



November 29, 2017

The Honorable Bill Shuster
Chairman, Transportation & Infrastructure Committee
The Honorable Peter A. DeFazio
Ranking Member, Transportation & Infrastructure Committee
United States House of Representatives

Dear Chairman Shuster, Ranking Member DeFazio, and Committee Members:

First Liberty Institute is the largest organization in the country dedicated exclusively to defending religious liberty in America. We write to encourage your support of H.R. 2405, the “Federal Disaster Assistance Nonprofit Fairness Act of 2017.” This bill is included in section 211 of H.R. 4460 the “Disaster Recovery Reform Act.” The provision would open the door for religious non-profits to receive desperately needed FEMA relief in the aftermath of disasters like Hurricanes Harvey and Irma.

As you are certainly aware, our country recently faced record-breaking devastation at the hands of hurricanes. Among the tens and thousands affected were hundreds, possibly thousands, of churches, temples, synagogues, and other religious organizations. Even though these organizations would otherwise qualify for FEMA’s Relief Funds, they are prohibited from applying for and receiving aid solely because of their religious status. We currently represent two churches located in Houston who sustained millions of dollars of damage to their worship facilities due to Hurricane Harvey. Undeterred from their invaluable missions, they continued to serve their devastated communities. We consider FEMA’s discrimination against religious entities like our clients to be of the utmost significance.

Religious institutions are categorically barred from receiving federal aid because FEMA’s Public Assistance Program and Policy Guide misinterprets the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Stafford Act contains a nondiscrimination clause mandating the President protect religious entities from discrimination when it comes to relief assistance. In addition, the Supreme Court has repeatedly confirmed that denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion. *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S.Ct. 2012, 2019 (2017) (citing *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U. S. 520, 533); see *McDaniel v. Paty*, 435 U. S. 618, 628 (1978) (plurality opinion) (quoting *Wisconsin v. Yoder*, 406 U. S. 205, 215 (1972)). Yet four presidential administrations ignored the Stafford Act’s nondiscrimination clause for nineteen years.

We recently wrote to the Trump Administration on behalf of our client churches requesting the unconstitutional religious ban be rescinded. Although the requested relief would enable immediate public assistance to our clients, our nation needs a permanent solution. Enacting the “Federal Disaster Assistance Nonprofit Fairness Act of 2017” is the key to ensuring religious non-profits are provided the same relief as their nonreligious neighbors for years to come.

In addition to assuring compliance with the Stafford Act, the proposed legislation serves a fundamental role in ensuring our nation will effectively and efficiently recover from natural disasters in the future. As explained by Greg Forrester—the president and CEO of the National Voluntary Organizations Active in Disaster—religious non-profits account for roughly 80 percent, or billions of dollars’ worth, of national disaster recovery efforts. FEMA comes in behind disasters. But churches and other religious non-profits serve and meet the immediate needs of their local communities as a form of first response. These organizations perform an integral function. Jamie Johnson—the director of the Department of Homeland Security’s Center for Faith-Based & Neighborhood Partnerships—considers this collaboration with faith-based non-profits critical to FEMA’s success. Paul Singer, *Faith groups provide the bulk of disaster recovery, in coordination with FEMA*, USA TODAY, Sept. 23, 2017, <https://www.usatoday.com/story/news/politics/2017/09/10/hurricane-irma-faith-groups-provide-bulk-disaster-recovery-coordination-fema/651007001/> (last visited Nov. 10, 2017).

This local support also provides a significant financial benefit to states struggling after a disaster. The federal government requires states to match a percentage of funding given for federal disaster aid. However, states are able to credit the cash value of volunteer labor towards that required payment. The hundreds of thousands of volunteer hours performed by religious non-profits in the wake of every natural disaster saves damaged states millions of dollars that can later be utilized to benefit citizens.

The benefits these religious organizations bring to recovering communities are immeasurable. It is unconscionable for our nation to rely on faith-based organizations in the aftermath of a disaster yet refuse to assist them on equal terms with their nonreligious neighbors. In addition to resolving this inequity, the proposed legislation would ensure religious non-profits are able to rebuild and respond to disasters in the future.

As the “Federal Disaster Assistance Nonprofit Fairness Act of 2017” sits before the House Committee on Transportation and Infrastructure, we would like to strongly urge you to give this legislation the necessary priority and support. We are ready and willing to support your efforts through testimony or any other means to ensure our nation’s fundamental constitutional values are preserved.

Thank you in advance for your support of our nation’s religious non-profits as we work to ensure the rights guaranteed by the *United States Constitution*, the *Stafford Act* and religious liberty jurisprudence are afforded to every American.

Respectfully,



Chelsey Youman
Legal Counsel