**Section 675.240 Establishment of Contract Amount and Payment Provisions**

a) The initial per-pupil contract amount set forth in the provider's contract with a district shall be the lesser of:

1) the district's per-child allocation under Part A of Title I of NCLB; or

2) the provider's reasonable estimate of its actual cost of services during the SES reporting period that it seeks to charge to the district pursuant to the contract.

b) A provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be established using the four expense categories set forth in Section 675.210(a) of this Part (i.e., program expenses, occupancy expenses, curriculum development expenses, and administrative and general expenses).

1) To the extent that any category of expenses in the estimate exceeds the per-pupil amount for the same category set out in the provider's district program cost report, the provider shall itemize the expenses and attach a specific justification for the increase based upon additional expenditures the provider reasonably expects to incur for reasons such as inflation, increased labor costs, or budgeted equipment expenditures or for another legitimate business purpose (e.g., additional investment in professional development for staff, increase in profit margins to reflect industry standards).

2) An estimate by a provider that will use a district's facilities shall specify the provider's assumptions for any occupancy costs and shall reflect the per-pupil savings the provider reasonably expects to receive, based upon:

A) operational savings associated with using the district's facilities;

B) the value of real estate provided by the district; and

C) the business advantages resulting from access to the district's facilities.

3) Except as otherwise provided in subsections (b)(4) and (b)(5) of this Section, at least 60 percent of funds paid to a provider from a district's Title I, Part A, allocation shall be used for either direct program expenses or occupancy expenses.

4) Any provider in good standing (with or without reservations) and with student achievement outcomes of "above standards" shall be exempt from the percentage restriction set forth in subsection (b)(3) of this Section, provided that the provider submits all cost estimates and cost reports required by this Part and accurately displays its elements of cost in all instances. The exemption provided by this subsection (b)(4) shall also be available on the same basis to any Web-based provider whose per-pupil district program cost is less than 50 percent of the mean actual cost reported for the prior year for either providers serving the Chicago Public Schools or providers serving all other school districts, as applicable to the district with respect to which the provider desires the exemption.

5) A provider whose reasonable estimate for administrative and general expenses is not more than 25 percent of the district's Title I, Part A, allocation per pupil may petition the State Superintendent for permission to spend less than the amount required for direct program expenses and occupancy expenses under subsection (b)(3) of this Section in order to allocate increased funds to curriculum development expenses. The petition must be received by the State Superintendent within 20 days after the provider's receipt of notification of its status in accordance with Section 675.90 of this Part and must:

A) demonstrate that the proposed cost structure will contribute to the increased academic achievement of students served and will allow the provider to deliver a program in accordance with its approved application;

B) specify the amount the provider seeks to establish for each of the four expense categories, including the specific cost items the provider is seeking to increase; and

C) demonstrate that the amounts specified as required by subsection (b)(5)(B) of this Section are properly attributed to the district in accordance with the cost principles set forth in Section 675.210 of this Part.

c) If the provider receives benefits from the use of district facilities not accounted for in the provider's assumptions, the provider's reasonable estimate pursuant to subsection (a)(2) of this Section shall be adjusted accordingly.

d) Prior to executing a contract with a district, a provider may petition ISBE for permission to revise the reasonable estimate provided pursuant to Section 675.50(i) of this Part, which shall be granted if based on administrative requirements imposed by the district that were not reasonably foreseeable when the estimate was submitted. After the execution of a contract with a district, a provider may seek a revision to its reasonable estimate in accordance with its contractual agreement with the district.

e) If permitted in the provider's contract with the district, the district may withhold no more than 10 percent of the total amount payable to the provider until such time as the provider reports to ISBE its district program costs, the amount paid by or invoiced to the district, and the number of students enrolled during the SES reporting period to which the contract relates. If the actual cost for the SES reporting period to which the contract relates is less than the amount paid by or invoiced to the district based upon the initial per-pupil contract amount set forth in the contract, and provided the contract permits a cost adjustment, the district shall be responsible for paying to the provider only the actual cost of services for the SES reporting period to which the contract relates. The district shall not be liable for actual costs, on a per-pupil basis, that exceed the provider's reasonable estimate established for the relevant expense category in accordance with this Section.

(Source: Amended at 32 Ill. Reg. 4046, effective February 26, 2008)