the bill and its creation of the Kentucky contribution trust fund to be administered by the Cabinet and its making – for the first time – the money in the fund an appropriation. Senate Bill 99 also defined “relief fund” to mean “a fund created on- or off-budget by statute, a government agency, cabinet secretary, appointed or elected official, or agency head to accept and expend funds received from any source for the purpose of providing relief to individuals and entities impacted by an emergency.” The Cabinet pointed out to the State Treasurer in a February 1, 2023 letter that several other funds exist in the Commonwealth's financial management system that operate similarly to the Team Western Kentucky Tornado Relief Fund. For example, funds connected to the Kentucky Department of Education exist that were created through private donations for identified purposes that are administered in an off-budget account with spending administratively using the businesses processes of the financial management system to efficiently carry out the purposes of the private donations. In addition, Cabinet staff has testified before legislative committees about

the fund at least five times, and the Cabinet has submitted eight monthly reports and one annual report to the General Assembly as required by Senate Bill 99.

Payments from the Team Western Kentucky Tornado Relief Fund¹

Through enormous generosity across Kentucky, the United States and the world, the Team Western Kentucky Tornado Relief Fund received \$52,384,713.06 in private donations. The Public Protection Cabinet distributed and continues to distribute money contributed to the fund in compliance with the program guidelines.

The Team Western Kentucky Tornado Relief Fund issued payments covering the cost of funeral expenses for those who died as a result of the disaster totaling \$810,000. Eighty-one (81) funeral assistance payments in the amount of \$10,000 were made to individuals responsible for the funeral costs and mailed to the funeral homes to cover the funeral costs of individuals identified by the Office of Vital Statistics or local coroners as those who died as a result of the severe weather events of December 10 and 11, 2021. The Public Protection Cabinet determined the payment amount based on information provided by the Funeral Directors Association of Kentucky. The payments for funeral expenses were not made in excess of \$10,000 and were not made for any individual whose death was not related to the severe weather events of December 10 and 11, 2021.

The fund issued payments to insured and uninsured homeowners and renters. Initial payments to insured individuals totaled \$7,643,999, and initial payments to uninsured individuals totaled \$2,138,118.16. The fund later issued second payments totaling \$6,102,000 to insured individuals and \$3,858,000 to uninsured individuals. Uninsured individuals who did not have primary homeowners insurance received housing assistance payments from the Federal Emergency Management Administration. The initial and second payments to insured and uninsured individuals were made to Kentucky residents affected by the severe weather events of December 10 and 11, 2021 and limited to those individuals identified by FEMA or private insurance as eligible for assistance. Verification of loss was provided by FEMA or private insurance held by the individual. The amount of the payments was determined by the number of potential eligible individuals and the total amount of money available in the fund not committed to other assistance initiatives.

Due to the loss of a local grain elevator during the tornado, payments were made to farmers no longer able to use the local grain elevator. Those farmers were required to travel farther and make additional trips to deliver their crops as a result of the severe weather events. Grain assistance payments to farmers impacted by the disaster totaled \$4,032,479.50.

Payments to repair and replace 300 homes lost during the disaster totaled \$19,564,400. The payments were made to nonprofit home builders to replace and repair homes damaged by the severe weather event. Payments were made to Kentucky Habitat for Humanity, Mayfield Rotary Found Homes & Hope for KY, Mayfield/Graves County Fuller Center for Housing, Fuller Center Disaster Rebuilders, and the Hope Initiative Inc. The Public Protection Cabinet set

¹ Based on the Public Protection Cabinet's report to the General Assembly as of November 3, 2023.

a maximum award for each home. To date, 154 homes have been finished or are underway in western Kentucky with the assistance of these relief funds.

Payments to long term recovery groups for individuals with unmet needs and life essentials totaled \$3,810,439.71. Long term recovery groups identified individuals in need of additional financial assistance for needs not met by other assistance programs in the area. The long term recovery groups performed case management services to verify that the additional assistance did not duplicate other efforts. The funds were provided to individuals and vendors providing the services or offering the supplies to satisfy these unmet needs of individuals impacted by the severe weather events of December 10 and 11, 2021.

In total, these amounts equal \$47,944,436.37 in payments to victims of the tornadoes. Costs to operate the fund totaled \$518,761.64, representing \$516,666.64 in fees to process electronic fund and credit card donations and \$2,095 in fees for the Kentucky State Treasurer to process cancelled checks. A balance of \$3,921,515.05 remains in the Team Western Kentucky Tornado Relief Fund.

Team Eastern Kentucky Flood Relief Fund

On July 26 and continuing through July 27 and July 28, 2022, once-in-a-thousand-years flooding ravaged communities in eastern Kentucky, lifting and moving homes downstream and taking the lives of 45 Kentuckians. One of those 45 Kentuckians remains missing, and the Team Eastern Kentucky Flood Relief Fund has committed \$10,000 to pay for her funeral services. As with the tornadoes in western Kentucky, the floods left thousands of Kentuckians without their homes, their belongings, their businesses, their jobs, and much, much more. In its wake the flood left hundreds of millions of dollars in property and infrastructure damages, from bridges to roads, and also debris that had to be removed so the rebuilding could begin.

When the floods hit, Governor Beshear was quickly on the ground in eastern Kentucky, but before even then he signed Executive Order 2022-457 on July 28, declaring a state of emergency in the Commonwealth under the Kentucky Constitution and KRS Chapter 39A. The next day, the President of the United States declared a major disaster area. On August 23, 2023, the Governor called the General Assembly into an Extraordinary Session to address providing funding to help eastern Kentucky recover from the disaster. On August 26, 2022, the Governor signed Executive Order 2022-576 to extend the state of emergency through January 15, 2023 for the 33 counties and two consolidated local governments that requested it. The Governor extended the state of emergency for those local jurisdictions that requested it through subsequent executive orders, including Executive Order 2023-453 on July 31, 2023 that extended the state of emergency through January 15, 2024, for the 17 counties and two consolidated local governments that requested an extension.

Along with declaring a state of emergency related to the eastern Kentucky flooding, on July 28, 2023, Governor Beshear directed the Secretary of the Public Protection Cabinet to establish the Team Eastern Kentucky Flood Relief Fund to, through purely private donations, help Kentuckians recover from the flooding and rebuild from the devastation it left behind. The Governor directed that the fund be created to provide direct assistance to individuals who were

affected by the flooding. The Governor directed the Public Protection Cabinet and its Secretary to administer the fund, pursuant to the following statutory authority: KRS 11.065; KRS 12.270; KRS 12.020; KRS 12.250; KRS 12.252; KRS 39A.180; and KRS 45A.097.

Specifically, KRS 45A.097(1) allows a governmental body to accept donations and gifts from persons or businesses to further the governmental body's mission or to benefit the Commonwealth. Under KRS 12.270(2), each cabinet secretary is authorized to accept and expend funds from any source, whether public or private, in support of the duties and responsibilities of the cabinet. Pursuant to KRS 11.065, the Secretary of the Public Protection Cabinet is a member of the Governor's Executive Cabinet, which must assist the Governor in the proper operation of his office and perform other duties the Governor may require, and must advise and consult with the Governor on all matters affecting the welfare of the state. The Public Protection Cabinet is a program cabinet under KRS 12.250, and the Cabinet and the Secretary are established under KRS 12.252 and KRS 12.255, which establishes the office of secretary for each program cabinet, each to be appointed by the Governor.

FINDING: The administration had statutory authority to establish and administer the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund.

As the Governor announced, the first payments issued were to families to cover the funeral expenses of those they lost. In all, the fund has paid the funeral expenses for 44 grieving families, totaling \$440,000, and has committed \$10,000 to pay the funeral expenses for the one Kentuckian who remains missing. The fund has helped and continues to help families who survived, from payments supplemental to those received from the Federal Emergency Management Administration and private insurance, to working with nonprofit organizations to build new homes for families. From the beginning, the fund has operated under program guidelines available for all the public to see and has been administered with complete transparency. The website for the fund – <https://secure.kentucky.gov/formservices/finance/EKYFloodRelief> – has stated, “This fund is fully transparent and is subject to open records and legislative oversight. There are no administrative fees so every dollar helps Kentuckians affected by this historic flooding. Credit card processing and treasury fees may apply.”

Again, all money donated to the fund is neither taxpayer dollars nor appropriated funds. In its 2023 Regular Session, the General Assembly adopted the program guidelines as law in Senate Bill 99. Upon SB 99 taking effect, the Cabinet transferred money in the fund to a new account as required by the bill and its creation of the Kentucky contribution trust fund to be administered by the Cabinet and its making – for the first time – the money in the fund an appropriation. Senate Bill 99 also defined “relief fund” to mean “a fund created on- or off-budget by statute, a government agency, cabinet secretary, appointed or elected official, or agency head to accept and expend funds received from any source for the purpose of providing relief to individuals and entities impacted by an emergency.” The Cabinet pointed out to the State Treasurer in a February 1, 2023 letter that several other funds exist in the Commonwealth's financial management system that operate similarly to the Team Eastern Kentucky Flood Relief Fund. For example, funds connected to the Kentucky Department of Education exist that were created through private donations for identified purposes that are administered in an off-budget

account with spending administratively using the businesses processes of the financial management system to efficiently carry out the purposes of the private donations. Further, Cabinet staff has testified before legislative committees about the fund at least five times, and the Cabinet has submitted nine monthly reports and one annual report to the General Assembly as required by Senate Bill 99.

Payments from the Team Eastern Kentucky Flood Relief Fund²

In another showing of kindness from individuals and entities through the Commonwealth, the nation and the world, the Team Eastern Kentucky Flood Relief Fund received \$13,409,511.83 in private donations. The Team Eastern Kentucky Flood Relief Fund issued 44 payments in the amount of \$10,000 to cover the cost of funeral expenses for those who died as a result of the disaster totaling \$440,000. The payments were made to individuals responsible for the funeral costs and mailed to the funeral homes to cover the funeral costs of individuals identified by the Office of Vital Statistics or local coroners as those who died as a result of the severe weather event that began on July 26, 2022. The Public Protection Cabinet determined the payment amount based on information provided by the Funeral Directors Association of Kentucky. The payments for funeral expenses were not made in excess of \$10,000 and were not made for any individual whose death was not related to the severe weather system beginning on July 26, 2022.

The Team Eastern Kentucky Flood Relief Fund also issued payments of \$500 to any individual approved for FEMA assistance, totaling \$4,031,000. The payments to individuals were strictly limited to citizens of the Commonwealth of Kentucky residing in the counties subject to FEMA Disaster Declaration DR-4663-KY and where FEMA Individual Assistance was available. The payments were issued to all individuals who received assistance from FEMA for losses as a result of the weather-related events in Kentucky beginning on July 26, 2022. The payments were sent to the address of the individual provided by FEMA.

Payments were made to repair and replace homes in the amount of \$1,121,648. Payments were made to Housing Oriented Ministries Established Homes Inc. (“HOMES, Inc.”), Housing Development Alliance, Inc., and the Foundation for Appalachian Kentucky, Inc. The Public Protection Cabinet set a maximum award for each home. To date, 14 new homes have been funded through this flood relief program.

In total, these amounts equal \$5,592,648 in payments to victims of the floods. The fund paid a total of \$194,805.54 in fees to process electronic fund and credit card donations and \$35 in fees for the Kentucky State Treasurer to process cancelled checks. A balance of \$7,622,058.29 remains in the Team Eastern Kentucky Flood Relief Fund.

² Based on the Public Protection Cabinet report to the General Assembly as of November 3, 2023.

Program Guidelines for the Team Eastern Kentucky Flood Relief Fund

Under the program guidelines for the Team Eastern Kentucky Flood Relief Fund posted on the Public Protection Cabinet's website, the following are eligible to receive awards from the Fund:

- A person responsible for payment of funeral expenses for an individual whose death was related to the relevant severe weather system was eligible to receive up to \$10,000 in direct financial assistance to pay funeral expenses or other expenses associated with the individual's death.
- A Kentucky citizen directly impacted by the storm system who resides in a county listed in or added to the relevant FEMA Disaster Declaration and where FEMA Individual Assistance is available may receive an award.
- A Qualified Nonprofit Organization with a physical presence in Kentucky may receive an award if it agrees to use all awarded funds to serve Kentucky residents affected by the storm system by assisting with the provision of food, clothing, shelter, utilities, medical expenses, household needs, or other necessities of life and/or providing long-term financial assistance or other assistance and rebuilding. Any Qualified Nonprofit Organization awarded monies from the funds must document expenditures and retain those records for at least 2 years after all funds are distributed.

Notably, no administrative costs or fees are to be paid from the fund except as necessary to pay processing fees imposed by merchant banks or credit card companies. Further, the fund must not duplicate any benefits paid from federal sources, including FEMA. The fund is subject to audit, and any records generated in administering the fund are subject to the Open Records Act.

During the 2023 Regular Session, the General Assembly largely adopted and codified these program guidelines for both the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund, thereby recognizing the Funds' validity under Kentucky law. The statute passed by the General Assembly merely adds small businesses to the list of eligible fund recipients and increases the time a Qualified Nonprofit Organization or small business must maintain documentation of expenditures of awarded monies to 4 years. Specifically, KRS 45.255, effective March 24, 2023, provides:

- (7) Related to the team western Kentucky tornado relief donations:
 - (a) Moneys solicited shall be used to assist an individual or a small business directly impacted by the storms and tornadoes on December 10 and 11, 2021;
 - (b) An eligible applicant for a grant of moneys from the fund shall be a:
 1. Person who is responsible for the payment of funeral expenses for another individual whose death was directly related to the storms and tornadoes and any grant issued shall be a direct payment to the entity providing the funeral services in an amount not to exceed ten thousand dollars (\$10,000);
 2. Kentucky resident who:

- a. Resides in an area named in the Presidential Declaration of a Major Disaster, designated FEMA-4630-DR-KY; and
 - b. Was directly impacted by the storms and tornadoes;
 - 3. Qualified nonprofit organization; or
 - 4. Small business; and
 - (c) A grant of moneys shall not be issued for any:
 - 1. Cost or fee for administrative purposes;
 - 2. Expenditure in which the applicant receives benefits from a federal source, including but not limited to payments from the Federal Emergency Management Agency;
 - 3. Payment to a nonresident of Kentucky; or
 - 4. Payment to a nonprofit organization, other than a qualified nonprofit organization.
- (8) Related to the team eastern Kentucky flood relief donations:
- (a) Moneys solicited shall be used to assist an individual or a small business directly impacted by the storms and flooding that began on July 26, 2022, and generated multiple rounds of heavy torrential rain, resulting in flooding, flash flooding, mudslides, and landslides;
 - (b) An eligible applicant for a grant of moneys from the fund shall be a:
 - 1. Person who is responsible for the payment of funeral expenses for another individual whose death was directly related to the storms and flooding and any grant issued shall be a direct payment to the entity providing the funeral services in an amount not to exceed ten thousand dollars (\$10,000);
 - 2. Kentucky resident who:
 - a. Resides in an area named in the Presidential Declaration of a Major Disaster, designated FEMA-4663-DR-KY; and
 - b. Was directly impacted by the flooding, mudslides, and landslides;
 - 3. Qualified nonprofit organization; or
 - 4. Small business; and
 - (c) A grant of moneys shall not be issued for any:
 - 1. Cost or fee for administrative purposes;
 - 2. Expenditure in which the applicant receives benefits from a federal source, including but not limited to payments from the Federal Emergency Management Agency;
 - 3. Payment to a nonresident of Kentucky; or
 - 4. Payment to a nonprofit organization, other than a qualified nonprofit organization.
- (9) (a) Any qualified nonprofit organization or small business that receives a grant of moneys from the fund shall document expenditures made using those moneys.

- (b) The documentation shall be maintained for at least four (4) years following the distribution of the moneys and shall be subject to inspection during that time by the cabinet.
- (c) All documents and materials submitted to either the Commonwealth or the cabinet shall be considered a public record subject the Kentucky Open Records Act, KRS 61.870 to 61.884.

PROCESSES IMPLEMENTED BY THE PUBLIC PROTECTION CABINET TO IDENTIFY AND PROVIDE ASSISTANCE TO SURIVORS

According to Public Protection Cabinet officials, other than swiftly establishing each fund and creating the website for each fund, the immediate task they faced was determining how best to disburse donated funds quickly and directly to those survivors in desperate need, while also mitigating risks of fraud. The Cabinet did not have its own case management in place and was prevented from hiring outside groups to administer the funds because of the restrictions placed on using the funds for administrative costs. Therefore, the Cabinet took prompt action to work with both public and private organizations to identify the victims and do the case management work.

The Cabinet sought FEMA's assistance because of its expertise in providing disaster help, the physical presence of its staff in the disaster area, and the case management apparatus to identify individuals affected by these disasters. PPC also worked with FEMA to reach an agreement allowing FEMA to share confidential data with PPC to identify individuals eligible for payments from the funds supplemental to payments FEMA had issued. Further, PPC made use of its own Department of Insurance ("DOI") to call on "our insurers to do data calls to determine who's filed claims in the areas." As said by an official, "We didn't have administrative costs that could be paid from the fund, so we had to look for verified, trusted sources. So each program had that trusted source ..." In addition to FEMA and the private insurance industry, PPC called on nonprofit home builders, long-term resource groups and local leaders in its efforts to reach those impacted and in need of assistance.

Generally, the Cabinet developed internal control processes to make sure "there's at least two sets of eyes, usually three on each payment before it goes out." Multiple staff from within the Cabinet's Office of the Secretary, Office of Legal Services, Office of Administrative Services and Office of Information Technology have played critical roles in reviewing applications, ensuring accuracy in dollar amounts, and ensuring that benefits were not being duplicated to recipients, and other controls. Memoranda of Agreement (MOAs) made with nonprofits to build homes also contained numerous protections to ensure donated funds were going toward qualified survivors and that the organization was subject to reporting and audit. The following section of this Report provides a more specific description of the internal controls for each program.

INTERNAL CONTROLS/DESCRIPTION FOR EACH RELIEF PROGRAM

Team Western Kentucky Tornado Relief Fund

Funeral assistance program. (A one-time \$10,000 benefit to persons responsible for paying for the funeral services of those who died as a result or indirect result of the tornado.) To identify the victims, PPC referred to the coroner's report, entered into a system at the Office of Vital Statistics, which reported a death relating to the tornado disaster. Internal controls were to check with the Office of Vital Statistics to make sure a death certificate was issued or would be issued. PPC then contacted the funeral home the victim's family was using to verify the information. A check in the name of the next of kin by the Cabinet was prepared, with the check to be sent directly to the funeral home for the expenses of the funeral. This data was then reviewed by PPC (Office of the Secretary), including screening for duplicates and preparing an XML file, and then sent to be processed (OAS) for an eMARS check to be issued, mailed, and tracked.

FINDING: The Public Protection Cabinet's administration of the funeral assistance program in the Team Western Kentucky Tornado Relief Fund exhibited strong segregation of duties and internal controls to guard against waste, fraud or abuse of funds. The Cabinet has shown substantial compliance with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.

Uninsured homeowners' and renter's assistance program. (One-time payment to uninsured homeowners and uninsured renters for expenses over and above the assistance provided by FEMA for losses because of the referenced 2021 tornadoes.) Per a data-sharing agreement with FEMA, the Cabinet obtained data from FEMA, through Kentucky Emergency Management, which identified those tornado survivors who had qualified under FEMA's uninsured homeowners and renters' assistance program, and the total dollar amount of assistance provided by FEMA. Agents for FEMA inspected the property of the applicant to verify the damage caused by the tornado in order to qualify for the federal payment. PPC worked with FEMA's established program guidelines to make sure PPC was not duplicating other benefits. From the data obtained, the Cabinet calculated a supplemental assistance payment for each FEMA recipient by calculating the greater of 20% of the total FEMA payment or \$500. This calculation was cross-checked between PPC staff. The Cabinet's Office of Information Technology prepared the check-writer file, which was reviewed for any irregularities and "scrubbed" for duplicates, then provided to OAS to be processed for an eMARS check to be issued, mailed, and tracked.

FINDING: In administering the uninsured homeowners' and renters' assistance program in the Team Western Kentucky Tornado Relief Fund, the Public Protection Cabinet worked with FEMA to obtain FEMA data to quickly identify those tornado survivors needing assistance and issuing payments supplemental to FEMA assistance payments based on the FEMA data. The Cabinet exhibited strong segregation of duties and overall effective internal controls to guard against waste, fraud or abuse of funds. The Cabinet also showed substantial compliance with the program guidelines established for the fund and

with SB 99. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Second distribution to uninsured. (A one-time payment in the amount of \$1,000). Per a data-sharing agreement with FEMA, PPC obtained data (through Kentucky Emergency Management) identifying those who received assistance from FEMA due to the referenced tornadoes, but under an expanded category of programs. (Note: the FEMA data to PPC for the first distribution included those recipients of only the uninsured homeowners and renters’ assistance program.) As with the first distribution to the uninsured, PPC’s Office of Technology prepared the check-writer file, ensuring no duplications, and forwarded same to OAS, which then sent the file to be processed for eMARS checks to be issued, mailed, and tracked.

FINDING: The Public Protection Cabinet’s administration of the second distribution of payments to uninsured individuals directly impacted by the tornadoes substantially complied with the program guidelines established for the fund and with SB 99. The Cabinet promptly addressed particular issues that arose from the FEMA data relating to this second distribution by taking corrective action to ensure that FEMA further “scrubbed” the data, thereby removing potentially fraudulent data prior to transmitting any additional data to the Cabinet. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Insured homeowners and renter’s program. In similar fashion to relying on FEMA data in identifying those uninsured individuals harmed from the tornadoes, PPC and the Department of Insurance turned to the insurance industry through a “data call” to identify those in western Kentucky within the disaster designation who had filed insurance claims. Specifically, the data call was directed toward the “top 25” companies representing approximately 90% of the relevant market share, with the intent to quickly locate the vast majority of qualified recipients. The claims data included a catastrophic code and indicated paid claims, which screened out those claims that were not related to the tornadoes. PPC decided to provide payments from the fund to these verified survivors in the amount of their deductible to the insurance company, up to \$2,500. The insurance data file was reviewed by PPC information technology staff, which “scrubbed” the data for claims outside of FEMA counties, duplicate policy holders, obvious data errors, and denied claims. The IT personnel then created a check-writer file and forwarded to OAS, which also reviewed, for eMARS checks to be issued, mailed, and tracked.³

To reach the small percentage of those insured by companies that were not included in the data call, PPC officials stated that they “got the word out” through the Governor’s public announcements and by working with the nonprofit organizations, the LTRGs, and local and state officials. Further, this program was adjusted by the Cabinet to cover landlord policies, excluding commercial or corporate landlords. As referenced in the Cabinet’s FY 2023 Report, “A large percentage of this community was in rental property; this incentivized the landlord to

³ USAA claims data was inadvertently not included in the first batch of payments, but subsequently collected, reviewed and processed in similar manner.

repair/rebuild.” In general, claims that were not part of the Cabinet’s data call⁴ were reviewed by the Cabinet (Office of the Secretary), and sent to be processed by OAS for an eMARS check to be issued, mailed, and tracked.

FINDING: The Department of Insurance within the Public Protection Cabinet successfully worked with the private insurance industry to obtain highly-reliable data identifying those within the disaster designation who had filed insurance claims and therefore qualified for assistance from the fund. The Cabinet exhibited strong internal controls and segregation of duties to guard against waste, fraud and abuse of the fund. The Cabinet substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Second distribution to insured. As with the second distribution to FEMA recipients, the Cabinet turned to the data provided by the insurance industry, verifying those who had been impacted by the tornadoes within the declared disaster area. PPC decided to pay a flat \$1000 to each verified survivor. Internal controls were similar to the programs listed above. Information technology staff created a check-writer file from the data, having scrubbed the data for duplicates and researching any irregularities. The check-writer file was then forwarded to OAS staff, who also reviewed for errors, for eMARS checks to be issued, mailed and tracked.

FINDING: In similar fashion to the prior insured homeowners and renter’s program, the Department of Insurance within the Public Protection Cabinet obtained highly-reliable data from the private insurance industry to identify qualified survivors for payment. The Cabinet exhibited strong internal controls and segregation of duties to guard against waste, fraud and abuse of the fund. The Cabinet substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Grain elevator assistance program. In response to local farmers’ and county officials’ calls for help, PPC developed the grain elevator assistance program to assist farmers who had incurred additional transportation costs due to a specific grain elevator being destroyed by the tornadoes. With input by the operators of the grain elevator, PPC developed an on-line portal where local producers could apply for assistance. In that on-line portal, the applicant was required to upload grain delivery sheets to verify how much grain they had produced and sold to the grain company in 2021. Recipients were also required to provide documentation of their 2022 deliveries to ensure their farming operations remained ongoing. From a back-office portal, PPC staff reviewed the application to check for accuracy. Controls were in place to screen out duplicated benefits, which was achieved by using the original documentation supplied by the farmer and then cross checking it with the grain facility. Applications that were incomplete, had inconsistencies or presented other questions were sent back through the system to the applicant. Upon approval by

⁴ E.g., Christian County was mistakenly not included in the data call.

staff that the application met eligibility criteria and had necessary documentation to verify delivery amounts, the fund paid the applicant 50 cents (\$0.50) per bushel.

Upon verification and approval by PPC staff working in this “back office,” the IT office generated the check writer file, having checked for duplicates, and then forwarded to OAS to be processed for eMARS checks to be issued, mailed, and tracked.

FINDING: The Public Protection Cabinet exhibited strong segregation of duties and controls in developing and implementing the grain elevator assistance program in the Team Western Kentucky Tornado Relief Fund to guard against duplicate payments and to ensure accuracy of payments. The Cabinet substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Unmet needs program. In response to requests by the local long-term recovery groups (“LTRGs”) representing their respective counties, the Cabinet designed this program to provide financial assistance to individuals impacted by the tornadoes who may have not been covered by other sources. As stated in its Fiscal Year 2023 Report, PPC determined an award amount based on the number of potential eligible individuals identified by the groups and the total amount of money available in the fund not committed to other initiatives. Each LTRG was limited to a maximum funding limit based on the number of persons with unmet needs submitted by the LTRG times \$1,750, and an individual limit of any amount up to \$3,500. The LTRGs performed the case management, certifying on the applications that the individual was impacted by the tornadoes, lived in the county, had unmet needs, and no duplication of funding. Applications were forwarded to the Cabinet for review, with the identity of the survivor redacted. Within the Cabinet, the applications were forwarded from the Office of the Secretary to OAS to be processed for an eMARS check to be issued, mailed, and tracked. According to the FY 2023 report, checks could be “made payable to both the survivor and the vendor performing the service or offering the supplies to ensure that funding is being used for its intended purpose.” A review of the payment documentation shows that different counties/LTRGs created their own application forms, including an automated form for on-line processing. When asked about the variation of forms, PPC acknowledged that the formats of the forms varied among counties and that the LTRGs had different levels of expertise but that the actual information required for fund approval was indeed contained on each form. The Cabinet officials added that it was critical for them to remain flexible in working with the various groups in order to achieve the overarching premise of the program: to get funding quickly in the hands of those qualified survivors in desperate need of assistance.

FINDING: The Public Protection Cabinet has demonstrated strong segregation of duties and overall effective internal controls to guard against waste, fraud and abuse of the fund in the administration of the unmet needs program in the Team Western Kentucky Tornado Relief Fund. The Cabinet has substantially complied with the program guidelines established for the fund and with SB 99. The Inspector General recommends that the Cabinet develop universal standard forms for greater uniformity. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Home rebuilding assistance program. To help those individuals who lost their homes in the disaster, PPC partnered with various qualified nonprofit home builders in the region. These nonprofits had both expertise in building and in case management, and thus were in a better position to identify those qualified for home rebuilding assistance. The Cabinet and these organizations entered into MOAs, which included criteria that the nonprofit must follow to determine whether an individual is a qualified applicant (negatively impacted by storm; resided in one of the FEMA-designated counties on date of the storm; home being constructed is in one of those FEMA counties; and whether home will be completed and occupied prior to MOA expiration). Further, all MOAs under this program contained explicit reporting and audit provisions to provide continued cabinet oversight. Initially, under the MOAs the organization submitted PPC applications on a home-by-home basis. After receiving confirmation from the Cabinet that the individual receiving assistance from the nonprofit is a qualified applicant, the Cabinet would issue payment in the form of a check or wire transfer at the time of closing on the property.

Similar to their unmet needs program, the Cabinet officials stated that it was important to be flexible in their approach to their nonprofit partners with respect to the MOAs. For example, depending on the model used by the nonprofit, payments could be tailored under the MOAs to go toward construction materials or toward down payments on the homes. The Cabinet later modified some of the MOAs in the program to simulate grant agreements, with PPC approving “draw downs” upon sufficient documentation by the nonprofit, thus allowing the organization to move more quickly in its building efforts. With either form of agreement, the nonprofit was required to receive confirmation from the Cabinet that the individual receiving the assistance was a qualified applicant in order to be paid. During interviews, PPC officials described various ways the Cabinet keeps track of the nonprofit’s activities, i.e., quarterly meetings, photographs documenting progress, and up-to-date tracking spreadsheets.

FINDING: In its home rebuilding and assistance program in the Team Western Kentucky Tornado Relief Fund, the Public Protection Cabinet has shown strong segregation of duties and overall effective internal controls to guard against waste, fraud and abuse of the fund. The Cabinet has substantially complied with the program guidelines established for the fund and with SB 99. The Inspector General recommends that the Cabinet strive for even greater consistency in monitoring the progress of building efforts by the nonprofit builders. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Team Eastern Kentucky Flood Relief Fund

Funeral assistance program. (A one-time \$10,000 benefit to persons responsible for paying for the funeral services of those who died as a result or indirect result of the referenced 2022 flood event.) This process mirrored the tornado fund's funeral assistance program. First, to identify the victims, PPC referred to the coroner's report, entered into a system at the Office of Vital Statistics, which reported a death relating to the flooding disaster. Internal controls were to check with the Office of Vital Statistics to make sure a death certificate was issued or would be issued. Cabinet staff then contacted the funeral home the victim's family was using to verify the information. A check in the name of the next of kin by the Cabinet was prepared, with the check to be sent directly to the funeral home for the expenses of the funeral. This data was then reviewed by PPC (Office of the Secretary), including screening for duplicates, and then sent to be processed (OAS) for an eMARS check to be issued, mailed, and tracked.

FINDING: The Public Protection Cabinet has exhibited strong segregation of duties and internal controls to guard against waste, fraud or abuse of funds in its administration of the funeral assistance program in the Team Eastern Kentucky Flood Relief Fund and has substantially complied with the program guidelines established for the fund and with SB 99. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.

Uninsured homeowners' and renter's assistance program. (A one-time payment in the amount of \$500) Per a data-sharing agreement with FEMA, PPC obtained data (through Kentucky Emergency Management) identifying those who had received assistance from FEMA due to the referenced flood disaster. From lessons learned from the tornado second payment to uninsured program, PPC instructed FEMA to take additional steps to apply a "greater filter" to remove any possible fraudulent claims. PPC's Office of Technology prepared the check-writer file, ensuring no duplications, forwarding same to OAS, which then sent the file to be processed for eMARS checks to be issued, mailed, and tracked.

FINDING: In administering the uninsured homeowners' and renters' assistance program in the Team Eastern Kentucky Flood Relief Fund, the Public Protection Cabinet exhibited strong internal controls and segregation of duties, including instructing FEMA to take additional steps to remove any potentially fraudulent FEMA claims. The Cabinet also showed substantial compliance with the program guidelines established for the fund and with SB 99. Cabinet officials reported that they are not aware of a single claim of potential fraud in this program. If any concerns about administration of the program existed, the General Assembly's passage of the program into law in SB 99 would have addressed them.

Home rebuilding assistance program. Similar to the tornado relief efforts, PPC partnered with various qualified nonprofit home builders in the region to help those individuals who lost their homes in the disaster. These nonprofits had both expertise in building and case management resources to screen applicants for such assistance. MOAs were entered into that included criteria that the nonprofit must follow to determine whether an individual is a qualified applicant. Further, explicit reporting and audit provisions are contained within the agreements to enable

continued cabinet oversight. This program was set up with the nonprofit organization whereby the organization submitted PPC applications on a home-by-home basis. After receiving confirmation from the Cabinet that the individual receiving assistance from the nonprofit is a qualified applicant from its review of the documentation, the Cabinet issues payment in the form of a check or wire transfer at the time of closing on the property. Then the organization, at the closing for the new home, applies up to a certain amount as a down payment on behalf of the qualified applicant from fund dollars. Due to the unique challenges in eastern Kentucky, such as identifying property in “high ground” locations, PPC officials stated that the payment structure of these particular MOAs would more than likely remain based on a home-by-home basis, as opposed to a grant “draw down” structure.

FINDING: In administering the rebuilding and assistance program in the Team Eastern Kentucky Flood Relief Fund, the Public Protection Cabinet has shown strong segregation of duties and overall effective internal controls to guard against waste, fraud and abuse of the fund, and has substantially complied with the program guidelines established for the fund and with SB 99. The Inspector General recommends that the Cabinet strive for even greater consistency in monitoring the progress of building efforts by the nonprofit builders. If any concerns about administration of the program existed, the General Assembly’s passage of the program into law in SB 99 would have addressed them.

Overall Recommendation. With a possibility of future natural disasters striking Kentucky and the Cabinet administering a program similar to these funds in the future because of its success in administering these funds, it is recommended that the Cabinet formalize its internal approval process (i.e., through manual, internal policy guidance).

ISSUES WITH FEMA DATA IN 2nd PAYMENT AND PPC’S CORRECTIONS

As discussed in this Report, PPC strictly relied upon FEMA data for its uninsured homeowners and renters’ assistance program. In order to qualify, FEMA representatives inspected the property at issue to verify the damage resulting from the tornadoes. Therefore, there was little or no risk of fraud in this first program. With the passage of time, PPC saw that the tornado survivors were facing a gap period between the time “big groups” had come in immediately to assist, but had subsequently left, and the time until long term recovery relief would arrive (i.e., CDBG -DR, HUD). The second uninsured payment was established to help Kentuckians get through that gap period.

The FEMA data used to support the second payment included a wider range of categories that encompassed “critical needs or other assistance,” broadening the number of recipients from the housing assistance category. At the time PPC received the data, FEMA did not make the Cabinet aware that some of the data included fraudulent claims. According to PPC officials, they immediately contacted FEMA when they learned of individuals receiving checks who had never applied to FEMA for disaster relief. The Cabinet also at that time learned from FEMA that FEMA assumed a certain amount of fraud in its data and that some data had been flagged as potentially fraudulent, but never communicated that to PPC.

In response, the Cabinet and FEMA worked to further “scrub” the data, removing potentially fraudulent data prior to transmitting same to PPC. The on-going improvements in data “scrubbing” led to an improved process for the Team Eastern Kentucky Flood Relief Fund uninsured payment program. In fact, PPC officials stated in interviews that they have not heard of a single claim of fraud in the fund’s uninsured flood relief program.

Cabinet officials added that because FEMA’s standard practice is to make payments to its applicants through bank account numbers and wire transfers, it is much more susceptible to identify theft or fraudsters than the process used by the Cabinet to pay from the relief funds. For example, in the federal program, someone could obtain enough identity information about an individual living in a disaster area to make a fraudulent online application to FEMA, be approved, and have that payment transmitted to an out-of-state account without the knowledge of the identity theft victim. PPC stated that its process of making payments by paper check mailed to a physical address greatly reduces the risk of fraud. At the time of this Report, PPC has referred 23 checks to FEMA to investigate for fraud.

FACT-CHECKING THE “200 CHECKS” PUBLICITY

In February 2023, media reported that the State Treasurer’s office had canceled payment on 192 checks valued at \$192,000 from the Team Western Kentucky Tornado Relief Fund after being notified of “misdirected payments.” Other elected officials have since made references to more than 200 checks being issued inappropriately “during a discreet time period.” In light of the publicity of these claims, the OIG asked Cabinet officials to explain reasons behind these particular checks. PPC responded that staff reviewed and categorized these canceled checks during this particular time, which totaled 193 checks.

To put the matter into perspective, the total number of checks canceled (193) represented only 0.19% of the total issued by PPC (10,040) during the referenced time period. Thirty-three (33) checks were reissued, 17% of the 193 canceled checks. Ultimately, only 160 checks were canceled and not reissued, representing only 1.5% of total checks issued from the Team Western Kentucky Tornado Relief Fund.

Reasons for the canceled checks varied from: lost checks; wrong names; deaths of the payees; printing errors; potential fraud; and no known or determined reason. For the vast majority of these instances, PPC did not reissue checks except for those subsequently verified for payment. The categories for these particular checks, as described by PPC are the following:

- Unknown (111). Checks returned by the payee without noting reason. These will not be reissued unless the payee contacts PPC to have check reissued.
- Returned (26). Checks were returned with a note indicating reasons for the return, i.e., “no damages.” 25 names were from the FEMA listing, one from the insured list. Information on the FEMA individuals were sent to FEMA for investigation. These checks will not be reissued unless the payee contacts PPC.
- Potential Fraud (19). Payees indicated that they did not file a FEMA application and suspect fraud. All from the FEMA “critical needs assistance” listing. Referred to FEMA

for further investigation. Provided these payees with information to report to FEMA. These checks will not be reissued.

- Death (13). Payees had passed away. These checks have been reissued and made payable to the estate.
- Lost checks (12). Payees contacted PPC indicating a check had not been received after a sufficient time for delivery. A stop payment affidavit was received by the payee. The check was canceled and a new check issued.
- Wrong name (6). Payee name was incorrect (married, divorced, incorrect spelling, etc.). These checks have been reissued.
- Duplicate check (2). These checks will not be reissued.
- Other (4). These are printing errors (the check coding did not print, a check printed from the test row, etc.) These checks will not be reissued.

FACT-CHECKING REPORTS OF “UNCASHED CHECKS”

In October 2023, comments were made in the media regarding approximately 1,000 checks issued for payment from the funds, but not cashed. According to the Cabinet’s data as of September 2023, 1,382 checks issued for payment from the Team Western Kentucky Tornado Relief Fund were not cashed by the recipient, 936 of which were checks issued based on information received from FEMA for the second payments to uninsured homeowners and renters. Further, 379 of the referenced 1,382 uncashed checks were based on information received from the insurance companies for the insured second payment program. Of the remaining checks that were issued, but not cashed, 10 were issued as supplemental payments to insured homeowners and renters based on information received from insurers, four were issued as supplemental payments to uninsured homeowners and renters based on information received from FEMA, 54 were issued as payments to individuals in the unmet needs program, and two checks were issued based on self-reporting by survivors, one each from the respective insured and uninsured second payment programs. Additionally, 210 checks issued for payment from the Team Eastern Kentucky Flood Relief Fund have not been cashed by the recipient, all of which were issued as supplemental payments to uninsured homeowners and renters based on information received from FEMA.

As with any check, a recipient has one year from the date of issuance to cash a check issued for payment from either fund. The Cabinet advises that for checks issued that it learns have not been cashed, staff attempts to contact the recipient and holds the payment amount in reserve during that time period. If Cabinet staff reaches the recipient and verifies the recipient was eligible to receive a check, the Cabinet works with the recipient to accomplish payment. If Cabinet staff’s attempts to reach the recipient are unsuccessful, the payment remains as an expenditure from the fund for one year, after which it escheats to the Commonwealth; at that point, the money remains escheated to the Commonwealth for five years and then becomes unclaimed property. The Cabinet stated its understanding that some recipients who received checks, including through a long-term recovery group, wait to cash them until repair work is completed. The Cabinet also reported that some checks are returned as not deliverable.

ANALYSIS OF EMARS DATA AND PAYMENT SAMPLES

One element of this Report has involved analyzing eMARS data that reflect disbursements of the funds. This office reviewed several reports produced from the data, with the intention of looking for any signs of irregular or questionable transactions. For example, reports were tailored to display multiple checks sent to an individual or to a single address, which would assist in determining if the appropriate amounts were sent to the individual. Any irregularity in these dollar amounts was further investigated by examining the back-up documentation for the fund's disbursement.

Another report by eMARS displayed the amounts sent to funeral homes, which quickly displayed any duplicate payments to these establishments. Any duplicate payments would have been investigated by viewing the back-up documentation. Examples of other reports included data as to disbursements that were mailed to addresses that were outside the designated disaster areas or out-of-state, which could indicate possible fraud by nonresidents of the disaster area and thus warrant further investigation.

In addition to the eMARS data review, the OIG inspected 516 samples of payments that document the authorization and disbursements of the funds. In particular, the OIG focused on areas including internal controls for fund distribution, segregation of duties, accuracy, consistency, and back-up documentation or any irregularities that may indicate the possibility of fraud.

During the time period of this review, the Cabinet became aware of data showing some anomalies or "outliers" in payments. For example, with the Team Western Kentucky Tornado Relief Fund, approximately 37 individuals received second payments from both the insured homeowners and renters program and the uninsured homeowners and renters program. As explained by cabinet officials, depending on the circumstances of their homes and personal insurance policies, these individuals could qualify under both FEMA's "uninsured" criteria and the "insured" criteria. For example, an insured homeowner could also have received a payment from FEMA if the insurance amount was less than the verified loss (meaning the person was underinsured) or FEMA provided assistance to a loss that was not insured (e.g., a septic tank). These particular payments were not initially flagged by the Cabinet due to its data analytics not being designed to "de-duplicate" entries across the multiple fund programs (insured *and* uninsured).

Further, data showed 17 instances where individuals with a certain name had more than one mailing address in the same city. In those instances, if an individual had the same name but different addresses based upon data that FEMA or the private insurer provided to the Cabinet, the Cabinet assumed that they were different individuals and issued each a payment. With respect to checks mailed to addresses outside the designated disaster areas or out-of-state, the Cabinet also relied upon data provided to it from FEMA or the insurance industry in assuming that these individuals qualified for such assistance and had been displaced to places outside those designated disaster areas.

During the course of this review, the Cabinet discovered 53 payments issued in error in the Team Western Kentucky Tornado Relief Fund, with 38 of these payments attributed to its data analytics not catching inconsistencies in the data because of the way the data was delivered to the Cabinet by the insurers. An example of inconsistent data delivered from insurers would be the use of the ampersand (“&”) in some instances but the word “and” in other entries, causing the Cabinet’s analytics to not catch and remove duplicate claims.

Further, during the course of this review the Cabinet discovered that one individual was overpaid \$50 in the first payments to uninsured homeowners and renters. The Cabinet’s review of this payment showed the overpayment was because the individual had multiple successful FEMA appeals that caused challenges in linking his individual payments to one single FEMA claim. In addition, the Cabinet discovered 11 payments were incorrectly paid as duplicate first and second supplemental payments in the insured homeowners and renters program, totaling \$17,497. Two payments to businesses totaling \$4,500 were incorrectly made based on the insurance company identifying the businesses as individuals in the data it delivered to the Cabinet. The Cabinet also discovered that one payment in the grain assistance program was made in error, but did not correct it.

FINDING: For the entire Team Western Kentucky Tornado Relief Fund, the 53 payments for \$69,785 made in error represent 0.2645% of the 20,040 total number of payments and 0.14555% of the total amount of \$47,944,436.37. In comparison, last month the White House Office of Management and Budget released its annual data on improper payments from federal programs, noting a 5.43% rate for improper and insufficient documentation for Fiscal Year 2023. The White House, *OMB Releases Annual Data Showing Continued Progress in Reducing Improper Payments Across the Federal Government*, Nov. 22, 2023, <https://www.whitehouse.gov/omb/briefing-room/2023/11/22/omb-releases-annual-data-showing-continued-progress-in-reducing-improper-payments-across-the-federal-government/>. Additionally, the review of the eMARS data and of the sample payments does not indicate any sign of widespread fraud in either the Team Western Kentucky Tornado Relief Fund or the Team Eastern Kentucky Flood Relief Fund. Although there have been isolated instances of fraud reported in the second payment to uninsured program (see page 24), the overall percentage of fraudulent claims appears to be immaterial. *The Association of Certified Fraud Examiners’ Report to the Nations on Occupational Fraud and Abuse: 2016 Global Fraud Study* reported a typical organization is estimated to lose 5 percent (5%) of its income due to fraud. Cited in the U.S. Department of Homeland Security OIG Report, OIG-19-55, *FEMA Must Take Additional Steps to Demonstrate the Importance of Fraud Prevention and Awareness in FEMA Disaster Assistance Programs*, <https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-55-Jul19.pdf>.

Recommendation. The OIG recommends that the Public Protection Cabinet continue to refine its analytics and review process to guard against errors in payment while continuing to produce and review eMARS reports. Going forward, the Cabinet should run its data analytics across all of the programs contained within the respective funds, rather than confining it to an individual program.

NO ADMINISTRATIVE FEES LEAD TO GREATER DISTRIBUTIONS TO DISASTER SURVIVORS AND VICTIMS' FAMILIES

From the moment the funds were established, it was made clear that none of the donations would be used to pay administrative fees, except to pay for processing.⁵ In comparison, the charity assessment organization Charity Navigator reports that seven out of 10 charities they evaluate spend about 25% of their budgets for administrative expenses. *See* redcross.org/donations/how-the-red-cross-spends-your-donations.html. With respect to disaster-related nonprofits, the Red Cross notes that it spends 10 cents of every dollar on day-to-day business operations. *Id.* Another comparison can be made to the Florida Disaster Fund, which, according to its website, is “the State of Florida’s official private fund established to assist Florida’s communities as they respond to and recover during times of emergency or disaster.” “Up to 3%, however, no more than \$30,000 is taken from each donation to cover administrative costs...” *Id.*

Applying the above-referenced 3% to 25% amounts to the total dollars donated to the tornado and flood relief funds, roughly \$2 million to \$16 million could have been funneled to pay for administrative costs. Instead, those dollars went directly to assist those affected by the disasters under PPC’s 0% administrative fee policy. Simply put, Kentuckians received more monetary help from these funds than from any other relief fund addressing these disasters.

TRANSPARENCY

During its review, the OIG asked PPC staff about complaints levied by some elected officials alleging a lack of transparency by the Cabinet with respect to these funds. In response, Cabinet officials stated that actions relating to these funds have been made public since they were first established. A few examples they cited of their commitment to transparency include:

- publishing specific program guidelines for the operation of the funds, as outlined in 800 KAR 1:020E for the tornado relief fund, which was open for public comment;
- responding to public comments of the State Treasurer by amending the emergency regulation in some manner that the Treasurer suggested, and explaining why the Cabinet did not amend the emergency regulation in other manners that the Treasurer suggested;
- publishing guidelines at <https://teamekyfloodreliefapp.ky.gov/ProgramGuidelines.pdf> for the flood relief fund;
- Cabinet officials testifying before legislative committees on at least 5 occasions to discuss the administration of the funds;
- Cabinet officials meeting with legislative members of the Mountain Caucus to provide updates;
- The Governor making public announcements regarding the use of the funds at numerous events, including the weekly “Team Kentucky” updates;
- The promotion of websites throughout state government notifying the public about the fund (See <https://secure.kentucky.gov/FormServices/Finance/EKYFloodRelief> for

⁵ Fees to process online donations (i.e., EFT, credits cards) and Kentucky State Treasurer’s fee (process canceled checks - \$5 per check).

general description of the fund’s purpose on the donation portal), including a banner on LRC’s website for some time;

- Creating and publishing charts updating total number and amounts of donations, persons helped, disbursements and committed funding, broken down by program;
- Passage of SB 99 during the 2023 Regular Session, largely adopting each fund and the program guidelines for each fund in codified law;
- Submitting nine monthly reports to the General Assembly since the passage of SB 99;
- Submitting the first annual report to the General Assembly, June 30, 2023 as required by SB 99; and
- Responding to requests for records or information from the media, legislators, and the State Treasurer.

FINDING: The Public Protection Cabinet established and has administered the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund with complete transparency.

RESPONSE TO ALLEGATION ABOUT AUTHORITY TO RECEIVE DONATED FUNDS

A review of documentation indicates an incorrect allegation that PPC wrongfully failed to seek an advisory opinion from the Executive Branch Ethics Commission prior to initiating and administering these Funds. In his letter dated July 25, 2023, to Mike Harmon, Auditor of Public Accounts, Public Protection Cabinet Secretary Ray A. Perry stated that “the request that [Harmon’s] office examine these funds was built on the false premise that the administration needed at opinion from the Executive Branch Ethics Commission to create and administer the funds.” Seeking an advisory opinion was neither warranted nor necessary.

Neither of the funds is a nonprofit organization. Each fund consists entirely of the private donations of individuals and entities. Neither fund consisted of public funds or appropriated funds prior to SB 99 taking effect. Further, no governmental entity solicited any gift of any kind from any individual for either fund. Again, each fund consists entirely of private donations.

The Cabinet has repeatedly identified the multiple statutes giving it and the Governor the authority to create and administer these funds, and, again, Senate Bill 99 codified the funds and their program guidelines. Furthermore, the Cabinet’s General Counsel Jacob Walbourn expressed to the State Treasurer’s office by letters dated October 1, 2022, and February 1, 2023, that “the Public Protection Cabinet again reiterates the statutory authority for administering both funds that consist entirely of private donations and are neither taxpayer dollars nor appropriations of the General Assembly. KRS 11.065; KRS 12.270; KRS 12.020; KRS 12.250; KRS 12.252; and KRS 45A.097.”

FINDING: Based upon the often-repeated statutory authority, the OIG finds the Cabinet did not need to seek an opinion from the Executive Branch Ethics Commission.

CONCLUSION

As administrator of the funds, and with the overarching goal of quickly providing assistance to those survivors in desperate need, the Public Protection Cabinet took immediate action in establishing and administering the Team Western Kentucky Tornado Relief Fund and the Team Eastern Kentucky Flood Relief Fund. In establishing the various programs within the two funds, PPC developed guidelines and maximized the use of case management from the public and private sectors to identify those qualified to receive assistance. Mindful of their responsibility to account for how the funds were distributed, PPC personnel established a system of segregating duties within and across PPC offices to ultimately approve the disbursement of the donated funds. Although a few issues arose within programs of the funds, such as with the FEMA data shared with PPC for the Team Western Kentucky Tornado Relief Fund “second payments to uninsured,” the Cabinet responded by immediately notifying FEMA of the issue and working with FEMA to verify data. In addition, evaluation of the administration of the funds should take into consideration the situation at hand in the immediate aftermath and significant breadth of these disasters. Time was of the essence, and the Cabinet acted swiftly and responsibly.

Further, the Cabinet administered the funds in complete transparency, as evidenced by a long list of actions that have been in the public domain since the creation of the funds. The policy of prohibiting the use of donated funds to pay administrative fees freed up millions of dollars to go instead into the pockets of those suffering from the impact of the disasters.