



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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OCT 26 1979

B-196491

The Honorable Claude Pepper, Chairman
Select Committee on Aging
House of Representatives

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Dear Mr. Chairman:

We are responding to your questions about the requirement in Section 3 of H.R. 3948, the Experienced Pilots Act of 1979, that the National Institutes of Health (NIH) conduct a study of the medical justification for mandatory retirement for airline pilots at age 60. You asked whether NIH's enabling legislation authorizes such a study and whether existing appropriations may be used.

AGC000228

Because you asked for an immediate answer, we did not request the views of the Department of Health, Education, and Welfare (HEW) or the Federal Aviation Administration. We believe our position is consistent, however, with those of the Director, NIH, and the Director, National Institute on Aging, as expressed in letters to your Committee made available to us.

AGC00030

The proposed study would appear to be authorized under the Research on Aging Act of 1974, 42 U.S.C. §§ 289k-2 et seq. Section 289k-4 directs the Secretary of HEW, acting through the National Institute on Aging, to carry out the general research purposes of the Public Health Service "with respect to research investigations, experiments, demonstrations, and studies related to the aging process and the diseases and other special problems and needs of the aged * * *." As we understand it, the proposed study is designed to provide information helpful to the Congress and to the Secretary of Transportation in determining whether a pilot, upon attaining the age of 60 or any other specified age, undergoes some physiological or psychophysiological changes so as to bring into question his or her ability to pilot aircraft at the highest level of safety. The study would also recommend the frequency and type of medical examinations which should be given to pilots to assure that their physical condition is being adequately monitored. We believe this study is clearly related to the Secretary's existing authority to conduct research on the aging process and is therefore authorized under present law.

AGC000160
AGC00029

We also believe that there are funds legally available at the present time to begin the study. At the moment, HEW is operating under a continuing resolution which authorizes the appropriation of "[s]uch amounts

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as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriation Act, 1930 (H.R. 4339), at a rate of operations, and to the extent and in the manner, provided for in such Act as adopted by the House of Representatives on August 2, 1979 * * *." Pub. L. No. 96-86, § 101(j) (October 12, 1979). H.R. 4339 proposes an appropriation of \$70 million for the National Institute on Aging. Thus, at this date, an appropriation exists under which the aging pilots study could be funded. However, appropriations under the continuing resolution remain available only until "(a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) November 20, 1979, whichever first occurs." Pub. L. No. 96-86, § 102. In view of the possibly limited life of appropriations made by Pub. L. 96-86, agencies covered by that Act have been receiving only one-fourteenth of their total appropriations by Treasury warrant unless some special justification for obligating a larger portion of their appropriations prior to November 20 is presented. Thus, while there is an appropriation for FY 1980 which is legally available to conduct the study you propose, we can not say, as a practical matter, whether there are sufficient funds at the present time, in view of competing priorities and the limited duration of the appropriation, to make much headway with the study.

AGC 200089
AGC 01394

Sincerely yours,

SIGNED ELMER B. STAATS

Comptroller General
of the United States