



January 26, 2018

VIA Electronic Delivery

Chief, Freedom of Information/Privacy Acts Office
U.S. Small Business Administration
409 3rd St. SW, 8th Floor
Washington, DC 20416

Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (the "FOIA"), 5 U.S.C. §§ 552 *et seq.*, and Small Business Administration ("SBA") regulations at 13 C.F.R. pt. 102, Democracy Forward Foundation submits this request for records.

Records Requested

On January 25, 2018, Vince McMahon, who is married to Linda McMahon, the Administrator of the SBA, announced the re-launch of the XFL, to re-debut in 2020.¹ Mr. McMahon's new venture follows on the heels of President Trump's repeated criticisms of the NFL, and of its players who have chosen to protest racial inequality and police brutality by kneeling during the National Anthem. XFL players would be required to stand for the National Anthem,² and those with criminal records, including DUIs, would not be permitted to join the league.³

The return of the XFL, if successful, may provide tremendous upside to the McMahons. Commentators have suggested that Mr. McMahon's venture might benefit from "[a] few tweets and public shows of support from [President] Trump," which "would amount to tens of millions of free advertising for the new league," and have even gone so far as to assert that any NFL rival "would almost assuredly be backed by the full faith and credit of the most powerful Twitter account in the world" as well as the President's "bully pulpit."⁴

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<https://www.reuters.com/article/us-football-xfl/vince-mcmahon-announces-return-of-reimagined-xfl-in-2020-idUSKBN1FE33Z>.

² <http://thehill.com/blogs/blog-briefing-room/370765-returning-xfl-will-require-players-to-stand-for-anthem>.

³ <https://www.si.com/nfl/2018/01/25/johnny-manziel-xfl-not-eligible>.

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<http://www.breitbart.com/sports/2017/12/16/report-nfls-ratings-popularity-plummets-wwes-vince-mcmahon-consider-xfl-reboot/>.

In an effort to better understand, and explain to the public, any involvement by the government in Mr. McMahon's efforts to re-launch the XFL, Democracy Forward Foundation requests that SBA produce the following within twenty (20) business days:

- Records containing any of the following words or phrases: "Vince McMahon," "NFL," "XFL," "URFL," "Alpha Entertainment," "Alpha," "NFL," "National Football League," "USFL," "United States Football League," "for the love of football," "Christopher Verini," "K&L Gates," "VKM Ventures," "#XFL2020," or "He Hate Me."

The time period for this search is from January 20, 2017, to the date the search is completed. The search for responsive records should include but not be limited to Administrator Linda McMahon, Mary Anne Bradfield, Robb Wong, Allen Gutierrez, and Michael Hershey.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See id.* § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are

available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 13 C.F.R. § 102.8, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request. Disclosure of the requested records is “likely to contribute significantly to public understanding of the operations or activities of the government.” 13 C.F.R. § 102.8(l)(1). The requested records will shed light on any involvement by the government in the establishment of the XFL, a question that is of substantial public interest given the heightened controversy surrounding football that has been stoked in part by President Trump. *See id.* § 102.8(l)(2)(ii)(B). Furthermore, information on this subject is “not already in the public domain.” *Id.* § 102.8(l)(2)(ii)(A).

In addition, this request “is not primarily in the commercial interest of the requester.” *Id.* § 102.8(l)(1). Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). A core mission of Democracy Forward Foundation is to educate the public about government activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets.⁵

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Adam Grogg as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Adam Grogg
Democracy Forward Foundation

⁵ *See* Democracy Forward Twitter, @DemocracyFWD; Democracy Forward Facebook, <https://www.facebook.com/DemocracyFwd/>; <https://democracyforward.org/work/>.