ONTARIO NONPROFIT NETWORK

Talking to funders about the new opportunities to fund nonprofits:

Understanding non-qualified donees and granting opportunities

In 2022, Parliament changed the Income Tax Act to allow registered charities to make grants to non-charities (most are in a category called "non-qualified donees" or NQD for short). The Canada Revenue Agency (CRA) then undertook consultations to develop a policy on how they would interpret and implement these new rules. On December 19, 2023, the CRA published a version of its policy position called CG-032 Registered charities making grants to non-qualified donees.

The law does not require funders to fund NQDs. Consequently, in order for nonprofits to see the full benefits of these new rules, funders are going to have to voluntarily open up eligibility for their grants to NQDs. So far, reactions from funders have ranged from immediate and enthusiastic adoption of this new opportunity to more cautiously studying the potential benefits and drawbacks of granting to nonprofits.

This resource will outline some common hesitations funders may have and offer points you can raise as a potential grantee to help funders both navigate legitimate concerns, and overcome artificial barriers to more equitable and inclusive funding.

"We aren't allowed to fund NQDs, and it would be a lot of work to change our rules."

Some charities have legal purposes that only allow them to grant to qualified donees. However, these can be changed. For the funder, this involves at least the following steps:

- Internal discussions and deciding on what the charity's purposes are.
- Drafting those purposes in a way that follows charity law, this may involve consulting a lawyer or soliciting the views of CRA regarding what they consider charitable.
- Holding a board meeting to pass the changes.
- Holding a members' meeting to pass the changes.
- Filing the changes with the Corporate Registrar CRA.

These steps are entirely feasible even for small funders. However, it does take some time, and may take some thought if the funder has never defined its purposes before. This time and work can be a very constructive process for the funder as it gives them the opportunity to clearly articulate the impact they want to make.

“We are worried we’ll get too many applications.”

There are a lot more NQDs than charities. It takes funders time and resources to process applications. But if accomplishing the mission is their first priority, it stands to reason that they will want to support the organization best positioned to further that mission.

For funders that choose to continue limiting who they can support, it may be worthwhile to ask the following questions:

- Are we arbitrarily cutting ourselves off from the people best placed to do the work?
- If we could fund anybody, would whether or not they have charitable status be a relevant factor in assessing whether an organization will be more or less effective at delivering the intended impact?
- Who do we privilege and who do we exclude?

This last question is especially relevant for funders with a stated commitment to equity. By requiring that an applicant first have charitable status before they can apply, they are essentially imposing a price of admission that is out of reach to many.

For example, imagine a funder receives 100 applications for a particular grant, and is worried that if they allow any nonprofit to apply as well they will get 100 more applications from nonprofits who are not charities. In order to be fair to each applicant, the funder reviews each application carefully. If the funder does not change its vetting process, doubling the number of applications could therefore result in doubling the time it takes to review or necessitate hiring more staff. On the other hand, there could be exactly the right people, with the skills, connections, aims, and structure to deliver on the funder’s mission currently part of that group of 100 non-charitable organizations who don’t bother reaching out to the funder because they’re not eligible.

“We are worried about the risk.”

When funders express concern about the risks of funding NQDs, they may mean either or both of the following:

1. NQDs are more likely to misuse charitable resources.
2. If an NQD misuses charitable resources, the funder will be on the hook whereas if they fund a charity they would not.

In both cases, the answer is that if a funder has done the due diligence that it likely already does when funding charities, neither issue should be a problem.

In the first case, there is no evidence we know of to support the idea that nonprofits are inherently more likely than charities not to respect the terms of a funding agreement. The factors that drive risk in this area (e.g. staff, reputation, non-arm’s length relationships) apply both to nonprofits and charities, and ordinary funding application due diligence and best practices (like regular reporting, clear communication, etc.) address many of these concerns. Similarly, a charity that does appropriate due diligence is not on the hook for everything a grantee does. Once the charity has done due diligence it has discharged its obligation to ensure the resources are used for charitable purposes that is the purpose of the Guidance CG-032.

For example, if a funder thoroughly vets a fundee, and establishes clear reporting requirements and other accountability tools set out in CG-032, and still the fundee happens to hire someone who commits fraud or some other crime with the charity’s assets, the funder is no more liable than if it had made a grant to the charity.

“It’s a lot of work to change our processes.”

Some charities may worry that granting to NQDs will be significantly different from granting to charities, but the truth is, the expectations that CRA has set out in its guidance CG-032 are mainly standard practices for any funding relationship.

These expectations include:

- Vetting the funding recipient to ensure their trustworthiness and capacity.
- Assessing the risk of a given grant and imposing safeguards proportionate to that risk.
- Having a funding agreement in place that creates a clear scope of work, reporting guidelines, schedule, termination provisions, among other provisions.

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- Documenting and reporting on the work to ensure funding terms have been followed.

If funders review their current funding streams, they will likely find that many meet these standards already. Funders will likely find it easiest to start by opening up these streams to NQDs.

Other funding streams may be considerably more flexible, and so it will genuinely take some time and work to adapt these funding streams to be open to NQDs. In such a case, you can emphasize to the funder that this investment would be well spent as it will open them up to a whole new world of fundees who can help further their mission.

Nonprofits can play an active role in this process.

In the end, it will take some time and encouragement for the sector to take full advantage of these new possibilities. However, nonprofits do not need to be passive bystanders in this process. Nonprofits can actively make the case to funders for the enormous value they deliver to communities, and the opportunity this represents for impactful funding.

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About ONN

ONN is the independent nonprofit network for the 58,000 nonprofits in Ontario, focused on policy, advocacy and services to strengthen the sector as a key pillar of our society and economy. We work to create a public policy environment that allows nonprofits to thrive. We engage our network of diverse nonprofit organizations across Ontario to work together on issues affecting the sector and channel the voices of our network to government, funders, and other stakeholders.

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