

CHAPTER 9
UST FUND BOARD AUTHORITY TO TRANSFER LIABILITIES TO A THIRD PARTY
(LOSS PORTFOLIO TRANSFERS)

591—9.1(455G) Board authority for loss portfolio transfers. The board may enter into a transaction with a third party to transfer a portion or all of the board's liabilities. The board maintains the sole discretion to pursue such a transaction and may elect to pursue or not to pursue such a transaction based on whether or not the board deems such a transaction to be in the best interest of the program.

591—9.2(455G) Board liability subsequent to a loss portfolio transfer. Once a claim is transferred as part of a loss portfolio transfer transaction, the board, pursuant to Iowa Code Supplement section 455G.6(17), shall not reimburse any further costs associated with that claim.

591—9.3(455G) Minimum criteria to be evaluated. In order to determine whether or not a transfer of a portion or all of its liabilities is in the best interest of the program, the board will evaluate, at a minimum, the following criteria:

9.3(1) Effect on overall cost to reach closure on sites.

9.3(2) Effect on speed with which site closure will be accomplished.

9.3(3) Qualifications of the potential acquiring entity, including but not limited to:

a. Financial viability.

b. Experience with environmental claims.

c. Knowledge of corrective action guidelines.

9.3(4) Impact on claims not included in the proposed transfer, including but not limited to:

a. Ability to timely pay ongoing claims.

b. Delays in completing corrective action.

c. Board's ability to end liability for all claims in the future.

9.3(5) Impact the transfer will have on the statutory rights of the claimants.

591—9.4(455G) Proposal confidentiality. Any proposal submitted to the board will be handled in accordance with applicable Iowa law with regard to confidentiality.

591—9.5(455G) Requirement to seek bids. Any agreement to transfer liabilities shall be awarded on a competitive basis to the maximum extent practical. In those situations where it is determined that public bidding is not practical, the basis for the determination of impracticability shall be documented by the board or its designee.

591—9.6(455G) Proposal review. The board will review and respond within a reasonable time frame to any proposal submitted seeking a transfer of liabilities. Any board decision to enter into an agreement to transfer liabilities shall be completed consistent with public meeting laws in effect at that time. Work required by the department of natural resources at the site may not be delayed pending review of a proposal. Claims will continue to be handled in accordance with board policy during any pending proposal.

These rules are intended to implement Iowa Code Supplement section 455G.6(17).

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