

# WELCOME

2024 Minnesota Nonprofit Finance Conference
June 18, 2024



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# Agenda

8 – 8:15 a.m. — Introduction

8:15 – 9:05 a.m. — Audit and Tax Updates for Nonprofits in 2024

9:05 – 9:55 a.m. — Racial Equity Work in 2024

9:55 – 10:10 a.m. — Break

10:10 – 11 a.m. — Automation and AI: Use Cases and What's in It for You

11 – 11:50 a.m. — Nonprofit Fraud and Ethics: Trends, Hot Topics, and Scary Stories

11:50 - 11:55 a.m. — Closing

11:55 a.m. – 1:00 p.m. — Lunch and Networking





## Learning Objectives

### At the end of this session, you will be able to:

- Describe new accounting guidance affecting nonprofits and how it could impact your organization
- Recall current tax developments
- Recall the facts and law at issue in ongoing court and other challenges to nonprofit racial equity programs
- Recognize the basics of AI and automation in finance
- Discuss various ways nonprofits are impacted by fraud and ethics





### **OUR PURPOSE**

CLA exists to create opportunities for our clients, our people, and our communities.









# Audit and Tax Updates for Nonprofits

Carianne Geerts and Ann Neil

## Learning Objectives

### At the end of this session, you will be able to:

- Describe new accounting guidance affecting nonprofits and how it could impact your organization
- Identify upcoming accounting standards and recognize the important items to consider when implementing the standards
- Recall current tax developments
- Recognize how various state and local taxes could impact your organization
- Identify tax opportunities and risks that may affect your organization







# **Audit and Accounting Update**



### ASU 2016-13 Financial Instruments Credit Losses

Replaces old "incurred loss" model

for expected credit
losses for financial
assets over the
entirety of the asset's
life - i.e. Estimate when
the asset is recorded

Effective for years beginning after December 15, 2022





### What's in Vs. What's Out

### **IN** Scope:

- ALL financial assets held at amortized cost
- Trade A/R
- Loans
- Loans to officers and employees
- Certain lease and financing receivables
- Financial guarantee contracts and loan commitments

### **OUT** of Scope:

- Assets measured at fair value
- Promises to give (pledges/contributions receivable)
- Common control receivables (with related party)
- Operating lease receivables (i.e. Tenant A/R is a typical example)





### What to Consider

- Pool assets with similar risk characteristics
- The standard does not prescribe a specific methodology
- However, CECL calculations must include considerations related to:
  - Relevant historical loss information
  - Current conditions
  - Reasonable and supportable forecasts of future events





### What to Consider

#### Forecasts of Future Events – Possible Factors

- Borrower's financial condition
- Ability to make scheduled interest/principal payments
- Remaining payment terms of the asset
- Time to maturity, past due status
- Value of underlying collateral
- Changes to lending policies, strategies, collection, write off and recovery practices
- Regulatory, legal, technological environment impacts
- Changes and expected changes to general market conditions i.e. unemployment, inflation
- Changes expected based on geographical considerations





### **Programmatic Investments**

- Chapter 8 of NFP audit guide
  - AICPA & Nonprofit Advisory Council updated for CECL
  - Comment period open now
  - Download working draft <u>here</u>





# ASU 2023-08 Accounting for and Disclosure of Crypto Assets

Crypto assets must meet all of the following:

Meet the definition of intangible asset as defined in the Accounting Standards Codification Master Glossary

Do not provide the asset holder with enforceable rights to, or claims on, underlying goods, services, or other assets

Are created or reside on a distributed ledger based on blockchain or similar technology

Are secured through cryptography

Are fungible

Are not created or issued by the reporting entity or its related parties





# ASU 2023-08 Accounting for and Disclosure of Crypto Assets

- Current Treatment
  - Intangible assets
  - Account for as cost less impairment, recognize impairment but not subsequent recoveries in value
- ASU requires measurement at fair value
  - Consider volatility and impact on earnings
- Effective for fiscal years beginning after December 15, 2024 (CY2025/FY2026)
  - Early adoption is permitted
  - Adoption presented as adjustment to beginning of period net assets





# ASU 2023-08 Accounting for and Disclosure of Crypto Assets

#### **Statement of Financial Position**

Crypto assets separate from other intangible assets measured using other measurement bases

### **Statement of Activities**

Gains and losses in net income separate from amortization and impairment of other intangible assets

### **Cash Flow**

- Classify cash flows from crypto assets received in ordinary course of business or as a contribution and converted nearly immediately into cash as operating activities
- If received with **donor-imposed restrictions for long-term or capital use,** required to classify the activity as cash flows from **financing activities**

#### **Enhanced Disclosures**

Crypto holdings, restrictions, reconciliation of current year activity, historical gains/losses





# ASU 2023-01 Leases – Common Control Arrangements

Emphasis of new standard is on legally enforceable rights rather than economic substance – challenging in common control situations

 Practical expedient – may rely on written terms if they exist, if not stick with legally enforceable rights

Amortization of leasehold improvements in common control leases

 Amortize by lessee over useful life of LHI (regardless of lease term) provided that life does not exceed term of lease with third party (if relevant)





### Other Standards to Watch For



ASU 2023-09 Improvements to Income Tax Disclosures



FASB – Current Projects

Accounting for and Disclosure of Software Costs
Accounting for Environmental Credit Programs





# Changes to Audits – SAS 143 and 145

### What changed

Standards have been modernized for the evolving business environment

### **New Requirements**

Enhanced risk assessments and understanding of accounting estimates:

- Deeper understanding of IT
- More inquiries of IT group
- Additional request for data



# SAS 143 – Auditing Estimates and Related Disclosures

- Clarifies the auditor's responsibilities for evaluating accounting estimates, including fair value accounting estimates and their related disclosures
- How do we do this:
  - Review internal controls specific to estimates
  - Review the areas driving estimates
    - Transactions / Events / Conditions that trigger the estimate
    - Determine how management identifies such item
    - Under the internal controls over this process
  - Design audit procedures to test more complex estimates





### SAS 145 Risk Assessment

# Activities that can significantly impact an audit:

- Cyber breaches on financial reporting element
- Employee ability to access source code and modify source code
- New or complex systems implemented

### Potential audit impact

- Additional time spent by audit team on internal control evaluations
- Increased use of IT specialists for analysis of complex areas
- Increased chance of management comments





### **Uniform Guidance Updates**

- OMG issued <u>revisions to the Uniform Guidance</u> on April 22, 2024
- Key Updates
  - Single Audit and Type A Program thresholds increased to \$1M
  - De minimis indirect cost rate increased to 15%
  - Various procurement updates
- Effective October 1, 2024
  - Audit impact fiscal years beginning after October 1, 2024
  - Federal agencies may adopt early causing some variation in awards







### **Current Tax Developments**



# **IRS Audit Activity**





# Recent IRS Audit Activity

Audits are back

Auditors are coming in person

Increased IRS Funding = more audits











## Payment for Services

Employee /
Independent
Contractor
Determination

- Who is being paid?
- What service is being provided and is it related to your core mission?
- Who is providing the service?
  - Student, faculty / staff, unrelated third party
- Are there others in similar employment roles providing a similar service?
- Who is determining fee or wage?
- Is the payee economically dependent on your institution and what is the duration of the contract?
- Does the "contractor" have clients other than your institution, and do they hold themselves out as a business?





### Remote Workforce

Pre and Post Pandemic workforce expectations

Hybrid versus remote

**Budget implications** 

Develop or update related policies and procedures

- How is eligibility determined?
- Schedule
- Home office reimbursement
- Travel / per diem

How do you know where your employees are working?

How do you track where they are working?





### Employee / Independent Contractor

- Provide detailed written description of job duties and responsibilities.
- Approximate hours worked per week. If there is documentation of hours worked such as a schedule or calendar, provide copies.
- Location of where the work is conducted.
- Is the position year-round or seasonal? If seasonal, please specify what months.
- What is the method of payment? (salary, hourly wage, commission, amount per event, stipend, percent of profit, etc.)
- Is the worker eligible for benefits? If so, list the benefits such as health insurance, paid leave, pension plan.
- How often are they paid? (weekly, biweekly, monthly, etc.)
- To whom do they report?
- Are they required to keep time sheets or other methods to report their time?





### Employee / Independent Contractor

- Are they reimbursed for expenses? What expenses are reimbursed and how is it documented?
- What job training is provided to the worker?
- What instructions are provided concerning the work to be done?
- Do they submit written reports?
- Who sets or determines their job schedule and assigns their work duties?
- What supplies and equipment does the organization provide to the worker?
- Is the worker required to bring their own supplies?
- How long has the compensated person worked with your organization? (Months, years, etc.)
- Provide copy of written job contract or agreement if applicable.
- Does the worker make their services available to the public?





### Reasonable Compensation

# During the interview on 11/17/2023, you stated that the president was paid biweekly in 2019, please explain the following:

- How did you determine how much you want to be paid on your paycheck for each pay period? Did the Board need to approve this?
- How did you communicate with your payroll department or your accountant department for the amount you want to be paid? When?
- Please submit samples of the communication, if there's any, i.e. emails, memo, etc.
- How often did you communicate with your payroll department or your accountant department to make the change of your pay?
- Please submit breakdowns of the president's payroll for each pay period in 2019.





### **Exemption Issues**

In determining whether you comply as an organization described in Section 501(c)(3), it is necessary to review your internal controls. Therefore, please provide responses to the following questionnaire and mail them by the stated due date in an electronic format.

Describe your internal control structure.

### Does your organization:

- Use an annual budget or financial plan?
- Analyze budget variances and report to the Board?
- Provide monthly income statements to the Board?
- Provide monthly balance sheets to the Board?
- Require Board approval of non-budgeted expenses?
- Require Board approval of checking account signatory's?
- Use accounting procedure and policy manuals?
- Require internal audits or performance reviews?
- Use computer access passwords or security checks?
- Require multiple signatures and dollar limits for checks?





### **Exemption Issues**

In determining whether
you comply as an
organization described in
Section 501(c)(3), it is
necessary to review your
internal controls.
Therefore, please provide
responses to the
following questionnaire
and mail them by the
stated due date in an
electronic format.

### Does your organization:

- Require independent (external) financial audits?
- Provide cash payments for expenses or disbursements?
- Reconcile all bank accounts on a monthly basis?
- Deposit all receipts in a financial institution?
- Provide lock and key security for unused checks and drafts?
- Perform periodic checks for compliance with Federal, State, and local laws, regulations and legal requirements?
- Restrict access to accounting files and records?
- Follow record retention and file purge procedures?





### Revenue and Expense Deep Dive

**Revenue Accounts** 

Attached is a sample of the revenue accounts that were reviewed. Please provide the following information for greater clarity.

- 1. Source documents.
- 2. A detailed explanation for the source of revenue.
- 3. Explain what "BFET" and "Muckleshoot" means.
- 4. Provide any contracts that were entered for the sources of revenue identified, i.e "Van Rental."

**Expense** Accounts

Attached is a sample of the expense accounts that were sampled. Please provide the following information for greater clarity.

- 1. An explanation describing the business nature of the expense.
- 2. Source documents supporting the expense: i.e. invoices, receipts, contracts, cancelled checks.
- 3. Explain what "NICMERE," "NARCH-AIWRE" and "NACTEP" mean.
- 4. It was observed that there were expenses related to a "boat." Please fully explain your ownership in a boat and its purpose.





### Legislative and Political Activities

In determining whether you comply as an organization described in Section 501 (c)(3), it is necessary to review and clarify your activities with respect to legislative and political activities. Therefore, please provide responses to the following questionnaire and mail them by the stated due date in an electronic format.

#### Legislative

- 1. Do you urge either the public or your members to contact lawmakers regarding proposing, supporting or opposing specific legislation?
- 2. Do you make direct appeals to lawmakers concerning specific legislation, either in person or by letter?
- 3. Do you donate to or support other organizations, groups, or committees whose primary purpose is to engage in legislative or lobbying activities?
- 4. Do you provide information to the public or to your members concerning legislative issues?
- 5. Do you employ/contract with a professional lobbyist?





# Legislative and Political Activities

In determining whether you comply as an organization described in Section 501 (c)(3), it is necessary to review and clarify your activities with respect to legislative and political activities. Therefore, please provide responses to the following questionnaire and mail them by the stated due date in an electronic format.

#### **Political**

- 1. Do you make donations to political campaigns or endorse political candidates?
- 2. Do you have a political action committee (PAC)?
- 3. Do you donate to any PAC funds?
- 4. Do you collect political campaign donations from your members or the public and remit them to a PAC?
- 5. Do you permit candidates to use your facilities, computers, employees, mailing or membership lists?
- 6. Do you provide non-partisan information about candidates to any persons or groups?
- 7. Do you conduct voter registration drives or promote voter participation in elections?
- 8. Do you allow political intervention, in that do you permit employees to disseminate information using company computers to email staff members and students encouraging or discouraging them to vote for particular candidates running for public office?





### **Unrelated Business Income**

During our on-site visit to that sold primarily clothing and snack items. It stated that the was at one time a bookstore but because students now typically purchase books on-line, there was no need for the College to sell books.

Manager of the stated that the items sold in the are marketed through Facebook and the indicated that most of the sales were made to the public.





#### If an Audit Occurs... All Compliance Areas Are Potential Audit Risks











#### CLA can help!







## Clean Energy Tax Credits from the Inflation Reduction Act



#### IRA Snapshot

- Creates and modifies a number of renewable energy credits as well as financing programs.
- Effective for tax years beginning on or after Jan 1, 2023.
- Section 6417 creates an elective pay option (i.e., cash refund) for taxexempt organizations.
- Section 6418 creates a transferability option for for-profit organizations (i.e., credits can be purchased and sold for cash).
- Enacts a series of bonus credits aimed at domestic manufacturing, economic revitalization, and well-paying jobs.
- IRS portal launched in Dec. 2023 → registration is live.
- Treasury and IRS have released some guidance, but more to come.





#### Opportunities for Exempt Organizations



New building construction and renovations



Fleet electrification and charging infrastructure



HVAC improvements



Solar panel installations



Pricing leverage for Section 179D allocations



Capital project forecasting



#### **Direct Pay Credits**

§30C Alternative fuel vehicle refueling property credit

§45 Electricity produced from certain renewable resources, etc.

§45Q Credit for carbon oxide sequestration

§45U Zero-emission nuclear power production credit

§45V Credit for production of clean hydrogen

§45W Credit for qualified commercial clean vehicles

§45X Advanced manufacturing production credit

§45Y Clean electricity production credit

§45Z Clean fuel production credit

§48 Energy credit

§48C Advanced energy project credit

§48E Clean electricity investment credit





#### Claiming Direct Payments

#### Pre-filing registration

- Must be completed prior to filing the tax return where a direct pay election is made
- IRS is advising 120 days to process
- Must provide certain information about organization, the credits you intend to claim, and details regarding the property giving rise to the credit
- A registration number will be issued that will be required when making the election on tax return
- IRS will issue a separate registration number for each applicable credit property

#### Making the election on a tax return

- Must be filed on Form 990-T by due date (including extensions) along with
- oForm 3800 (General Business Credit)
- Applicable credit form
- Organizations should consider extending returns to allow for 120-day processing times





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# AFFIRMATIVE ACTION AND CHARITABLE GRANTMAKING

Heidi Christianson, Nilan Johnson Lewis PA
Mackenzie McNaughton, CLA
CLA Conference 6.18.24



#### **GOALS OF THIS PRESENTATION**

- 1. Understand legal challenges to nonprofit racial equity programs.
- 2. Understand implications for nonprofits with programming or grant focused on racial equity.
- 3. Insights into how other nonprofits are approaching the risks.
- 4. Have a framework for proactively discussing these legal issues with your staff and board.



#### HOW WE GOT HERE

• In June of 2023, the US Supreme Court decided in *Students for Fair Admissions* that race-based admission practices at Harvard and UNC violate the 14<sup>th</sup> Amendment and Title VI of the Civil Rights Act of 1964.

 American Alliance for Equal Rights sued Fearless Fund over its foundation's program to provide a \$20K grant to a black women owned business, alleging the contest violates the Civil Rights Act of 1866, Section 1981 which prohibits race discrimination when making contracts.



#### FEARLESS FOUNDATION CASE

- The Strivers Grant Contest, a program of the FF, required grant applicants to be black women owned businesses.
- Official rules of the contest required applicants to give up rights including agreeing to arbitration in any dispute of the grant process.
- FF argues that the grants are discretionary charitable grants and not contracts.
- A panel of the 11<sup>th</sup> Circuit District Court granted a temporary injunction to stop FF from making the award. FF appealed. Hearing was in January.



#### IMPLICATIONS FOR PHILANTHROPY

- Students for Fair Admissions case is limited to public institutions and institutions that receive federal funds.
- The *Fearless Fund* case is focused on Section 1981 and is 100% premised on the notion that grants are contracts.
- What makes a grant more like a contract?



#### IMPLICATIONS FOR PHILANTHROPY

- Even if the 11<sup>th</sup> Circuit ruled in *Fearless Fund*, that Section 1981 prohibits race based grantmaking, that ruling would not apply to nonprofits in Minnesota.
- Many other court actions and informal actions are underway to try to intimidate companies, colleges, nonprofits and foundations into being race neutral.
- Minnesota's Attorney General vows to protect MN organizations.



#### ASSESSMENT OF CURRENT PRACTICES

- Does the program have race-based eligibility criteria?
- Is race-based criteria a factor that is scored?
- Is there some other <u>objective</u> manner whereby race-based criteria are considered?
- What does publicly available information say about the <u>program's</u> goals and aims/does that match the grant application?
- Is a grant making program or charitable program wholistically focused on the charitable mission of advancing racial equity?



#### RESPONDING AS FIDUCIARIES/TAKEAWAYS

- Combatting the results of racial discrimination is a charitable (tax exempt) purpose. That has not changed.
- Race neutral language may not fully express an organization's point of view and it is not a legal requirement.
- There has been no mention in cases of any risk to tax exemption by nonprofits focused on race equity.
- Risks = damages and injunction.



#### RESPONDING AS FIDUCIARIES/TAKEAWAYS

- Stay informed. Stay the course.
- Continue to proactively manage risk.
- Grantees have fewer legal and communications resources. They are more impacted by the rulings and intimidation campaigns.
- How can the Foundation Sector show up in community with grantees?



#### TALKING TO THE BOARD

- Legal challenges to DEI focused grant making will be ongoing.
- Less conditions and terms may mitigate risk of racial equity programming.
- Pursuing racial equity is clearly a charitable purpose; if racial equity grant making is in our mission, we should mitigate risks and move forward.
- No other protected classes are at issue with 1981 claims (just race).
- Be in partnership with grantees they are more vulnerable than grant making entities.



#### DISCUSSION

Thank you

Heidi Christianson

hchristianson@nilanjohnson.com





#### 15 Minute Break

9:55-10:10 a.m.





## Automation and AI: Use Cases and What's in It for You

#### **Today's Presenters**



Ben Aase
Principal
Digital



Keven Truhler

Principal

Digital





#### Our Digital Team Helps Nonprofits in Three Ways



Software systems and infrastructure



Data, automation and Al solutions



Cyber Security and business risk





#### **Key Session Goals**



Understanding the Basics of AI and Automation: Gain a comprehensive understanding of how AI and automation technologies work, specifically in the context of accounting and finance



**Exploring Real-World Use Cases**: Discover a range of practical use cases of

Al and automation in financial processes



Benefits and Impact on Efficiency: Learn how implementing AI and automation can significantly improve efficiency, reduce errors, further organizational mission, and improve the lives of the workforce



Future Trends and Adaptation Strategies: Gain insights into how your organization can adapt and stay ahead in this rapidly evolving field, including strategies for implementation and overcoming potential challenges





#### You May Have Seen Headlines Like These

The State of AI in Minnesota Business

> Job Openings Continue to Exceed Job Seekers in Minnesota

University of Minnesota Researchers Find AI Can Advance Business – But Not Without Humans

World's first AI-generated Online Course Created by Minnesota Startup





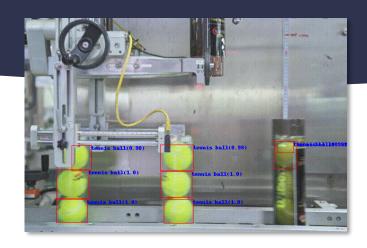


#### Democratization in the Adoption of Al

For companies embracing the technology, 92% of employees say AI is having a positive impact on their work.

MIT Technology Review Generative AI is empowering the digital workforce | MIT Technology Review July 25, 2023

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### Where are you on your Al journey?

A. Embracing and embarking

B. Launching and learning

C. Innovating and accelerating

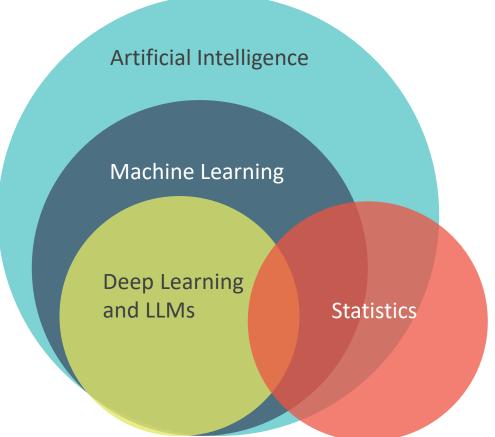




#### **Basics and Definitions**



#### What Is Artificial Intelligence?





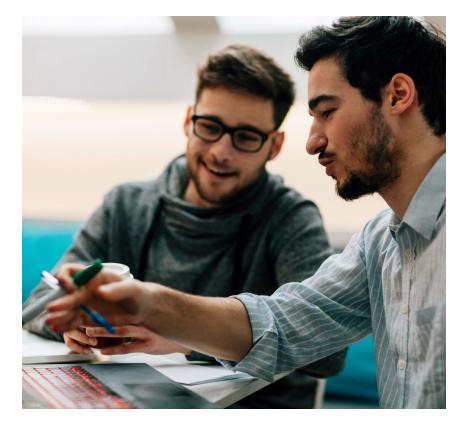


#### **Automation**

Using technology to reduce human intervention to a minimum.

#### Misconceptions

- Unemployment
- Only impacts low-skill jobs
- Automation is always the recommended option
- It's quick and easy
- It's unbiased







#### What Is GPT?



GPT is a kind of Large Language Model: Able to generate novel, human-like text, write code, and create datasets



Goal of GPT project was to create chat agent that can interact conversationally, generate coherent, relevant content, answer follow up questions.



Trained on websites, books, and online material.



Human AI trainers helped GPT models provide more desirable outputs via reinforcement learning.



OpenAI released ChatGPT November 2022



Many updates and other new generative AI apps & services







#### **Use Cases**



#### Manual Vs. Automated Reporting

#### Manual





80% of reporting is ad hoc, 20% standardized



Time consuming



Prone to errors



Inconsistent



Dependent on individuals



80% standardized, 20% ad hoc



Time saving



More accurate



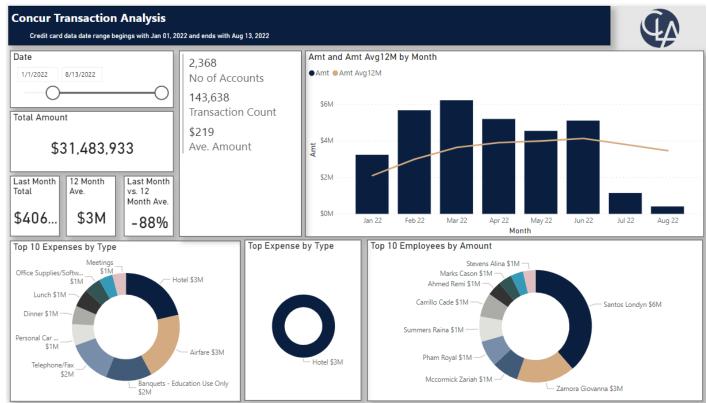
Real time



Scalable



#### **Expense Reporting Analysis**







#### Machine Learning



Forecasting demand for public transportation



Improving energy efficiency in public buildings



Personalized communication to donors



Volunteer matching to project needs from skills, preferences, and availability





#### Deep Learning



Analyzing satellite images for urban planning



Enhancing public safety through surveillance video analysis



Speech recognition for accessibility with voice-activated controls and transcribing services



Predictive analytics for program success improving allocation of resources





#### Large Language Models (LLM)



Automating responses to public inquiries in multiple languages



Analyzing public feedback on policies



Automating large bodies of content for conversational retrieval



Automated grant proposal review, summarizing key points and alignment with programs

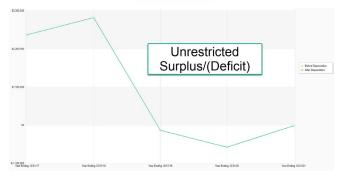




#### Automation and AI in Software

- Multi-location, entity, and currency
- Track multiple fiscal years in one database (org, grant, calendar)
- Track multi-books (GAAP, Encumbrances)
- Built in Approval workflows
  - Purchasing and Spend Management
  - AP bill and payment approval
- Bank Feeds for continuous reconciliations
- Automating Grant Billing on reimbursements
- Journal Entry/Allocation Automation
  - Release from restrictions
  - Functional Expenses; payroll allocations
  - Shared revenue/expenses for multi-sites
  - Revenue Recognition Management (ASC 606)
  - GL Outlier Detection









#### Use Case: AP Automation



Reduce manual data entry from documents such as invoices

Minimize error associated with manual processing

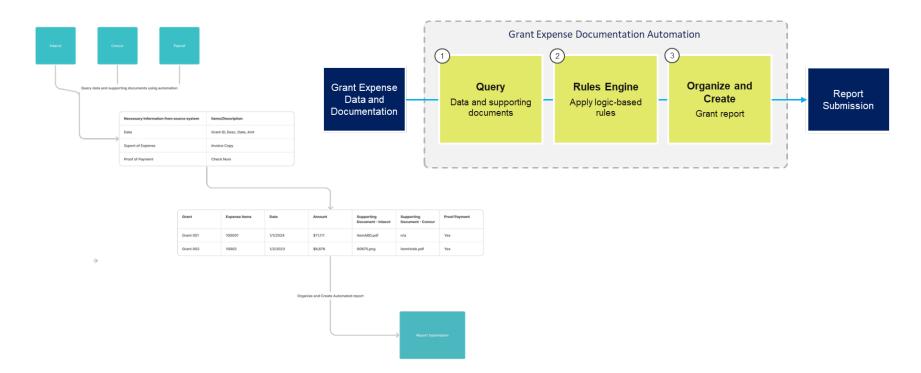
Integrate with existing workflow and enterprise systems including accounting systems

Reduction in manual invoice processing time by up to 90%





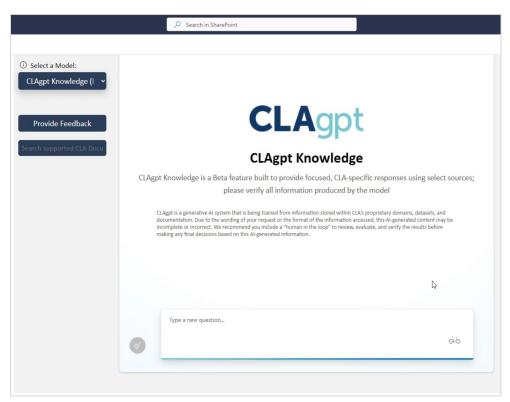
#### Use Case: Grant Expense Documentation Extract







#### Use Case: Large Language Models



Enhancing human potential and productivity

Powerful and intuitive search for accurate and timely data retrieval

Efficiency driving personal assistance

Generative AI is transforming the daily work experience







# Benefits, Challenges, Where to Start, Future Trends



#### Benefits







Improve Accuracy



Improve Organizational Capabilities



Improve Employee Satisfaction





#### Challenges



Data accuracy



Bias



Security



Trust but Verify



Know the source



Fear of use of available tools







#### How to Get There



Assess current state



Data strategy



Develop a roadmap



Short-term and long-term objectives



Internal working group



Test the technology



Educate yourself!









#### **Future Trends**

It's not going away

Speed of growth will continue to expedite

Controls will always be a challenge

There will be many models to choose from

The use cases will become endless











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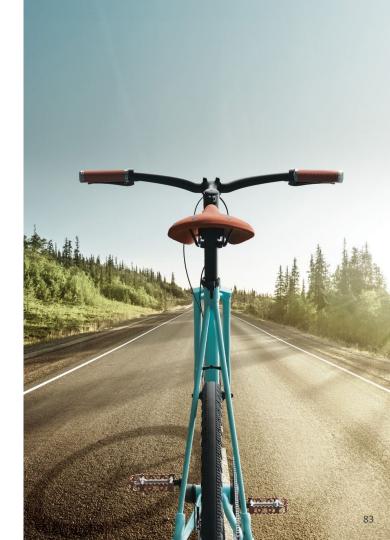
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# Nonprofit Fraud and Ethics

Trends, Hot Topics, and Scary Stories

## Agenda

Introductions

Panel Discussion

**Audience Questions** 

Wrap-Up





### Learning Objective

At the end of the session, you will be able to:

 Discuss various ways nonprofits are impacted by fraud and ethics







**Phoebe Trepp** 

Executive Director

Clare Housing



**Susan Carter** 

Executive Director CLA Foundation



**Matius Larson Krisetya** 

Executive Lead,
Organizational Health
Fresh Energy



**David Anderson** 

Principal, Cybersecurity *CLA* 



#### **Ethical Investing:**

Who are you supporting to get those investment returns?

Nonprofits

What should you be considering when accepting gifts to be sure you are mission-aligned?

#### **Bank Fraud**

What are common fraud schemes today and what can we do to stop them?

**Cyber Security** 

How can you keep your organization safe when hackers are targeting your organization?







## Thank you!

#### It takes balance.™

It's our job to engage in conversations, listen to what you really want, and apply our talents and experience to make extraordinary impact on your organization and life.

