alternative methodologies for making payments on costs related to utilities. OMB will publish the proposals for public comments prior to July 1, 1997.

Comment: Instead of eliminating the special cost studies, OMB should develop standards, methodology and criteria for conducting special cost studies that would be acceptable for the Federal Government.

Response: Special cost studies were cited as an example of an area of potential abuse and source of disagreement and distrust between cognizant agencies and institutions. Rather than try to devise a set of complex parameters that would preclude any opportunity for abuse, OMB decided to disallow any cost allocations based upon those studies and, instead, to provide an alternative payment mechanism.

Fixed Rates (Section G.7)

Comment: Clarification of ''life of agreement'' is needed since a project can extend over a long period of time exceeding ten or fifteen years at times. Does it mean each continuing period of an award or each competing renewal of an award? Fixed rates should only apply prospectively to new awards. ''Life'' should mean each competitive renewal period. A commenter suggested that a fixed rate apply for a period of three years.

Response: OMB has clarified ''life of agreement'' to mean each new competitive segment. A competitive segment is a period of years approved for a project at the time of the award, usually three to five years. Fixed rates will apply only to awards made after the publication date of this revision.

Comment: A clarification is needed for the impact of a fixed rate throughout the life of the award on the various types of rates, i.e., provisional, predetermined and fixed rates.

Response: The revision requires that the Federal funding agencies use rates in effect at time of award throughout the life of the award, using the negotiated rates (predetermined, fixed or provisional) at the time of the award. For example, if an educational institution has a provisional rate of 40 percent at the time of the award, the 40 percent rate will be used for funding and reimbursement throughout the life of that award. If an educational institution has predetermined rates of 40 percent (first year), 42 percent (second year) and 45 percent (third year), then a five-year project would have rates of 40 percent (first year), 42 percent (second year) and 45 percent (third, fourth and fifth years).

When an educational institution does not have a negotiated rate with the Federal Government at the time of the award (because the educational institution is a new grantee or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award will be adjusted after a rate is negotiated and approved by the cognizant agency.

Comment: To implement a fixed rate throughout the life of an award penalizes a university with growth in facility costs. This would discourage colleges and universities from investing in facility costs.

Response: When entering into an agreement with educational institutions to perform a specific project, it is only fair for the Federal Government to commit funding and reimbursement based on the conditions as they are understood to exist at that time. Most research project activities remain in the same laboratory during the entire life of the project and, therefore, the facility costs should remain at the same level. A fixed rate throughout the life of an award would only adversely affect an educational institution when, after the award date, the educational institution moved the project into a more modern and expensive facility. Therefore, for future awards, an educational institution with growth in facility costs should seek to establish future cost rates (fixed or predetermined) that reflect the growing cost pattern.

Comment: It is not clear what rate is to be used when the educational institution's rate is decreasing during the life of the award.

Response: In the case of anticipated declining cost rates, the educational institution should provide the basis for the anticipated decline. Total funding for the award would reflect the anticipated decline. If a declining cost rate is not anticipated at the time of award, the educational institution may recover the costs at the rates in effect at the time of the award.

Comment: Fixed rates should not be applied to primate centers that are funded by the National Institutes of Health P–51 awards, since these centers are involved in a very long-term agreement with the Federal Government for specific research activities.

Response: The fixed rates concept does not apply to the seven primate animal care facilities that are involved in special animal research funded under the National Institutes of Health P–51—Primate Research Center Grant. These centers are primarily federally-funded and are involved in a very long-term agreement with the Federal Government. The federally-funded F&A costs that make up the rates are used to charge the educational institution's users of the facility and are treated as program income and returned to the Federal awards.

Comment: Fixed rates should only be used for funding a total project, regardless of Federal reimbursement of a university's F&A costs. This policy is consistent with the funding and reimbursement policies for grants by the National Science Foundation (NSF).

Response: Current NSF policies award a fixed amount (direct and F&A costs) for the conduct of an entire project. This policy allows the educational institution to recover more F&A costs than originally budgeted as long as the total reimbursement for the project does not exceed the funding for the total award. The revision in Section G.7 provides that a fixed rate shall be used for both funding and reimbursement of F&A costs during an award's life (or a competitive segment's life). This policy assures that the Federal Government is receiving the level of services (i.e., research) agreed to by the educational institution and the Federal agency when the award was made. If the fixed rate concept is used only for funding of the award and not reimbursement of F&A costs, during periods of increasing rates, while the total funding for the award remains the same, then a shift of funding available for direct costs to F&A costs would occur. Therefore, the funding available for direct cost activities would decrease and so would the level of services (or research).

Cost Negotiation Cognizance (Section G.11)

Comment: The Circular should address the effects that a change in cost negotiation cognizance would have on an educational institution's administrative functions.

Response: A change in cost negotiation cognizance should have no impact on an educational institution's administrative functions. The consolidation of cognizant agencies for cost negotiation will enhance the consistency in the application and interpretations of the Circular's cost principles and in the review of cost rate proposals.

Comment: Several commenters suggest that the period for cognizant agency assignment should be ten years rather than five since universities frequently negotiate multiple year rates for two or three years.

Response: The assignment period for a cognizant agency will remain at five years, as proposed. A five-year period assignment should normally extend over more than two normal negotiation