Ms. T. M. O’Malley  
Information Technology Center, Room N-1301  
U.S. Dept. of Labor  
2000 Constitution Ave. NW  
Washington DC 20210

Re: Information Quality, 67 F.R. 21776

Dear Ms. O’Malley:

The Section of Administrative Law and Regulatory Practice of the American Bar Association is pleased to submit comments on the proposed guidance for Data Quality that your agency has proposed under Section 515 of Public Law 106-554. The views expressed herein are presented on behalf of the Section of Administrative Law and Regulatory Practice. They have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the position of the Association.

These comments are focused on the mechanisms proposed for implementation of section 515’s “correction of information that does not comply with (OMB guidance)”. In commenting on the mechanisms we hope to improve them; these comments do not suggest that any of the substantive missions of the agency discussed in your published proposal would or would have our Section’s support. Because many of the nation’s experts in the administrative process and information policy are members of our Section, we hope to speak to the process and procedural aspects of the proposed guidelines.

1. We applaud the clear invitation at p. 6 to resolve information disagreements informally with the program officials.

2. We endorse the highlighted statement at page 6 that the section 515 correction process is “not to resolve underlying substantive policy or legal issues”. This is a correct view of the OMB Guidance and of Section 515’s role.
3. The statement that Section 515 “is not intended to provide any right of judicial review” (p. 6) is a fair statement of the Department’s preference, but there is a substantial likelihood that courts may accept a role in judicial review of denials of correction. Thus the Department entities should be encouraged to carefully document the reasons for their denials and for any response to an appeal of a denial of correction. We as a Section do not take any position on whether courts should allow judicial review of section 515 disagreements.

4. We are very concerned that the Department says it will acknowledge that an error exists in its information products but then refuse to make a correction based on the sole discretion of the Department that it would not be “cost effective” to correct the error (p. 7) OMB Guidance at 67 F.R. 8459 col. 1 suggests at 3(i) that there is a direct connection between acknowledging the error and making the correction. To declare that no correction will occur because of other “obligations” would be to evade Section 515 whenever the agency had other priorities. We urge the Department not to leave errors in the disseminated information products and websites, but to make corrections where the error is acknowledged.

Thank you for considering these comments. If you wish clarification, please contact Professor James O’Reilly, Chair of our Committee on Government Information & Privacy, at (513) 556-0062.

Sincerely,

C. Boyden Gray
Section Chair