

I would presume, however, that identical bidding is more common when dealing with less experienced and smaller procurement officials where the large firms involved feel they can perhaps get away with it.

I notice the example which you give out in Oregon was a case of buying county asphalt, and they came in and the procurement official had just thrown up his hands and said, "This is the same thing, boys; year after year you come in with the identical bid and year after year there is nothing we can do about it, we just accept it, and we will give firm A the business this year, D had it last year, and B the next, and so on."

Is it the conclusion—your conclusion on the basis of your observation—this identical bidding will be engaged in where the sellers feel they can get away with it because of less sophistication or knowledge on the part of procurement officials?

Before you answer I would like to say this: You give some excellent advice in your report to procurement officials who want to stop identical bidding.

You point out what they can do is give it to the firm for whom the bid is the most expensive; that is, whose mill is farthest away from the delivery point, or give it to the same firm year after year and don't let them share the market this way.

So I would think a really determined procurement official who really wants to stop identical bidding, which is repetitive, can do so.

Mr. LOEVINGER. I think a great deal can be done by procurement officials. I am not sure that we are prepared to pass judgment to the extent of saying it is most common where the procurement officials are unsophisticated or inexperienced. This gets into a kind of subjective judgment that is hard to make.

I think I can say this, however, because we have had considerable discussion with State law-enforcement officials and with State procurement officials, I believe that the State officials feel that it is very difficult for them to deal with these problems.

There is, of course, as you know, concurrent jurisdiction between Federal and State Governments, in the antitrust field. Nevertheless, State law-enforcement officials feel that the Federal Government is the only law-enforcement agency that can effectively deal with restraint of trade and particularly with large companies and particularly where it extends over large areas.

Senator PROXMIRE. So a big contribution here could be, No. 1, to inform local procurement officials of what they can do to stop identical bidding, or at least, discourage it.

Mr. LOEVINGER. Yes, sir.

Senator PROXMIRE. And, No. 2, that the Federal Government stands ready to act in the event that this is reported and can be one evidence, at least, of collusion, and one evidence of breaking the antitrust laws?

Mr. LOEVINGER. Yes, sir.

I believe this is true. I believe that the report itself, and the reporting system, have had a very widespread educational effect and we have received a good deal of correspondence from State procurement and law-enforcement officials saying that they felt this program was a helpful and useful one.