

I do not think, frankly, from what I know about the drug industry, that we are going to get very far just trying to take a dramatic single product line and show that that manufacturer has made a lot of money off it where, in other cases, he may have lost money. I think we should approach it from the standpoint of total sales to the Government on negotiated contracts. We might have a better chance of getting cooperation.

Senator NELSON. How would they know they lost any money? Under their accounting system they cannot tell you they made any money. How would they know they lost any?

Mr. STAATS. Well, you can find this out.

Senator NELSON. You and I just do not agree on that. I think that when we put the provision in a negotiated contract, we should use it. It was not put in the statute to be honored in the breach. I think we ought to use it. You say \$240 million is involved. Maybe it is not a large item. I think there are a lot of other items in here that you have mentioned that ought to be pursued. But I do not see why we should not just take a look at one of those and let's just find out.

Have you done this? Have you taken a product that is procured, and which is available from several manufacturers under different brand names—and possibly a generic name—and studied to find out whether the negotiated price by the Government was substantially higher than the price that could be gotten from these other companies?

Mr. STAATS. Well, now, I am not sure I understand your question, but in no case do I know that the Government has paid more than has been paid by another customer. It has been less.

Senator NELSON. I am not talking about another customer. I am talking about the situation referred to by Colonel Breyfogle that I read to you earlier, about the specifications being prepared by a manufacturer so no other supplier can meet them. Of course, if you have a drug that is patented and there is a sole supplier in the whole United States, you cannot compare prices. But when there are several suppliers of a particular compound for which the Government has a contract, have you ever tried to find out whether or not it is being sold, for example, to New York City at a lower price? In other words, if there are several suppliers, why should you ever negotiate a contract? Why not bid?

It seems to me we ought to take a look at every negotiated contract where there are several manufacturers, two or more manufacturers of the product, and find out why the contract is negotiated. If it is negotiated for the reasons suggested by the colonel, then I think we ought to put a stop to that.

Mr. STAATS. I am not suggesting that I agree with what you have read here.

Senator NELSON. Well, he is the procurement officer.

Mr. STAATS. Well, again I come back, until you can get common specifications where you can go out for competition, I do not know, quite honestly, what alternative the Government has except to negotiate contracts.

Senator NELSON. Well, this is the exact point. I am saying that what Colonel Breyfogle, Chief, Division of Medical Materiel, Defense Personnel Support Center, Defense Supply Agency, here is saying is that specifications are being supplied by the manufacturer so that the rest