

2. If the owner is terminating tenancy for other good cause, the notice must be effective at the end of the lease term, but in no case earlier than 30 days after receipt of the notice by the tenant. This notice period may run concurrently with any comparable notice period required by state or local law.
3. A termination notice for other good cause must provide that the proposed termination will be effective at the end of the lease term, but in no case earlier than 30 days after receipt of the notice by the tenant.

#### **Section 4: Discrepancies, Errors, and Fraud**

##### **8-17 \*Key Regulations**

24 CFR 5.233 Mandated Use of HUD's Enterprise Income Verification (EIV) System \*

##### **8-18 Procedures for Addressing Discrepancies and Errors**

###### **A. Overview**

To promote income and rent integrity, owners must investigate and research discrepancies and possible errors.

\*Owners must use HUD's EIV system as a tool to identify possible discrepancies in income reported by the tenant as well as identifying tenants who may be deceased or receiving assistance at more than one location or under more than one HUD rental assistance program.\*

###### **B. Program Violations**

When owners identify an error involving a tenant, they should first determine if the error constitutes a program violation.

A program violation occurs when the tenant by action or inaction breaches a lease, regulation, or other program requirement. Tenant errors occur because tenants misunderstand or forget rules. Tenant errors are thought of as unintentional program violations.

###### **C. Investigating and Discovering the Facts**

1. If an owner suspects that a tenant has inaccurately supplied or misrepresented information that affects the tenant's rent or eligibility, the owner must investigate and document the tenant's statements and any conflicting information the owner has received. To research questionable information, the owner may:
  - a. Confront the tenant with the tenant's information and any conflicting information;

- b. Obtain additional information from other persons or agencies; and
- c. Take other actions to verify either the tenant's information or the conflicting information.

**\*NOTE:** Owners may not suspend, terminate, reduce or make a final denial of any benefits of a tenant until they have taken appropriate steps to independently verify the tenant's information or the conflicting information.\*

2. If an intentional misstatement or withholding of information cannot be substantiated through documentation, the owner must treat the case as an unintentional program violation.

**D. Notifying and Meeting with the Tenant**

1. After gathering the documentation, the owner must notify the tenant in writing of the error and identify what information is believed to be incorrect.
2. The tenant must have an opportunity, within 10 days, to meet with the owner and discuss the allegations.
  - a. The owner must also inform the tenant that failure to do so may result in the tenant's termination of tenancy.
  - b. The meeting with the owner must be with a designated representative who has not been involved in any manner with the review of the allegedly false information.
  - c. The owner must provide a written final decision, based solely on the facts presented and discussed at the meeting to the tenant within 10 days of the date of the meeting. The decision must also state the basis for the determination.
3. For tenants with a disability, the notice must be in a form accessible to the tenant, and the meeting must be held in a location accessible to the tenant.

**E. Determining the Outcome of the Investigation**

1. If the tenant meets with the owner to discuss the error, and the owner is convinced the tenant's submissions were correct, the owner should document the file accordingly and close the investigation.
2. If, after meeting with the tenant, the owner determines that the provision of inaccurate information was an unintentional program violation, the owner should correct the tenant's rent, if applicable, and provide the tenant with notice of the change in rent. If the tenant is unable to repay the full amount, the owner and tenant should enter into a repayment agreement. \*(See Paragraph 8-23 for information on repayment agreements.)\*

- a. If, after the income adjustment, the tenant no longer qualifies for assistance, the tenant may remain in the property subject to making repayments and paying market rent.
- b. The owner may terminate tenancy if the tenant refuses to pay the new monthly rent or refuses to repay the previously overpaid subsidy pursuant to the repayment agreement.
- c. If necessary, civil action may be filed to recover the funds.

**Example – Unintentional Program Violation**

A two-income household receives rental assistance payments. One individual works full time, which was fully disclosed during the last recertification. The other has a part-time job, but the work is on an as-needed basis. Because the income earnings were uncertain, small in amount, and infrequent, the tenant misunderstood the requirement to report income and did not report the uncertain income earnings.

3. If the owner determines the tenant knowingly provided inaccurate or incomplete information, and this can be substantiated through documentation, the owner needs to pursue the incident as fraud following the guidance in paragraph 8-18.

**8-19 Procedures for Addressing Fraud**

**A. Overview**

Some investigations may lead to the discovery of efforts by tenants or other parties to mislead the owner and, possibly, to commit fraudulent acts that result in the receipt of benefits or rent subsidies for which the tenant is not eligible. If after following the procedures in paragraph 8-17 for investigating and researching questionable information, the owner may determine that the tenant has knowingly provided inaccurate or incomplete information and will pursue the incident as fraud.

**B. Criminal Violation (Fraud)**

A criminal violation would be fraud, which is considered deceit or trickery deliberately practiced in order to gain some advantage dishonestly. Fraud is an intentional deception; it cannot be committed accidentally.

NOTE: A common error is to misuse or overuse the term “fraud” when a violation is suspected. A violation is not always fraudulent. It is important that owners first review and assess the circumstances before labeling a violation as fraud.

**C. Documenting Fraud**