2.3.12 Preparation of Final EIR: Comments and Responses Document

The purpose of a Final EIR is to respond to comments made on the Draft EIR. Any changes made to the Draft EIR, such as additional mitigation measures and corrections to Draft EIR text, must be included in the Final EIR. If “significant new information” is proposed, the Draft EIR should be recirculated (See UC Handbook Section 2.3.11).

Copies of the comment letters and the public hearing transcript must also be included. Additionally, the Final EIR incorporates the contents of the Draft EIR or revision of the Draft EIR in total or by reference and the Mitigation Monitoring Program. The campus may republish the Draft EIR with any text changes and any other changes resulting from the review process as part of the Final EIR. It is advisable to republish the final document for those who will consult the document in an ongoing manner, i.e. the campus planning office, the Office of Planning, Design and Construction and Office of General Counsel.

Contents and Organization of the Final EIR

I. Introduction and Purpose of Final EIR

This chapter describes the purpose and content of the Final EIR, the environmental process, and how to use the report.

II. Text changes, if any.

Depending on the amount of text changes, campuses may opt to highlight the changes in a section of the Final EIR or, if minimal, may revise Draft EIR text with highlights, brackets or other editorial devices.

If minor changes have been made to the project description, it should be revised and included in the Final EIR. Changes to the project description should be made visible through the use of underlining, highlighted text, or other editorial technique.

When the response requires that the Draft EIR text be changed, changes should be indicated by boldface, underlining, or a similar editorial device. Text changes affecting the summary table should be incorporated into Section III of the Final EIR. Text changes may also be summarized in a separate section of the Final EIR (optional).

III. Revised Summary of Impacts and Mitigation Measures (if required)

The summary table of impacts and mitigation measures should be revised if there are any changes made as a result of comments on the Draft EIR or staff initiated text changes.

IV. Response to Comments

The Responses to Comments chapter of the Final EIR includes comment letters received, transcripts from any public hearings, and responses to comments. Each letter and transcript should be provided a number. Comments are most commonly organized by; (1) federal agencies, (2) state agencies, (3) regional and local agencies, (4) letters from members of the public and the campus community, and (5) public hearing transcripts.
Responses should be numbered so that they correspond to the appropriate comment. For example, the responses to the first comment of Comment Letter 1 is Response to Comment 1-1.

A factually detailed and reasonable response to each comment should be provided (CEQA Guidelines Section 15088 http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art7.html) supported by analysis and data. Referencing the analysis in the Draft EIR should be used to support responses, as appropriate. It is not necessary to repeat each comment before providing the response.

Cross-referencing between responses to comments should be used. In addition, it may be advisable for the campus to prepare "Master Responses" that address significant and repeated issues raised by comments.

V. Mitigation Monitoring Program

The Mitigation Monitoring Program should include an introduction which describes why a Mitigation Monitoring Program has been prepared and the content and format of the Mitigation Monitoring Program. The revised summary table (see Section III) should be used so that revisions to mitigation measures as a result of responding to public comment are incorporated. The Mitigation Monitoring Program should include (1) mitigation measures (taken verbatim from the Draft EIR, as revised), (2) identification of mitigation timing (what stage of the process the mitigation must be completed), and (3) identification of monitoring responsibilities (who is responsible for monitoring implementation). See UC CEQA Handbook, Chapter 5.

Master Responses

To the extent feasible, all issues raised in reference to a particular subject should be addressed once, in response to the earliest question raised on that subject, (the “master response”). Responses to all subsequent comments on that subject should refer to the “master response.” Because it often takes a great deal of time to format and organize all of the comments and because such a task can only be completed after the close of the public comment period, the preparation of “master responses” is critical in order to minimize the time required to prepare the Final EIR. It will be helpful to assign subject areas to specific parties responsible for the preparation of “master responses.”

Important issues should be resolved early. Similarly, a policy review on master responses should be conducted as early as possible.

Generally, for an LRDP, it is advisable to produce a Final LRDP that incorporates any changes made as a result of the Final LRDP EIR and a list of adopted mitigation measures and the Mitigation Monitoring Program. This will make subsequent use of the document easier.

Form Letters and Petitions

Each form letter must be numbered separately. The comments raised in the first form letter should be answered in detail; responses to subsequent form letters should reference the response to the first letter. Petitions need be addressed only once.
Practical Considerations

The Office of the President and the Office of the General Counsel should be consulted during the preparation and internal review of the Final EIR. If the campus anticipates a need for outside counsel to assist with preparation of the Final EIR, consultation with the Offices of the President and General Counsel is required. It is also advisable that the campus discuss master responses with any internal campus committee or working group established to assist with campus projects.

Because of the importance of agency and public input, the following considerations should be taken into account to ensure an adequate response:

- The campus need not respond to every comment, but only to those raising environmental issues. However, to avoid any contention that a comment has been ignored, it is advisable to respond to non-environmental comments to the extent feasible.

- If “comment noted” or “no response is necessary” is used for comments that do not raise significant environmental issues, it should be explained in the introduction why that response is appropriate.

- The specificity of the responses relates generally to the specificity of the comments received.

- Conclusory responses are insufficient; they should be supported by factual information and good faith, reasoned analysis.

Late Comments

Comments received after the circulation period may be treated differently than those received during the circulation period. The CEQA Guidelines provide that “the lead agency shall respond to comments received during the noticed comment period and any extensions, and may respond to late comments.” However, if late comments actually raise significant issues that are not adequately addressed in the EIR, some type of response is advisable. Therefore, responses should be provided to late comments if at all possible. Responses to late comments may be included or attached to the findings prepared for the EIR, and need not be contained in the Final EIR.

Final EIR Formats

Alternative formats can be used in preparing the Final EIR depending upon the need to convey information about changes in the project or the analysis of complex project effects. For example, rather than responding to one letter at a time, individual comments can be lifted from letters or transcripts and addressed by issue, reflecting the organization shown in the Table of Contents of the Draft EIR. Thus, all comments on land use, water, air quality or traffic would be responded to as a topical group, thereby minimizing fragmentation in analysis. Letters would be bracketed and comments numbered as usual, with a numerical listing that ties comments to the narrative section of the Final EIR where they are addressed. While individual commentors must cross-reference to find a response to each comment extracted from their letter, the information can be
more easily organized in a coherent fashion and the totality of the campus’ response to issue areas is more clearly presented in this process.

Distribution of the Final EIR

The campus should use its discretion in determining how many copies of the document should be produced, with consideration given to local need. Local circumstances should similarly dictate the appropriate distribution, but at a minimum, copies should be provided to each decision maker, the Offices of the President and General Counsel, public agencies that submitted comments on the DEIR, the city, and the county. The campus should retain one or more copies of the Final EIR as public record until the project is completed. A copy of the Final EIR should also be filed with the appropriate planning agency of any city and county where significant effects on the environment may occur.

CEQA Statute Section 21092.5 http://ceres.ca.gov/ceqa/stat/chap2_6.html requires that public agencies which have commented upon a Draft EIR be provided written proposed responses to their comments at least 10 days prior to certifying an EIR. The proposed responses to comments may be limited to those submitted by the agency, or the Final EIR as a whole may be sent.

If information in the EIR can be incorporated into other projects, the EIR should be kept on file after the project has been completed. In addition, a copy of the EIR should be available to facilitate implementation of the Mitigation Monitoring Program associated with the project until all adopted mitigation measures are completed.

The Office of the President currently requires forty-five (45) copies of environmental documents (both Draft and Final EIRs) for distribution to The Regents at the time the project is brought to The Regents for approval. Copies are to be delivered to the Planning, Design and Construction office. For due dates see CEQA Compliance/Environmental Document Submission Information http://www.ucop.edu/facil/pd/Submissions.htm.

Although CEQA does not require public review of the Final EIR, some opportunity for review is recommended. If a notice of the availability of the Final EIR is provided, this notice should be provided in the same manner in which it was provided for the Draft EIR.

Copies of the Final EIR and the Mitigation Monitoring Program should be made available to the public for approximately one week prior to The Regents meeting at the same locations that the Draft EIR was made available during the public review period.