January 5, 2001

Under Secretary of Defense
for Acquisition, Technology and Logistics
Attn: Major Gregory Redick
USD(A&T)
3060 Defense Pentagon
Washington, DC 20301-3060


Dear Major Redick:

On behalf of the Section of Public Contract Law of the American Bar Association (“the Section”), I am submitting comments on the above-referenced draft Guide. The Section consists of attorneys and associated professionals in private practice, industry, and Government service. The Section’s governing Council and substantive committees contain members representing these three segments to ensure that all points of view are considered. In this manner, the Section seeks to improve the process of public contracting for needed supplies, services, and public works.

The Section is authorized to submit comments on acquisition regulations under special authority granted by the Association’s Board of Governors. The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, therefore, should not be construed as representing the policy of the American Bar Association.

The purpose of the IP Guide is to educate the Department of Defense acquisition workforce on intellectual property issues, and to provide guidance on negotiating these issues within the context of existing regulations. We understand from the drafters that although the document is still a work in progress, the Department plans to expedite completion of the document in order to make it available to users as soon as possible. As the process of completing the draft continues, we hope that the comments, revisions, and edits on the enclosed copy of the draft will prove useful. We look forward to the opportunity to review the completed draft.

The Section supports the efforts of the Department to provide additional training on intellectual property issues, which are so vitally important in the commercial marketplace. Our principal concern, however, is that unless additional steps are taken, training alone will not be sufficient to accomplish the Department’s objective of expanding the Department’s supplier base by attracting leading-edge commercial firms. Specifically, the Department needs to develop a comprehensive strategy to address the many longstanding difficult issues presented by its acquisition of rights in intellectual property. Such a strategy should include examining the need for further revisions to Departmental or governmentwide intellectual property regulations, as well as possible changes to the current statutory framework.

The Section appreciates the opportunity to provide these comments and is available to provide additional information or assistance as you may require.

Sincerely,

Gregory A. Smith
Chair, Section of Public Contract Law
Enclosure

cc:    Norman R. Thorpe
      Mary Ellen Coster Williams
      Hubert J. Bell, Jr.
      Patricia A. Meagher
      Marshall J. Doke, Jr.
      Rand L. Allen
      David A. Churchill
      Council Members
      Co-Chairs and Vice Chairs of the R&D and
          Intellectual Property Committee
      Richard P. Rector