

# County/City Lottery Operator Contracts Provisions to Consider

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*This guidance document may change with updated information or added examples. The Department recommends you do not print this document. Instead, sign up for the subscription service at [revenue.nebraska.gov/gaming](https://revenue.nebraska.gov/gaming) to get updates on your topics of interest.*

## Recitals

- Reference vote authorizing establishment of lottery
- Reference authorization by governing officials
- Reference approval of digital-on-premises ticket purchases

## Definitions

### Rights and Responsibilities of Lottery Operator

- Nonexclusive or exclusive grant of authority
- Relationship with county, city, or village (e.g., independent contractor)
- Lottery operator liability (expenses, prizes, prize reserve, federal taxes, etc.)
- Limitations, if any, on other lotteries
  - ✓ within county, city, or village
  - ✓ by lottery operator in any other county, city, or village
- Performance standards

## Type of Lottery Conducted and Detailed Description of How It Will Be Conducted

### Lottery Locations and Requirements

- Main location qualification requirements
- Approval of additional main locations
- Sales outlet location (satellite or independent game) qualification requirements (Adopt by ordinance or resolution pursuant to section 9-642.01 of the Nebraska County and City Lottery Act)
- Change of locations
- Hours of operation
- Concessions
- Pickle card sales
- Security requirements (location and lottery equipment)
- Start-up date
- Cessation or interruption of operations
- Inspections by county, city, village

### Allocation of Lottery Proceeds

- Prize payout percentages and changes to prize payout percentages
  - ✓ Prize reserve account funding
  - ✓ Progressive jackpot account funding
- Lottery operator compensation
- Operating account
  - ✓ Funding
  - ✓ Joint control by lottery operator and county, city, or village
- Minimum guarantee to county, city, or village
  - ✓ Monthly reports and allocation of lottery proceeds
  - ✓ Permitted draws from prize reserve account by lottery operator
  - ✓ Details of payment arrangement
  - ✓ Annual or periodic reconciliation of allocation of lottery proceeds, if necessary
- Payment of state lottery taxes

### Term of Contract

- Probationary period, if applicable
- Renewal options

- Extension options

### **Record Keeping/Reporting/Auditing**

- Separate bank account
- Audits (optional)
  - Selection of independent certified public accountant (performance of annual compliance procedures)
  - Other audit requirements, if any
  - Payment of audit costs
- Financial reports and statements
- Ticket reporting requirements
- Reporting of civil or criminal litigation related to lottery operation
- Record retention (must meet minimum requirements of Schedule 59 - County/City Lottery Records Retention Schedule)

### **Default**

- Statement of circumstances deemed to be default by contractor or material breach of lottery operator agreement
- Remedies
- Liquidated damages

### **Lottery Operator Compliance with Governing Laws, Rules, and Regulations**

- Change of laws

### **Insurance**

### **Performance Bond, Cash Reserve, or Irrevocable Letter of Credit**

### **Lottery Operator's Employees**

- Training and supervision
- Bonding or other security requirements
- Background investigation and criminal history checks

### **Liability and Indemnification**

### **Representations of Parties**

- Conflicts of interest

### **Termination of Contract**

- Ability for county, city, or village to terminate contract if lottery has been discontinued by an election authorized under section 9-626 or 9-627 of the Nebraska County and City Lottery Act.

### **Player Ineligibility**

- Lottery operator and immediate family members
- Governing officials, governing board members, and their immediate family members (Adopt by ordinance or resolution pursuant to section 9-646 of the Nebraska County and City Lottery Act)

### **Severability**

### **Complete Contract and Contract Amendments**

### **Applicable Law**

### **Assignment of Contract**

### **Notice to Either Party**

### **Advertising and Promotion**

### **Waiver of Contract Provisions**

### **Force Majeure (i.e., Acts of God)**

For further information, please contact the Charitable Gaming Division of the Nebraska Department of Revenue, 137 NW 17th Street, PO Box 94855, Lincoln, NE 68509-4855, phone 402-471-5949, or 877-564-1315.

This form contains a list of provisions commonly found in lottery operator contracts that have been submitted to the Nebraska Department of Revenue. The information contained in this form is for informational purposes only and is not intended as legal advice.