

## Federal Highway Administration, DOT

## §476.312

(4) The concept program should be submitted by the Governor to the Federal Highway Administrator and the Urban Mass Transportation Administrator, through the Federal Highway Administrator.

(b) Approval of substitute project concepts must be given jointly by the Federal Highway Administrator and the Urban Mass Transportation Administrator by September 30, 1983. This time limitation does not apply to segments which were under court injunction prohibiting construction as of November 6, 1978.

(1) Adjustments and refinements to the previously approved project concepts may be permitted after September 30, 1983.

(2) Approval of the project concepts does not commit funding under this subpart nor does such approval constitute an obligation on the State or local governments to fully implement the project concepts. Approval of a project concept is processed as a categorical exclusion under 23 CFR part 771.

### **§476.310 Proposals for substitute public mass transit and highway projects.**

(a) The proposed substitute projects must serve the urbanized area or connecting nonurbanized area corridor, or both, from which the Interstate segment was withdrawn.

(b) Substitute projects in or serving urbanized areas shall be based on an urban transportation planning process in accordance with 23 CFR part 450, subpart A (and policies and regulations pertaining thereto), and shall be selected by the responsible local officials of the urbanized area in accordance with 23 CFR part 450, subpart B. Substitute projects located outside but serving the urbanized area shall also have the concurrence of the responsible local officials of the jurisdiction in which the project is located.

(c) Substitute projects in or serving the nonurbanized area corridor shall be selected by the responsible local officials of the nonurbanized area corridor. Substitute projects located outside but serving the nonurbanized area corridor shall also have the concurrence of the

responsible local officials of the jurisdiction in which the project is located.

(d) Applications for substitute non-highway public mass transit projects shall be developed either by the principal elected officials of general purpose local units of government in consultation with local transit officials or by local transit officials. Substitute highway projects shall be developed in accordance with the policies and procedures established for the Federal-aid highway system of which they will be a part. Substitute highway projects need not appear in the statewide Federal-aid program described in 23 CFR part 630, subpart A.

(e) Applications for substitute non-highway public mass transit projects are submitted to the Urban Mass Transportation Administrator by the Governor. Requests for authorization to proceed with substitute highway projects are submitted to the Federal Highway Administrator by the Governor.

(f) After September 30, 1983, only applications for those substitute projects which have previously received concept approval under §476.308 should be submitted.

(g) Substitute projects (for which sufficient funds are available) must be under construction or under contract for construction by September 30, 1986. This time limitation is applicable to all substitute projects, including those related to Interstate segments which were under court injunction prohibiting construction on November 6, 1978. Approval for substitute projects not meeting this requirement will be withdrawn or not issued, and no funds will be appropriated or authorized for these projects.

[45 FR 69397, Oct. 20, 1980, as amended at 51 FR 39748, Oct. 31, 1986]

### **§476.312 Combined proposal.**

A proposal for one or more substitute projects may be combined with projects utilizing other Federal funds available including, but not limited to, financial assistance available under either the Urban Mass Transportation Act of 1964, as amended, or 23 U.S.C. 104. Only the funds available from a

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withdrawal under this subpart are constrained by the limiting amount described in § 476.306(b).

**§ 476.314 Administrator's review and approval of substitute projects.**

(a) The Urban Mass Transportation Administrator shall review substitute nonhighway public mass transit projects and the Federal Highway Administrator shall review substitute highway projects to determine that the projects meet the following requirements.

(1) The proposed projects serve the urbanized area or connecting non-urbanized area corridor or both from which the Interstate segment was withdrawn.

(2) The Federal share of the costs of the proposed projects which is to be provided under this subpart by virtue of the withdrawal of an Interstate segment does not exceed the Federal share of the cost of the withdrawn segment, as determined in § 476.306(b).

(b) Approval of substitute projects can be given only to the extent that authority to obligate the funds is available.

(c) For substitute nonhighway public mass transit projects, the approval of the plans, specifications, and estimates of a project, or any phase thereof, shall

be deemed to occur on the date the Urban Mass Transportation Administrator approved the substitute project or phase thereof in accordance with the policies and procedures established for the UMTA section 3 capital grant program.

(d) Substitute highway projects will be approved by the Federal Highway Administrator in accordance with policies and procedures established for the Federal-aid highway program.

(e) Approval of a substitute project or phase thereof obligates the United States to pay its proportional share of the cost of the project or phase thereof out of the general funds in the Treasury.

(f) The Federal share for substitute projects approved after November 6, 1978, shall not exceed 85 percentum, notwithstanding the Federal share for nonhighway public mass transit projects established under the Urban Mass Transportation Act of 1964, as amended, and highway projects under title 23 U.S.C.

(g) The labor protective provisions of section 3(e)(4) of the UMT Act of 1964, as amended, (49 U.S.C. section 1602(e)(4)) are applicable to nonhighway public mass transit projects funded under the provisions of this subpart.