

### 1.3 CEQA Roles of the University of California

Under CEQA, the public agency with the greatest responsibility for supervising or approving a project or the first public agency to make a discretionary decision to proceed with a proposed project should ordinarily act as the “Lead Agency.” The Lead Agency is responsible for preparing the appropriate CEQA document and has primary responsibility for approving or carrying out the project. Public agencies subsequently called upon to exercise discretionary authority to approve all or a portion of the project are called “Responsible Agencies.” “Trustee Agencies” are State agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State. UC is normally a lead agency; however, it acts in the other two roles as well. Each role is described below and shown in Figure 1.

#### UC as a Lead Agency and Project Proponent

The University is an autonomous institution created by the State of California Constitution and will, in most instances, serve as the Lead Agency for CEQA purposes. The criteria for defining a lead agency are presented in the CEQA Guidelines Section 15051

[http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art4.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art4.html).

- a) If the project will be carried out by a public agency, that agency shall be the Lead Agency even if the project would be located within the jurisdiction of another public agency.
- b) If the project is to be carried out by a nongovernmental person or entity, the Lead Agency shall be the public agency with the greatest responsibility for supervising or approving the project as a whole (sub points not listed for brevity).
- c) Where more than one public agency equally meet the criteria in subsection (b), the agency which will act first on the project in question shall be the Lead Agency.
- d) Where the provisions of subsections a), b), and c) leave two or more public agencies with a substantial claim to be the Lead Agency, the public agencies may by agreement designate an agency as the Lead Agency. An agreement may also provide for cooperative efforts by two or more agencies by contract, joint exercise of powers, or similar devices.

When dealing with other public agencies involved in a UC project (e.g., a permitting or funding role, or in a joint project), good communication is the key to clarifying UC’s CEQA role and the approval sequence.

#### UC as a Responsible Agency

The term Responsible Agency is defined as a public agency that proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term Responsible Agency includes all public agencies other than the Lead Agency which have discretionary approval power over the project (CEQA Guidelines Section 15381 [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art20.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art20.html), and Section 15096 [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art7.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art7.html)).

Occasionally, UC serves as a Responsible Agency for non-UC projects that are built on, or adjacent to, UC property. For example, the University may be a Responsible Agency if a highway project was proposed adjacent to one of its campuses. In this case, University's jurisdiction would be of a geographical nature. The campus could therefore comment on any issue that would potentially impact its property, including the granting of an easement on University property to accommodate another jurisdiction's project.

The University would also be a Responsible Agency for projects in which it purchases, develops or leases land for which an EIR has already been prepared and certified by another agency.

When an EIR has not yet been prepared, the University's overall role in serving as a Responsible Agency would be to:

- 1) Provide comments to assist the Lead Agency in identifying key issues and determining whether an EIR is required; and
- 2) Suggest mitigation measures or changes to the project that would reduce the level of impact.

Since only one environmental document is prepared for a project, Responsible Agencies must review the document to ensure that it is adequate for any subsequent UC decisions that may be required in relation to the project.

### **Responsible Agencies Involved in UC Projects**

Responsible Agencies that are frequently required to approve (some part of) proposed UC capital projects include:

- The California Coastal Commission <http://www.coastal.ca.gov> (for campus facilities located within the Coastal Zone);
- Caltrans <http://www.dot.ca.gov> (for projects affecting State Highways);
- Air Quality Management Districts (for air emissions);
- Regional Water Quality Control Boards (for waste water discharges);
- California Department of Toxic Substances Control <http://www.dtsc.ca.gov> (for hazardous materials handling);
- California Department of Fish and Game <http://www.dfg.ca.gov/dfghome.html> (for projects affecting streambeds, wildlife and habitats of rare or endangered species).

Local cities and counties may also become Responsible Agencies if called upon, for example, to grant discretionary approvals for encroachments and/or easements.

If the project also requires the approval of a federal agency such as the Department of Energy, US Army Corps of Engineers, US Fish and Wildlife Service, or the Nuclear Regulatory Commission,

CEQA encourages federal and state agencies to cooperate in preparing an environmental document that satisfies both CEQA and the National Environmental Policy Act (NEPA). If the federal agency has already prepared an environmental document, CEQA allows the state agency to use the NEPA analysis and supplement the NEPA document with additional information required under CEQA. Close coordination between the federal agency and the University is critical to enable combined NEPA/CEQA documents. (See UC CEQA Handbook Section 2.6).

### **UC as a Trustee Agency**

Trustee Agencies are defined in CEQA Guidelines Section 15386 [http://ceres.ca.gov/topic/env\\_law/ceqa/guidelines/art20.html](http://ceres.ca.gov/topic/env_law/ceqa/guidelines/art20.html) . Trustee Agencies administer lands to protect the natural resources present, or protect the State's interest in a natural resource such as the Department of Fish and Game's responsibility for fish and wildlife.

UC serves as a Trustee Agency with regard to sites within the UC Natural Reserve System (CEQA Guidelines Section 15386 (d) [http://ceres.ca.gov/env\\_law/ceqa/guidelines/art20.html](http://ceres.ca.gov/env_law/ceqa/guidelines/art20.html)). For projects adjacent to Reserve sites, UC should be notified and comment as necessary on the environmental document. For projects UC proposes on its own Reserve sites, UC acts as both a Lead and a Trustee Agency. The other three Trustee Agencies are: Department of Fish and Game, State Lands Commission and the State Department of Parks and Recreation.

### **UC's Constitutional Autonomy**

The California Constitution has delegated "full" powers of governance to The Regents with respect to affairs exclusive to the University (Article IX, Section 9 of the California Constitution [http://www.leginfo.ca.gov/const/article\\_9](http://www.leginfo.ca.gov/const/article_9) ). The University is exempt from local land use controls. There are some limitations to this autonomy however, such as with respect to police powers. In matters relating to the public health, safety, and welfare, it is recognized that the State's general police powers prevail over regulations made by The Regents (Tolman v. Underhill (1952) 39 Cal.2d 708, 712). UC CEQA Handbook Section 3.3.14, Land Use and Planning has suggested language describing UC's exemption.

The University in some instances allows private sector development on its property, builds joint venture projects, and/or develops facilities on non-UC property.

When private-sector projects are built on UC property, the University remains exempt from local land use controls as long as the purpose and function of the project are linked to the overall mission or any related services of the University Regents of the University of California v. City of Santa Monica, (1978) 77 Cal.App.3<sup>rd</sup> 130. In these cases, the developer may choose to comply with local land use controls if the project may be sold or leased in the future to a non-exempt entity.