Senator NELSON. You sent us a letter on that?

Mr. CROWTHER. Yes, sir.

Senator NELSON. What date?

Mr. CROWTHER. It was dated February 3, 1972.

Senator NELSON. All right. If you would leave a copy with us so we can——

Mr. STAATS. Would you want it in the record at this point?

Senator NELSON. We want to incorporate it in the record.

(The information referred to follows:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 3, 1972.

B-164031 (2)

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Monopoly, Select Committee on Small Business, U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your request made during our meeting of August 9, 1971, that we furnish information on the policies and practices followed in establishing set-asides for small business in Government procurement of drugs.

To answer your request, we examined the policies, procedures, and criteria used by the Small Business Administration (SBA), the Veterans Administration (VA), and the Defense Supply Agency (DSA) for setting aside procurements of drugs for small business concerns. Our review was directed to VA and DSA because they procure most of the drugs bought directly by the Government.

STATUTORY AUTHORITY AND RELATED POLICIES

The statutory and regulatory authority under which the procurement programs of SBA are conducted includes:

1. Section 2(a) of the Small Business Act (15 U.S.C. 631) which, in general, states that it is the policy of the Congress that the Government shall assist the interests of small business to preserve free competitive enterprise and to insure that a fair share of Government procurements is placed with small business concerns.

2. Section 8(a) of the act empowers SBA to contract directly with Government agencies for the purpose of letting subconstracts to small business firms.

3. Section 15 of the act provides that all or a part of any procurement shall be set aside for small business when SBA and the contracting agency jointly determine that such action would (a) be beneficial to the national productive capacity, (b) be in the interest of national defense programs, or (c) insure that a fair share of Government procurements is made from small business.

Unilateral set-asides for small business by the Department of Defense are made under authority of section 2304(a)(1) of Title 10, United State Code, and implementing regulations set forth in section I, part 7, of the Armed Services Procurement Regulation. Federal civilian executive agencies make unilateral set-asides in accordance with section 302(c)(1) of the Federal Property and Administrative Services Act of 1949, as amended [41 U.S.C. 252(c)(1)], and implementing regulations set forth in Federal Procurement Regulations, primarily subpart 1-1.7.

SBA National Directive 605-1 of April 8, 1968, requires that procurements of $2,500 and more which have not been recommended for set-asides by either a small business specialist (employee of the contracting agency) or the contracting officer, or which have been recommended and then withdrawn, shall be screened by a SBA representative for possible small business set-asides action.

One hundred percent set-asides for small business are to be initiated on all procurements determined to be within the purview of Section 15 of the Small Business Act. However, SBA National Directive 605-1 states that one hundred percent set-asides shall not be initiated if any of the following conditions esists:

"(1) The item is a proprietary item, * * *

"(2) There is the expectation of receiving insufficient small business competition to provide a reasonable price to the Government.

"(3) The procurement is of a qualified product [item must pass specification test requirements and be on a list of qualified products prior to the procurement] unless * * * none of the qualified large firms desire to participate.