

# Behind by a Nose:

Accounts Receivable  
Financing for Long-Term  
Care Facilities



*Photo credit: © 2024 EquiGroomer LLC*

**HEALTHCARE MORTGAGEE ADVISORY COUNCIL**

Financing Seniors Housing for America

# AR Stakes Card:



**Kelly Cush**  
*(Moderator)*  
WALKER & DUNLOP  
Chief Underwriter



**Jerome Ratliffe**  
Dept. of HUD - OHP  
Credit Risk Officer



**Raymond Keyser**  
Dept. of HUD - OGC  
Chief Counsel



**Blair Schiff**  
Troutman Pepper  
Partner



**Jeremy Meisel**  
Gutnicki LLP  
Partner



**Kathryn Stevens**  
Vedder Price  
Chair, Healthcare Finance

*With special  
thanks to:*

**Holly (Beal) Drake**  
Dept. of HUD - ORCF  
Sr. Account Executive

**Lauren French**  
Dept. of HUD - OGC  
Attorney Advisor

**Allie Rabin**  
Dept. of HUD - ORCF  
Sr. Account Executive

# Agenda:

## HEALTHCARE MORTGAGEE ADVISORY COUNCIL

Financing Seniors Housing for America



Photo credit: True Center Gate, Phoenix, AZ

- AR Overview
  - Purpose of AR Financing
  - How It Works
- Lender's AR Review for Underwriting
  - Key Documentation for Review
  - Financial & AR Loan Analysis
  - Best Practices
- Legal AR Review
  - Cash Flow Structures
  - DACAs and DAISAs
  - Intercreditor Agreement
  - Uncommon Scenarios
- Q & A

# Accounts Receivable Financing Basics:

## Purpose of AR Financing:

- Used to help Operators meet daily cash flow needs when reimbursement payments from various payor sources are delayed
  - Governmental Receivables (Medicare and Medicaid)
  - Non-Governmental Receivables (Private Pay and Commercial Insurance)



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## How it Works:

- An Operator (AR Borrower) borrows against their outstanding receivables
- AR Lender determines the Borrowing Base
  - Generally, 85% of Medicare, Medicaid, and Commercial AR less than 120 days old
- Types of AR Lines:
  - Full cash dominion
  - Springing dominion

# Lender's AR Review

OMB Approval No. 2502-0805 (exp. 01/31/2026)  
 U.S. Department of Housing and Urban Development  
 Office of Residential Care Facilities  
**Intercreditor Agreement Section 232**

Public reporting burden for this collection of information is estimated to average 15 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The information being collected is being collected to obtain the information necessary to improve HUD's operations and to determine if proposed regulations are necessary. HUD is requesting that you provide the information requested in this form only if it has a beneficial use and you are not required to provide this information if it does not have a beneficial use. HUD generally does not disclose this data to a third party without your request.

**CONTINUING UNCONDITIONAL GUARANTY (REVOLVING LOAN)**  
 This CONTINUING UNCONDITIONAL GUARANTY ("Guaranty"), is executed by...  
 Date: June 8, 2023

**REVOLVING NOTE**  
 CROSSROADS CARE CENTER OF FOND DU LAC LLC, and CROSSROADS CARE CENTER OF SUN PRAIRIE, WI, N.A., a nationally chartered financial institution, and assigns, the "Bank", its successors and assigns, the Revolving Loan Maturity Date (as defined in the Revolving Loan and Security Agreement dated as of the date hereof) of FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00) to the Borrowers and the Bank (as amended from time to time, the "Loan Agreement"), and in the event of default by the Borrowers, together with interest (computed on the unpaid principal amount of the Loan Agreement) as provided in the Loan Agreement, the Borrowers shall have the meanings assigned herein shall have the meanings assigned herein.

Payer Type	Total + 04/23	Future Cash	Current 04/23	30 03/23	60 02/23	90 01/23	120 12/22	150 11/22	180 10/22	210 + 09/22
Managed Care	\$229,720.23	\$0.00	\$96,656.21	\$108,456.85	\$25,711.55	(\$1,610.48)	\$40.35	\$2,698.16	(\$2,232.41)	\$0.00
Medicaid	\$255,755.82	\$0.00	\$175,670.48	\$36,688.83	\$7,792.92	\$8,704.00	\$3,852.12	\$7,377.82	\$4,985.44	\$10,684.21
Medicare A	\$169,946.66	\$0.00	\$97,630.55	\$71,481.36	\$0.00	\$0.00	\$0.00	(\$546.28)	\$0.00	\$1,381.03
Medicare B	\$822.79	\$0.00	\$839.36	\$77.09	\$75.99	\$225.84	(\$124.33)	(\$271.16)	\$0.00	\$0.00
Other	\$42,395.98	\$0.00	\$14,600.00	\$13,000.00	\$9,700.00	\$1,900.00	\$1,556.00	\$0.00	\$0.00	\$1,639.98
Private	\$49,383.53	(\$6,666.35)	\$22,202.25	\$3,242.35	\$4,010.00	\$8,789.00	\$2,985.83	\$3,507.33	\$2,621.13	\$8,691.99
<b>TOTAL</b>	<b>\$748,025.01</b>	<b>(\$6,666.35)</b>	<b>\$407,598.85</b>	<b>\$232,946.48</b>	<b>\$47,290.46</b>	<b>\$18,008.36</b>	<b>\$8,309.97</b>	<b>\$12,765.87</b>	<b>\$5,374.16</b>	<b>\$22,397.21</b>

(this "Agreement") is entered into as of...  
 WHEREAS, FHA Lender has made or may in the future make loans and/or extensions of credit to or for the benefit of Operator secured by certain assets of the Operator, and the benefits of Operator secured by certain assets of the Operator, and  
 WHEREAS, AR Lender and FHA Lender have agreed upon AR Lender's and FHA Lender's respective rights in and to the AR Lender Priority Collateral and FHA Lender Priority Collateral which agreements and understandings are set forth below. In the event of a conflict between the terms of this Agreement and the terms of the AR Loan Documents, or the FHA-Insured Loan Documents, the terms of this Agreement shall govern and control;

## Key Documents to Review

- Borrowing Base Certificate
- AR Note and AR Loan Agreement
- Intercreditor Agreement
- Cash Flow Chart

## AR Loan Analysis

- AR Aging Schedule
- Borrowing Base Analysis
- Historical AR Loan Costs
- Proposed (Underwritten) AR Loan Costs

# Borrowing Base Certificate:

		Payor Class				
		Medicare	Commercial	Medicaid	Private	Total
<b>A</b>	<b>Section A: A/R Availability</b>					
<b>1</b>	Beginning A/R Month Ending					
	0-30 Days	\$ 750,000.00	\$ 200,000.00	\$ 500,000.00	\$ 7,500.00	\$ 1,457,500.00
	31-60 Days	\$ 450.00	\$ 125,000.00	\$ 300.00	\$ 7,500.00	\$ 133,250.00
	61-90 Days	\$ 600.00	\$ 35,000.00	\$ -	\$ 7,000.00	\$ 42,600.00
	91-120 Days	\$ -	\$ 14,000.00	\$ 300.00	\$ 480.00	\$ 14,780.00
	Over 120 Days	\$ 75,000.00	\$ 7,500.00	\$ 25,000.00	\$ 200.00	\$ 107,700.00
<b>2</b>	Total Beginning A/R	\$ 750,000.00	\$ 380,000.00	\$ 500,000.00	\$ 23,000.00	\$ 1,653,000.00
<b>3</b>	Ineligibles (as set by Lender)					
	(-) A/R Over 120 Days	\$ 75,000.00	\$ 7,500.00	\$ 25,000.00		\$ 107,500.00
	(-) Offsets/Recoupments					\$ -
	(-) Private				\$ 23,000.00	\$ 23,000.00
<b>4</b>	Total Ineligibles	\$ 75,000.00	\$ 7,500.00	\$ 25,000.00	\$ 23,000.00	\$ 130,500.00
<b>5</b>	Ending Eligible A/R	\$ 675,000.00	\$ 372,500.00	\$ 475,000.00	\$ -	\$ 1,522,500.00
<b>6</b>	Advance Rate (as set by Lender)					85.00%
<b>7</b>	A/R Availability					\$ 1,294,125.00
<b>8</b>	Gross Availability (lesser of A/R Availability and Revolving Loan Limit of \$3,000,000)					\$ 1,294,125.00
<b>B</b>	<b>Section B: Revolving Loan</b>					
<b>1</b>	Beginning Loan Balance					\$ 300,000.00
<b>2</b>	(+) Rent Payment Request					
<b>3</b>	(+) Revolving Loan Request					\$ 601,755.43
<b>4</b>	Ending Loan Balance					\$ 901,755.43
<b>5</b>	Net Availability (Gross Availability less Ending Loan Balance)					\$ 392,369.57

## Assumptions:

- Revolving Loan Commitment = \$3,000,000
- Revolving Loan Outstandings = \$300,000
- Eligible AR = eligible accounts aged not more than 120 days after invoice date
- Ineligible AR = eligible accounts aged more than 120 days after invoice date and all private pay AR
- Advance Rate = 85%



# Cash Flow Charts - Specific Requirements:

- All accounts through which project funds flow
- Bank, account numbers, and holders
- DACA/DAISA Accounts (immediate/springing)
- AR financing advances/repayments
- Lease/FHA debt service payments
- Show all participating facilities
- Include Master Tenant

*See Handbook 4232.1 Section 16.3 (Section II, Production)*



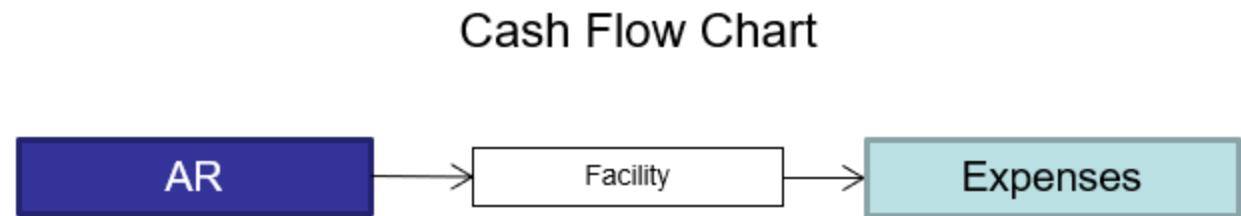
Image Source: [pinterest.com](https://www.pinterest.com) "Churchill Downs Winners Circle"



# AR Legal Review: Cash Flow Structures

## Very poor example of a cash flow chart

- Not properly labeled
- AR Borrower/Project not identified
- No sources of funds shown (Gov't receivables v. non-gov't receivables)
- No accounts listed
- No legend/glossary
- Oversimplified – does not illustrate the flow of funds

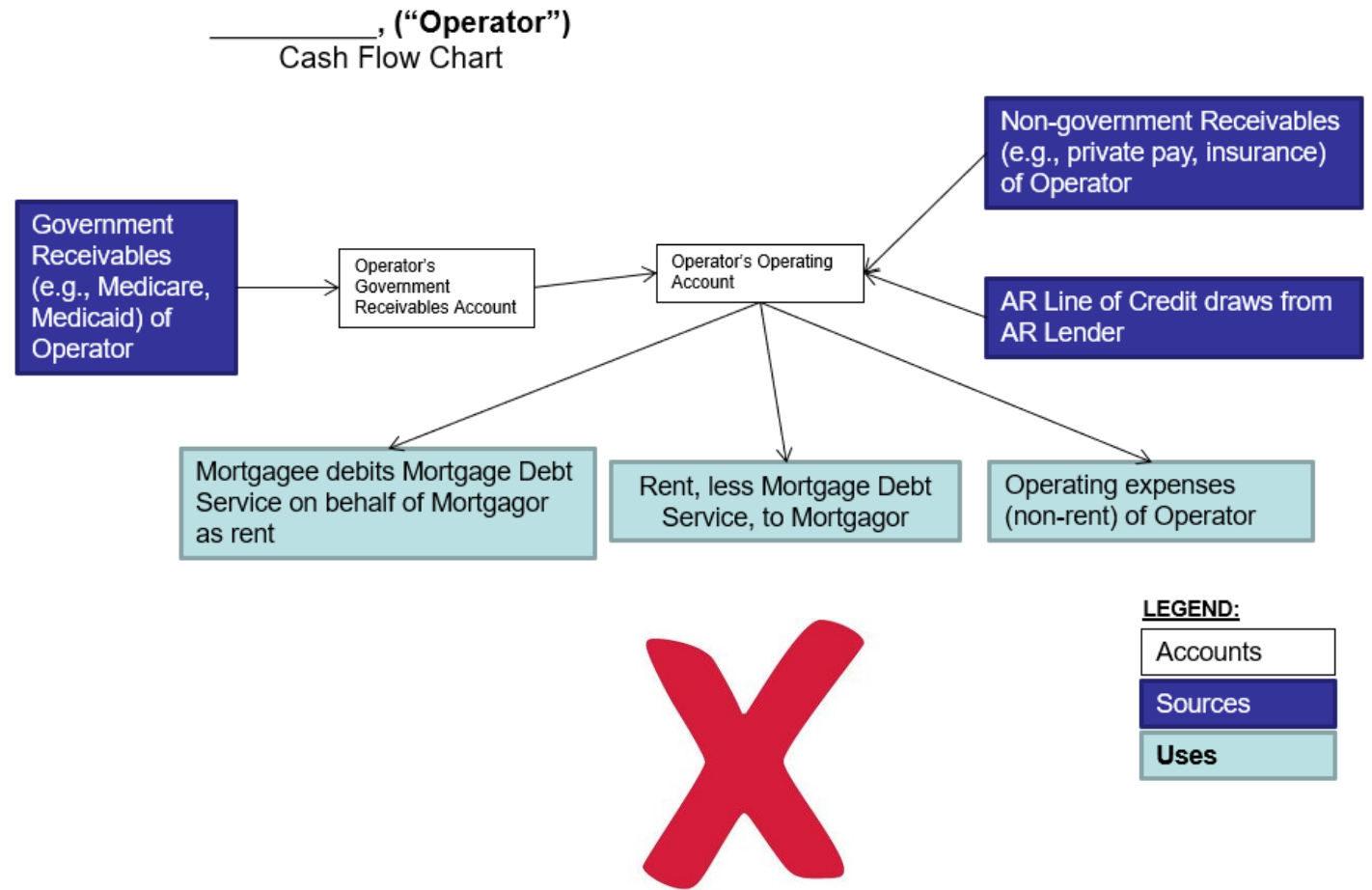


**X** **Don't.**  
**Just**  
**don't.**

# AR Legal Review: Cash Flow Structures

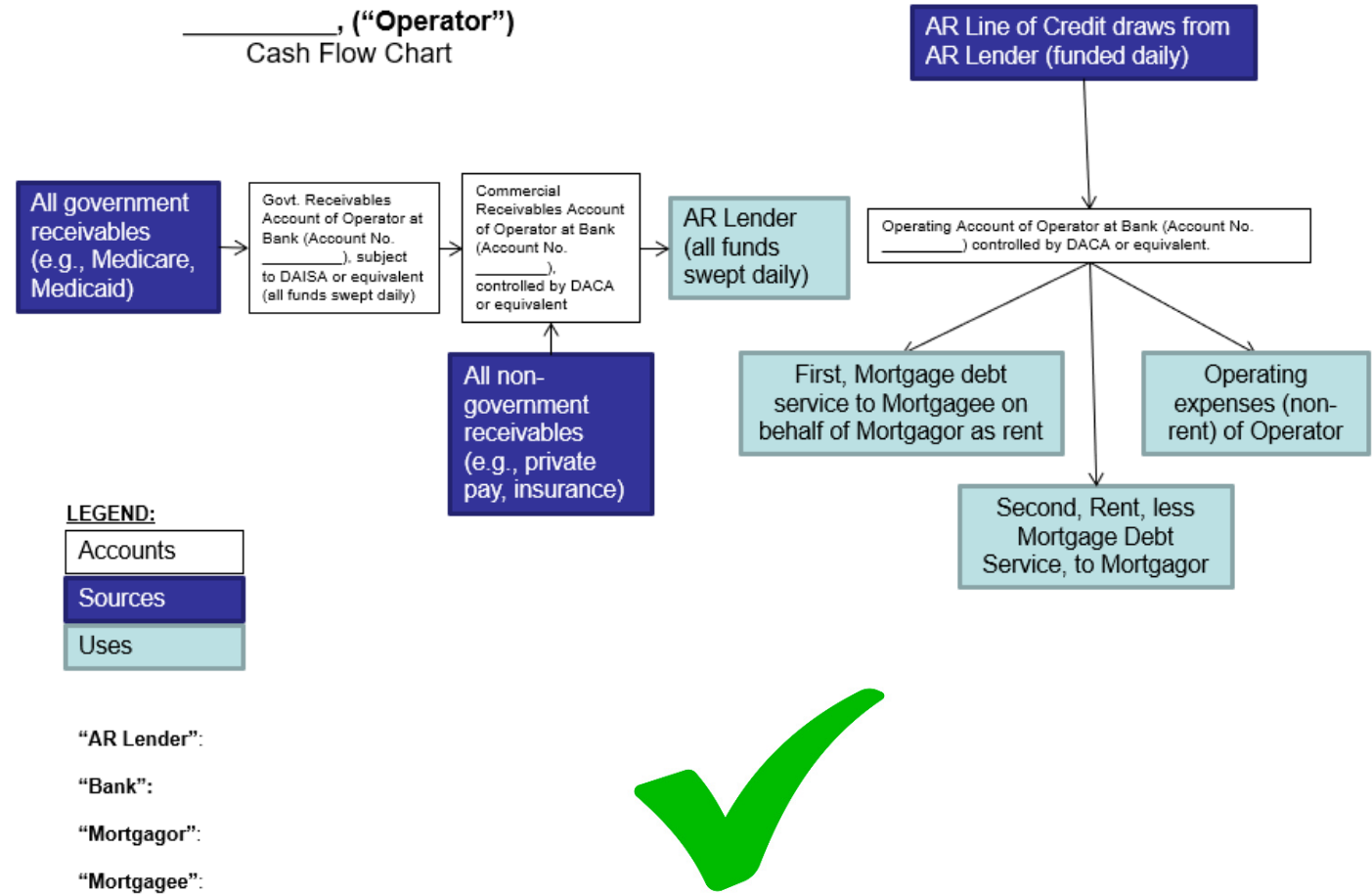
A slightly better, but still poor example of a cash flow chart

- Account numbers not provided
- Does not indicate which controlling documents are associated with each account
- Does not indicate payment priorities from the operating account



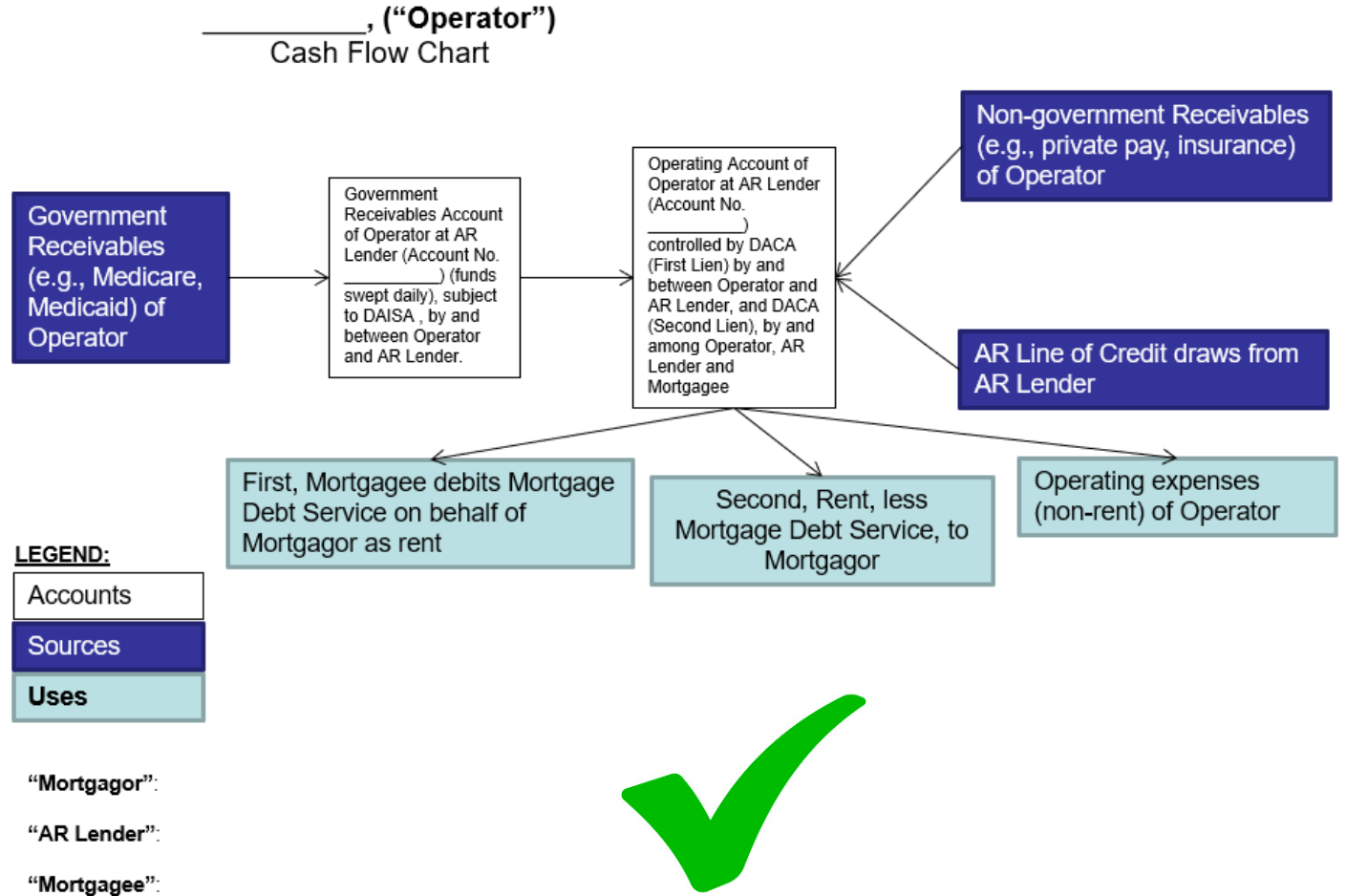
# AR Legal Review: Cash Flow Structures

This is a sample cash flow chart for a full cash dominion, or a “walled-off”, AR line (all cash sweeps through the AR Lender).

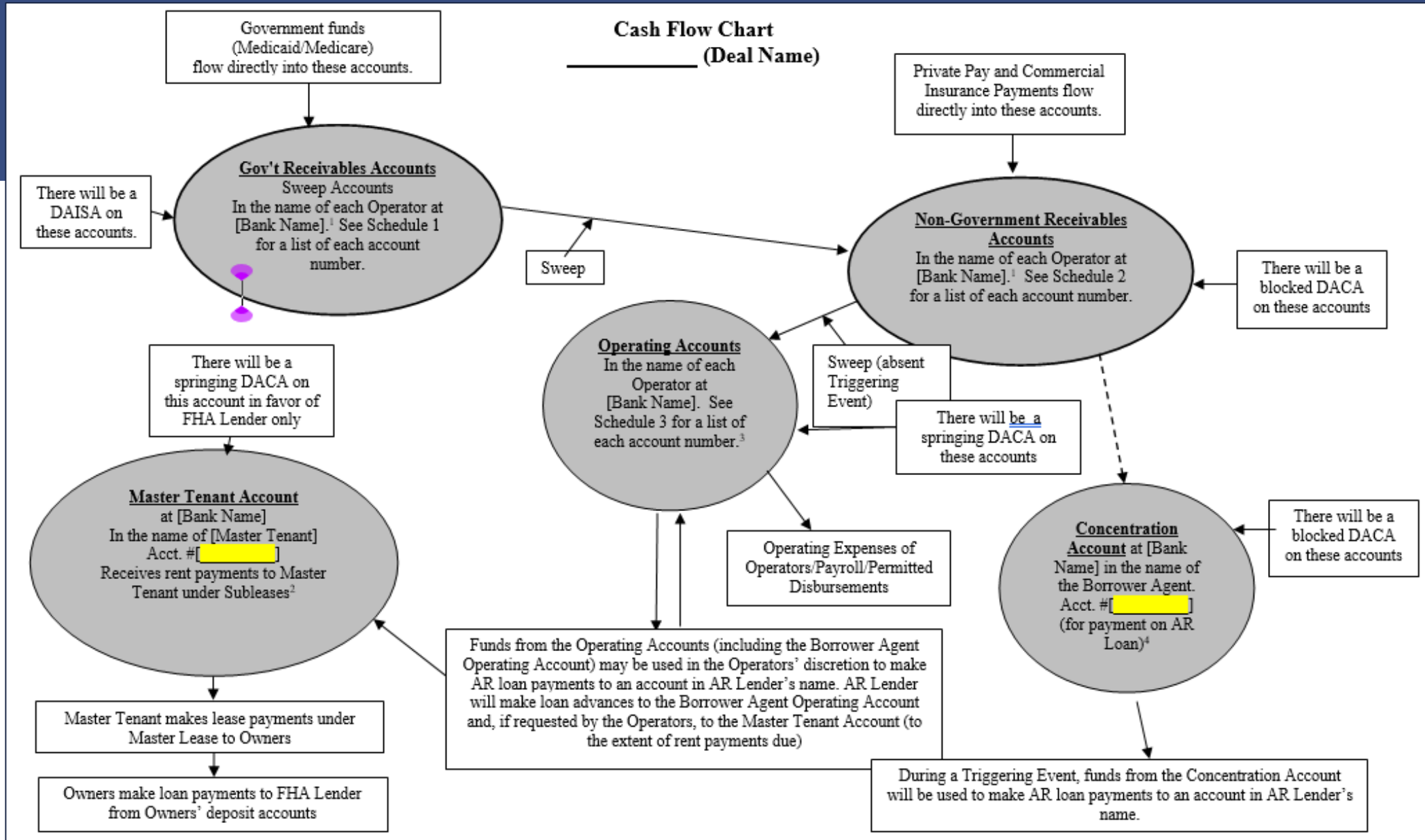


# AR Legal Review: Cash Flow Structures

This is a sample cash flow chart for a springing dominion, or a “credit-card model”, AR line (Borrower retains control over the cash flow until a trigger event occurs).



# AR Legal Review: Cash Flow Structure – Multiple Operators



# AR Legal Review: Cash Flow Structure – Multiple Operators Cont.

## Cash Flow Chart Annotations:

<sup>1</sup>The Government Receivable Accounts and Non-Government Receivables Accounts are in the name of each Operator. AR Lender ([Name] (“AR Lender”)), as first lien secured party, and FHA Lender ([Name] (“FHA Lender”)), as second lien secured party, will enter into a Deposit Account Control Agreement (“DACA”) and a Deposit Account Instructions and Service Agreement (“DAISA”) with [Bank Name] (“Bank”), as depository bank, and each Operator. The DAISA will provide for the funds in each Government Receivables Account to sweep on a daily basis into each of the Operating Accounts of the Operators. The DACA will provide that the funds in each Non-Government Receivables Account sweep on a daily basis into the Operating Accounts of the Operators. The DACA is an immediate control DACA.

<sup>2</sup>The Master Tenant Account is in the name of [Master Tenant]. The Master Tenant Account is maintained at Bank. The Master Tenant Account will be subject to a DACA in favor of FHA Lender only. Upon request of Operators and satisfaction of all conditions precedent to borrowing, AR Lender will make advances from the AR Loan, pursuant to the Intercreditor Agreements executed in connection with each facility, to fund lease payments due pursuant to the Subleases. Funds in the Master Tenant Account are used to make lease payments to each Owner pursuant to the Master Lease, and the Owners will make the mortgage loan payments to FHA Lender. The Master Tenant Account DACA will be a springing control DACA.

<sup>3</sup>Advances from the AR Loan for operating expenses other than lease payments under the Subleases will be deposited into the Borrower Agent’s Operating Account (which will be maintained at Bank). The Borrower Agent Account is the Operating Account of [REDACTED] (the “Borrower Agent”). The Borrower Agent would hold the funds in the Borrower Agent Account on behalf of itself and all of the other Operators. Borrower Agent will transfer funds to the Operating Accounts of the other Operators for each Operator’s own operating expenses. The Operating Accounts will be subject to a springing DACA in favor of AR Lender, as first lien secured party, and FHA Lender, as second lien secured party, with Bank, as depository bank, and each Operator.

<sup>4</sup>The Concentration Account will be in the name of the Borrower Agent. The intention is that the Concentration Account would be used only during a Triggering Event, when the Controlling Secured Party would direct that the funds from the Non-Gov’t Receivables Accounts be swept to the Concentration Account, which will be subject to a blocked DACA, rather than the Operating Accounts, which will be subject to a springing DACA. The Concentration Account will be subject to a DACA in favor of AR Lender, as first lien secured party, and FHA Lender, as second lien secured party, with Bank, as depository bank, and the Borrower Agent.

# AR Legal Review: Cash Flow Structure – Multiple Operators Cont.

Schedules to Accompany Cash Flow Chart:

## SCHEDULE 1 Government Receivables Accounts

<u>Operator</u>	<u>Account Number</u>
Borrower #1	[REDACTED]
Borrower #2	[REDACTED]
Borrower #3	[REDACTED]
Borrower #4	[REDACTED]
Borrower #5	[REDACTED]
Borrower #6	[REDACTED]
Borrower #7	[REDACTED]
Borrower #8	[REDACTED]
Borrower #9	[REDACTED]
Borrower #10	[REDACTED]
Borrower #11	[REDACTED]
Borrower #12	[REDACTED]
Borrower #13	[REDACTED]

## SCHEDULE 2 Non-Government Receivables Accounts

<u>Operator</u>	<u>Account Number</u>
Borrower #1	[REDACTED]
Borrower #2	[REDACTED]
Borrower #3	[REDACTED]
Borrower #4	[REDACTED]
Borrower #5	[REDACTED]
Borrower #6	[REDACTED]
Borrower #7	[REDACTED]
Borrower #8	[REDACTED]
Borrower #9	[REDACTED]
Borrower #10	[REDACTED]
Borrower #11	[REDACTED]
Borrower #12	[REDACTED]
Borrower #13	[REDACTED]

## SCHEDULE 3 Operating Accounts

<u>Operator</u>	<u>Account Number</u>
Borrower #1	[REDACTED]
Borrower #2	[REDACTED]
Borrower #3	[REDACTED]
Borrower #4	[REDACTED]
Borrower #5	[REDACTED]
Borrower #6	[REDACTED]
Borrower #7	[REDACTED]
Borrower #8	[REDACTED]
Borrower #9	[REDACTED]
Borrower #10	[REDACTED]
Borrower #11	[REDACTED]
Borrower #12	[REDACTED]
Borrower #13	[REDACTED]

# AR Legal Review: DACAs & DAISAs

## DAISA:

- Governmental Receivables
- Control Agreement among FHA Lender, Operator, Depository Bank, and AR Lender (if applicable)



Image Source: ©2024 OGLETHORPE INC

- DACAs are Required for all Lean 232 projects, including AL and B&C facilities, even if the Operator does not utilize AR financing. DAISAs are required only for those projects with governmental receivables.
- There is no required HUD form DACA or DAISA, but ORCF does require that each contain specific elements (Lean handbook, Section II, Ch. 16.6 and 16.7)

## DACA:

- Non-Governmental Receivables
- Control Agreement among FHA Lender, Operator, Depository Bank, and AR Lender (if applicable)



Image Source: livemint.com, April 20, 2024



# AR Legal Review: Intercreditor Agreement



Image Source: abilita.com, Nov. 8, 2016

## Cross-Defaults (Section 3.6/Exhibit B)

Cross-default language:

- Clear, concise, and identifiable
- Ensuring consistency with HUD reviewers
- Approvals have included
- Approvals have not included



Image Source: © 2024 PDH Academy

## Extensions (Section 2.7g)

Pre-approved extensions

- ORCF typically allows up to 6 years with 3-year extensions or 4 years with 2-year extensions
- What happens beyond that?

# Speeding the Legal Review:

- Well-prepared AR Terms Memo
  - Cross-defaults
  - Pre-approved changes
  - Nonstandard AR loan obligations
- Flag and explain post-firm additions and/or changes
- Submitted AR docs = ICA Schedule 1
- “Small” details matter (e.g. guarantor’s waiver of subrogation)
- Bracketed preliminary figures > blanks
- MS Word drafts > PDF drafts



*Photo Credit: Al Bello, travelchannel.com*

# Uncommon Scenarios:



*Photo credit: Skip Dickstein/Special to the Times Union, August 14, 2020*

- Umbrella AR lines with multiple Operators (AR Borrowers) and spanning across multiple HUD Lenders
- Related (IOI) PropCo and OpCo entities v. non-related Operators



Photo source: Shutterstock.com, Photo ID: 15908260

# Questions?