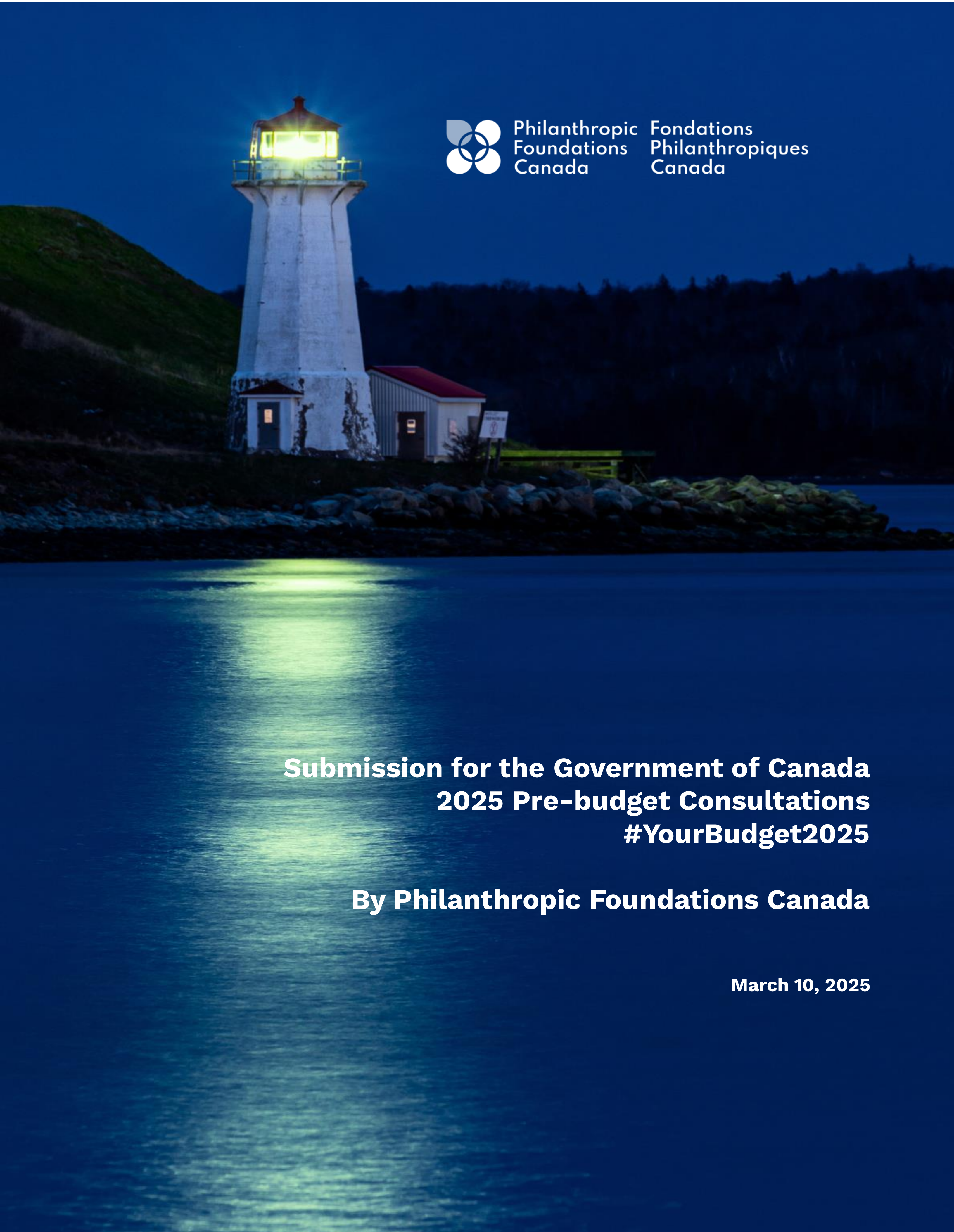

Philanthropic Foundations Canada
Fondations Philanthropiques Canada

Submission for the Government of Canada 2025 Pre-budget Consultations #YourBudget2025

By Philanthropic Foundations Canada

March 10, 2025

SUMMARY

RECOMMENDATION 1 – Follow-through on the Government's commitment for a review of the disbursement quota rate by 2027 and commit to a regular review.

RECOMMENDATION 2 – Incentivise impact investment: issue guidance for charities on making Program Related Investments, and de-risk philanthropic investments with government commitments.

RECOMMENDATION 3 – Attend to serious lingering challenges of the Qualifying Disbursement Regime by making a technical amendment to the Income Tax Act to ensure charities can pool funds and grant to NQDs, and help interested charities facilitate changes to their charitable purposes so they can grant to NQDs.

RECOMMENDATION 4 – Fix the data deficit: task Statistics Canada to carry out the nonprofit module of the Canadian Survey of Business Conditions every year and establish a permanent unit at Statistics Canada focused on the non-profit and charitable sector.

RECOMMENDATION 5 – Designate the Tax Court of Canada as the primary appeals reviewer of CRA decisions that refuse or revoke registrations of charities.

RECOMMENDATION 6 – Continue and strengthen the critical partnership between the Federal Government and the non-profit and charitable sector.

Introduction

Canada's prosperity, and our sovereignty, are under direct threat from our erstwhile friend and neighbour. The likelihood of tariff-induced inflation and a weakening dollar looms large. Canadians feel betrayed and anxious. Our governments will be focusing on Canada's national and economic security, and rightly so. Massive public expenditures will be required to support affected industries and their workers and to develop the infrastructure required for a more resilient economy.

Yet, in this moment, Canada's charities and nonprofits, which are already under great strain, will face even greater demands from the communities that rely on them. They will be the lighthouses in the darkness for so many Canadians. But their resource and revenue challenges will become even more prevalent if we face an economic downturn, if individual donations continue to decline, and if the government turns its attention to other financial priorities to fight for our economy and sovereignty.

Canada's charitable foundations can and will play a pivotal role by utilizing the tools they have at their disposal – their granting dollars, assets, leadership, and expertise – during this historic hour of need. There are more than 10,000 foundations in Canada, who together steward $135B in assets. They invest in our economy, run programs, and make grants to non-profits and charities working providing critical programming and supports to those who need them in communities across our great country, and advance progress on important issues critical to Canadian ways of life.

But while foundations provide about $10B in grants every year, they will not be able to fill gaps in all areas, especially if the government must turn its attention to emergency economic funding and investments in critical infrastructure. For the order of magnitude of the needs, the math does not work. All foundation assets represent about 36% -or about four months equivalence- of what Canadian governments spent on health in 2024 alone. Given the size of the philanthropic foundation sector in Canada, the limits of a substitution model are very clear.

The other real truth is that foundations in Canada are an element of civil society: they are complementary, not a substitute for government funding and leadership – nor should they be. Philanthropic responses must and will continue to vary greatly. Some foundations will address emergencies here and abroad; many will protect long standing and valuable programs and charities that will continue to critically serve Canadians; others will invest in catalysing long-term structural solutions for a resilient and prosperous Canada that remains true to its democratic values of decency and inclusion. The crisis we are facing will require a spectrum of responses. Pluralism is our strength as a philanthropic community serving a diverse and democratic society.

But where there *is* a real opportunity in philanthropy is with policy levers and ensuring that the regulatory system that governs our sector is working. Values-based prosperity is within reach with good public policy.

RECOMMENDATIONS

1. Plan for a review of the disbursement quota rate by 2027 and commit to a regular review.

PFC supports the disbursement quota rate (the minimum calculated amount set by the government that a registered charity is required to spend each year), which was raised to 5% for assets over $1 million in 2022. The rate helps prevent capital accumulation so that money is going out in community, while also maintain charities' endowments so they can invest them to get returns to spend on charitable activities or grant them into the community.

In Budget 2022, together with the new disbursement quota rate announced, a review after five years was promised. To ensure this deadline is met, PFC reiterates its recommendations from its 2024 pre-Budget submission that the government dedicate resources and begin preparations to ensure it is capturing the necessary data today.

PFC also reiterates its recommendation that the government commit to the rate being regularly reviewed and determined according to a data-driven formula that promotes principles of both philanthropic impact and preclusion of significant endowment capital accumulation or erosion.

PFC strongly recommends that reviews include analyses of a rolling five-year average of inflation, and actual returns and liquidity for a responsible and balanced investment portfolio. As a floor for disbursing assets, the disbursement quota should reference long-term rates of returns for prudent and diversified investment practices by endowed charities. We encourage the government to consider a formula along these parameters: DQ = responsible investment indexed net returns – compounded inflation – reasonable operating costs. The disbursement quota is best calculated on the basis of a formula that is revised and revisited on a reasonable periodic basis.

2. Incentivise impact investment.

Social finance is an approach to mobilizing private capital that delivers social dividends and economic returns to achieve social and environmental goals. Mobilizing capital for social good creates opportunities for investors to finance projects that benefit society, and for social-purpose organizations to access capital, all while creating a financial return.

We believe the Government of Canada has a critical role to play in facilitating more of this win-win behaviour. We know the Government of Canada is deeply interested in encouraging social finance, as evidenced by its numerous initiatives in this space, including the $755M Social Finance Fund, which was fully launched last year.

Two specific and simple opportunities exist that could make a huge difference, and that the government could act on straight away.

Issue guidance for charities on making Program Related Investing

While increasingly interested in social finance (sometimes called impact investing), most foundations don't know much about it and feel confused or unsupported by the lack of knowledge and other impediments that exist currently in this burgeoning field.

As indicated in PFC's most recent Investment Survey (2018-2020) of the network, "Survey participants highlighted a need for education on Responsible Investing/Impact Investing... to be better equipped to activate the value that their investment strategy can bring to advancing their mission... They are looking for practical tools and pragmatic guidance on how to do so efficiently and without straining resources."

Luckily, program-related-investing (PRI) is a tested, legal pathway already in place to engage charities in social finance. PRI is a type of lower-cost financing that is structured as investment rather than a grant but is primarily focused on advancing a charitable mission.

This type of investing (in the form of below market rate loans, loan guarantees or share purchases) can be charitable when they further a charitable purpose -- yet they have had little regulatory recognition other than in an outdated CRA policy guidance document on community economic development (CG-014) last revised in 2017. This guidance is in need of updating and does not reflect new important regulatory changes.

This is low-hanging fruit that we believe could help open the door to major changes in the culture of foundation investing. What's more is that creating such guidance is a low-cost intervention.

PFC is prepared to help develop and promote the guidance as needed, with the sector. We understand that the CRA Charities Directorate is interested in this course of action. PFC recommends the government provide the CRA with the resources to do so straightway without delay.

Derisk philanthropic investments

Foundations are increasingly interested in investing their assets for social as well as financial returns. However, some foundations are uncomfortable with the perceived risk of focussing investments on anything other than a financial return because of their legal disbursement quota obligations, and their deep-seated commitments to their grantees.

The federal government has a unique opportunity to support the leveraging of foundation capital for social good by committing to helping underwriting investments on impact investment projects that meet both foundation and government social impact goals.

An immediate example is the Canada Rental Protection Fund, created by the Government of Canada, based on BC's successful Rental Protection Fund, to help the community housing sector acquire rental housing to preserve affordability of rents over the long term. It includes loans to leverage other sources of capital, including from the philanthropic sector.

In this uncertain economic environment, at a time where we need to invest more in Canada, the government can structure opportunities like this for foundations and other charity investors with low but guaranteed investment returns. This would help increase co-investment and present a limited financial burden for the government. PFC stands ready to use our expertise and network to support the government in such efforts.

3. Attend to serious lingering challenges of the Qualifying Disbursement Regime.

In 2023, a new regime was established called 'qualifying disbursements' that permit charities to make gifts to qualified donees and grants to non-qualified donees (NQDs).
This new framework represents historic efforts by government and civil society to ensure a level playing field between charities and non-profits that provide public benefit and often serve communities that are inadequately supported by philanthropy but are not registered charities or other qualified donees.

While PFC is very pleased in general with this historic change, there remain serious challenges with the legislation as well as the implementation that require immediate government attention. This is urgent as the new rules have been in force for more than two years already.

Make a technical amendment to the ITA to ensure charities can pool funds and grant to NQDs

The anti-directed giving stipulation in the legislation says that organizations jeopardize losing their charitable status for knowingly accepting gifts conditional on them going to NQDs. This provision creates risk to the charitable status of foundations and other charities engaging in partnerships with NQDs, and as a result may discourage pooled funding partnerships – an essential practice used regularly, especially during urgent and quickly evolving contexts, as has been seen during war, natural disasters and the COVID-19 pandemic in Canada and globally. It helps charities quickly get money to where it is needed but transferring assets to other charities with expertise and connections on the ground.

We do not believe the government had the intention to discourage this good practice. We believe this provision was created to help prevent bad actors from using charities as conduits for nefarious activities, which is an important concern. A way to address both concerns is a technical amendment to the effect of what is written in the CRA's administrative guidelines for granting to NQDs - that gifts can be accepted by a charity for programs that support non-qualified donees, so long as the charity qualifies that ultimate authority on the use of resources rests with the charity.

Given the uncertainty of the economic and global political environment, it's essential that this is remedied quickly. PFC stands ready to support such efforts.

Issue guidance about acceptable language for charities' charitable purposes so that charities can grant to NQDs

A critical issue that is lingering for many foundations related to granting to non-qualified donees is around charitable purposes. Some foundations have purposes that specify their purpose is granting to qualified donees. Because a grant to a non-qualified donee must further the charity's purpose, those with such purposes are at odds with making grants to non-qualified donees, and are thus unable to do so. This issue has created legal headaches and expensive legal fees for many foundations. It remains a most frequently asked question of PFC from across our network.

A simple solution that would reduce the burden of administrative and legal expenses would be for the government to issue sample acceptable language for these types of foundations to utilize for their revised objects. We understand the Charities

Directorate at the CRA is considering this course of action. PFC recommends the government provide the CRA with the resources to do so straightway without delay. PFC stands ready to support these efforts.

4. Fix the data deficit: establish a permanent unit at Statistics Canada focused on the non-profit and charitable sector.

Basic, regular information is vital to helping decision-makers understand key features of our sector and to making informed and efficient public policy and resource allocation decisions.

Few understand for example that charities and nonprofits contribute $192 billion dollars in economic activity to Canada annually, account for 8.3% of our country's GDP, and employees 2.4 million people - more than the mining, oil and gas sector, or agriculture, transportation and retail.

PFC applauds the government's investments in Statistics Canada which led to the release of data in 2024 on the nonprofit sector collected through a special module of the Canadian Survey of Business Conditions. This is the first time since the 2003 National Survey of Nonprofit and Voluntary Organizations (NSNVO) that Statistics Canada has conducted such a large-scale survey of the sector. Findings highlighted " the profound impact that non-profit organizations have on Canadians' lives as well as the ongoing significance of these organizations as vital players in a diverse society and a dynamic economy." This survey was conducted through an existing platform, making it cost-effective and fast. Now that the first survey has taken place, it will be easily replicable in future.

We recommend a more intentional, coordinated approach within Statistics Canada. We recommend the federal government provide Statistics Canada with a mandate to annually carry out the nonprofit module of the Canadian Survey of Business Conditions, and that it establish a permanent unit at Statistics Canada focused on the sector, to support regular, coordinated data collection and essential analysis.

5. Designate the Tax Court of Canada as the primary appeals reviewer of CRA decisions that refuse or revoke registrations of charities.

The bulk of charity law is based on the common law, which is meant to grow and evolve over time in ways that reflect societal change. But this evolution can only happen if there are court cases and rulings that move the law forward.

Currently, the [appeals process for charities] is through the Federal Court of Canada. They can only appeal to the Tax Court on some matters relating to income tax and tax receipting issues. However, the Federal Court of Appeal is an expensive, onerous process which hears cases less frequently than the tax court, and that are based on documentation alone - with no opportunity to present other evidence than what the CRA presents. The Tax Court by contrast sits in more locations across Canada and the appellant is entitled to give testimony and to call others to help make their case. Similarly, government officials can call their witnesses. This is called a hearing "de novo" - when a court hears a case without reference to any legal conclusion or assumption made by previous courts. That means that the only things the judge knows about the case at the outset is what is contained in the notice of appeal and the government's response. Most of what a judge learns will come from the witnesses.

The benefit of this type of process is that it provides more substantial records, offers more opportunities for more evidence to be considered, and allows a fresh review of a case to help ensure fairness. At the crux of all the policy issues PFC is advocating is the fact that regulation is inadequate, out-of-date, and not meeting today's evolving needs.

To help remedy this, we recommend the Government of Canada designate the Tax Court of Canada (rather than the current Federal Court of Appeal) as the primary reviewer of any CRA decisions that refuse registration of a charity or revoke the registration of existing charities. The idea has been in circulation for years and most notably was raised in the 2019 Senate Report *Catalyst for Change: A Roadmap to a Stronger Charitable Sector* (recommendation 23). This change would provide more opportunities to contribute to and develop law that would help the concept of charity and issues related to it evolve to meet society's needs.

6. Strengthen the critical partnership between the Federal Government and the non-profit and charitable sector.

From senior support services to summer camps to animal shelters to mental health supports, charities and nonprofits are present and critical program and service deliverers in every community across Canada. They are also crucial experts and partners to government, businesses, and communities on issues we all care about, from long-term care to housing insecurity to disabilities, and beyond.

Indeed, charities and nonprofits are the bedrock of our communities - invisible champions keeping our economies and communities flourishing. They are vital aids for business, from chambers of commerce to professional associations and beyond.

They provide vital goods and services to individuals at minimal to no cost, such as places of worship, youth and family services, housing assistance, food banks, sports and recreation clubs, and museums. And they help government deliver on their responsibilities efficiently and expertly, such as supporting services like hospitals, residential care facilities, and colleges and universities, and directly running all kinds of programs on behalf of government.

For the Government of Canada, the non-profit and charitable sector is an essential partner. Its delivery of policy of all kinds, and the effectiveness of its investments, including new and ongoing government funding programs, hinge on the relationships its holds with charity and nonprofit partners.

PFC encourages the Government of Canada to prioritize and to continue and strengthen its important partnership with charities and nonprofits.

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