

COMPETITIVE PROBLEMS IN THE DRUG INDUSTRY 10601

restrict competition for 386 of these. But no apparent laws or regulations preclude interested firms from bidding for the remaining 149 drugs.

Thus, although DPSC has developed specifications for virtually all the 1,100 items, it has obtained competition for only about half of them. The specifications on the remainder, although not necessarily generating competition, do define what is wanted and minimize misunderstanding and contractor failure to satisfy Government requirements. DOD considers this benefit of specifications to be significant. It further believes that specifications should be developed in restricted competitive procurement so that DOD will be ready to go into the competitive market when a patent expires, when it legally buys around a patent, or when additional manufacturers conform to the regulations for manufacturing a drug.

Before October 1970 VA generally bought its required drugs on a brand-name basis and did not develop specifications for drugs it bought on a sole-source basis.

At that time about 70 percent of the drugs VA centrally stocked were designated for sole-source procurement to obtain specified brand-name drugs. Also, a large percentage of FSS contracts were for making manufacturers' product lines available to the Government at less than market prices. However, these contracts were negotiated without specifications or competition.

At that time also, VA ordinarily developed specifications only when the demand for a generic drug was sufficient to warrant central management or for drugs for which no patents existed or the patents had expired. Generally this meant that procurement was made from preselected sources which obviated the need for specifications.

In October 1970, however, VA began to develop specifications for 110 of the 450 drugs it managed centrally, for which it considered competition feasible. This effort has primarily consisted of obtaining industry comments on DPSC specifications which VA has rewritten as proposed VA specifications. After suggested revisions were considered, the specifications were written in final form.