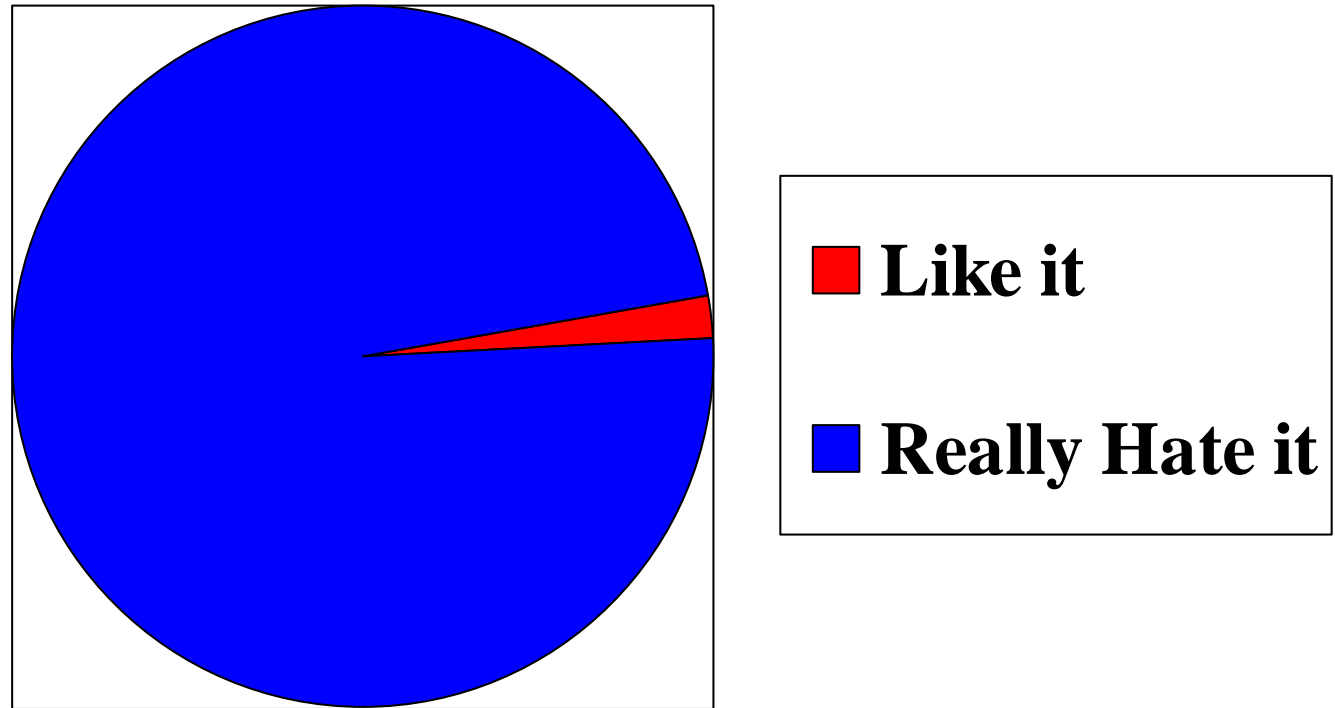


New Improved SPQ Process Effective March 9, 2009

- Marty Desautels – UNM Purchasing
- Doug Nelson – Unrestricted Accounting – Main



Campus View of Current SPQ Form



New SPQ Committee

- Committee put together in response to CATR initiatives.
- Committee consisted of Central Accounting office approvers and several departmental initiators.

Committee considered the following from CATR surveys:

- Frequency, Scope, criteria change
- Restructure Form Questions
- Electronic completion and submission
- Consider combining with other solicitations
- Consider using a different process
(DPEZ/PCard)

Committee considered the following from CATR surveys:

- Consider using a different process
- Who/When is it being requested
- Standardized, centralized repository
documenting the process

**Why do we have
to do an SPQ???**



Financial Services Division

Purpose of the SPQ

1. To determine if a requested vendor should be treated as an independent Contractor or an employee per IRS rules
2. To determine if a prohibited current/former employee relationship exists per UNM Policy 3720 Conflicts of Interest.

Why does it matter?

- Employers get out of paying payroll taxes, upsetting the IRS!
- “Contractors” who should be classified as employees do not receive employee benefits, etc.

Factors the IRS uses to determine Employee vs. Contractor

1. **Behavioral** – Do we have the right to control what the worker does and how/when the worker does their job?
2. **Financial** – Are business aspects controlled by UNM? Do we provide tools, supplies, etc?
3. **Type of Relationship** – Will the relationship continue? Is the work performed a key aspect of the business?



Consequences of Misclassifying Employees as Independent Contractors

Per Internal Revenue Code 3509 –

Misclassifying someone as an independent contractor will result in the organization being held liable for employment taxes, penalties and interest.



Microsoft Independent Contactor/Employee IRS Audit

- 1980-1990: Microsoft hired 600 computer programmers as independent contractors, some worked as long as 10 years.
- 1990: IRS audited Microsoft, concluding that the contractors should have been classified as employees because Microsoft retained the right to exercise direction over the services performed.
- Microsoft quickly reclassified 600 contractors as employees, paid millions in fines to the IRS. Likely assumed no risk of reclassification



Class Action lawsuit against Microsoft

- Upon learning that they had been re-classified as employees, the 600 former contractors filed a class action lawsuit against Microsoft (*Vizcaino v. Microsoft*) for back benefits, stock options, retirement contributions, etc.
- Microsoft paid \$97 million to settle the lawsuit.

Other Similar Cases

- Estancia v. FedEx Ground
- Metropolitan Water District of Southern California v. Superior Court of Los Angeles County
- University of Michigan



IRS Employee/Contractor Audits

- The IRS typically conducts around 44,000 employee/contractor audits per year
- Most are aimed at large revenue targets.

Challenge for the SPQ Committee

- Needed to be easier for End Users
- Still needed to have an employee/contractor process in place for the IRS

New SPQ Web Form Improvements

- Smarter form does not require every question to be answered.
- Web-based form – submits electronically to your Central Accounting Office
- No longer requires Department Head signature
- More Vendors will qualify as USPs



New SPQ Form

- New SPQ is simplified & electronic, but process otherwise will not change.
- New SPQ form will be found on web in same locations as old SPQ form

Phase-in Period

- The New SPQ Web form will be “live” on Monday, March 9, 2009.
- For transitional purposes, the old SPQ form will also continue to be available through March 31, 2009. Either form will be acceptable during this time.

Beginning 3/9/09, the new SPQ Web Form can be found at:

<http://www.unm.edu/~purch/forms.html>



Financial Services Division