



CONSTRUCTION BLOG

CONTRACTOR ALERT—President Trump Extends “Ban the Box” to Federal Contractors

AUTHOR: TIMM SCHOWALTER

On December 20, 2020, President Trump signed the National Defense Authorization Act (NDAA) that included the federal Fair Chance Act (“the Act”). The Act prohibits, with certain exceptions, federal contractors that have openings for positions within the scope of federal contracts from inquiring about or seeking criminal history information from an applicant until after a conditional job offer has been extended. The Act is intended to give ex-offenders released from prison and those with past criminal convictions a better opportunity at obtaining employment by eliminating or at least deferring any pre-employment inquiry into an applicant’s criminal history. After the conditional job offer has been extended employers should continue to be mindful of complying with local, state, and federal discrimination and privacy laws.

Employer Take Away: All federal contractors should immediately implement onboarding processes that comply with the Fair Chance Act including omitting from their applications of employment criminal history inquiries. A determination as to whether an applicant’s employment should be conditioned on passing a criminal background should only be made after consultation with an employment attorney.

For more information, about complying with federal and state discrimination and privacy laws, please contact Timm Schowalter at tschowalter@sandbergphoenix.com, (314) 425-4910 or another member of Sandberg Phoenix & von Gontard, P.C.’s Labor and Employment Law Team.