

November 20, 1997

Ms. Beverly K. Linden
Chief, Freedom of Information/Privacy Acts Office
United States Small Business Administration
Washington, D.C. 20416

Re: *John F. Kennedy Assassination Records Collection Act of 1992*, 44 U.S.C. 2107 (Supp. V 1994)

Dear Ms. Linden:

Thank you for your letter dated October 21, 1997, to David Marwell of our office regarding JFK assassination-related records that had been referred to your office by the Federal Bureau of Investigation ("FBI"). Because we are now scheduling the records at issue for Board review on _____ date _____, I thought it might be helpful for you if I were to respond to some of your concerns at this time.

Pursuant to the *President John F. Kennedy Assassination Records Collection Act of 1992*, 44 U.S.C. (Supp. V 1994) ("JFK Act"), all records that are related to the assassination of President Kennedy -- including those forwarded to you by the FBI -- carry the presumption that they may be opened in full to the public. Section 2(a)(7) of the JFK Act provides that "only in the rarest cases is there any legitimate need for continued protection of such records."

Although we understand that the SBA remains concerned about "information that traditionally would be withheld under the FOIA and the procedural requirements of Executive Order 12600," section 11(a) of the JFK Act specifically supersedes laws such as the FOIA and the Privacy Act, providing that "[w]hen this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law"

Section 6 of the JFK Act lists the specific grounds for which agencies may request postponement of release of their information within assassination records. Section 6 states that the Review Board will release assassination records to the public unless the agencies provide "clear and convincing" evidence supporting postponement. Thus, if you wish to request that the Review Board sustain your agency's request that certain information be protected from disclosure, your agency must provide the Review Board staff with evidence supporting its request by _____ date _____.

In your letter, you cite section 4 of the FOIA as a possible basis for requesting postponement of release of assassination-related information. You should be aware that section 4 of the FOIA has no relevance to the Review Board's determinations about assassination records. You may wish to present evidence citing section 4 of the JFK Act which protects