

ALERT

DoD Releases Long-Awaited Intellectual Property Guidebook for Acquisition

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WHAT: The U.S. Department of Defense (DoD) recently released its long-anticipated *Intellectual Property Guidebook for DoD Acquisition* – the culmination of years of internal effort to standardize the Department's approach to intellectual property (IP) in defense procurement. DoD said the guidebook, dated April 30 and issued May 1, is intended to provide practical, department-wide guidance on the implementation of IP laws and regulations, clarify the legal and operational challenges involved in acquiring IP and associated rights, and strengthen partnerships with industry.

Structured in a clear, progressive format, the guidebook begins with a review of the statutes, regulations, and policies governing IP in federal acquisition. It then outlines foundational IP concepts, including distinctions between technical data and computer software, the various categories of rights available to the government (e.g., unlimited rights, government purpose rights, and restricted rights), and how those rights are asserted and negotiated.

Later sections focus on the development and execution of tailored IP strategies – now expected for major acquisition programs – and their integration throughout the program lifecycle. These chapters offer guidance on assessing IP needs during market research, incorporating rights-related provisions into solicitations, reviewing contractor assertions, and managing deliverables throughout system sustainment and eventual retirement. The guidebook also underscores the growing role of the DoD IP Cadre and highlights resources such as the *IP for Product Support Toolkit*, designed to enhance lifecycle cost efficiency and readiness through better IP planning.

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WHEN: The guidebook was issued on May 1, 2025, and is dated April 30, 2025.

WHAT IT MEANS FOR INDUSTRY: Although the guidebook does not establish new law or regulation, it offers critical transparency into the Department's internal approach to IP, which is an area that has long been viewed as inconsistent and difficult to navigate. For contractors, this document serves as both a roadmap and a signal.

First, the guidebook confirms that the DoD expects earlier and more deliberate engagement on IP issues, particularly in technology-intensive or sustainment-heavy programs. It reflects a department-wide shift toward modular, flexible, and competitively sustainable acquisition strategies. In essence, IP considerations will be central and not peripheral to the program planning and source selection process.

Second, contractors should anticipate more rigorous review of data rights assertions. Proposals must reflect consistent, defensible IP positions across technical and pricing volumes. Discrepancies or overly aggressive stances – particularly regarding software – may receive increased scrutiny and potentially involve review by the DoD IP Cadre.

Finally, the guidebook underscores the importance of striking a balance: Contractors must be able to protect proprietary technology while demonstrating how their IP strategies support the government's goals for long-term affordability, competitive sustainment, and operational readiness. Those who can credibly align their licensing positions with these imperatives will be better positioned to win and execute in a more disciplined IP environment.

KEY TAKEAWAYS: The guidebook affirms that IP is now a core element of defense acquisition strategy, not an afterthought. Contractors should prepare for earlier and more structured IP engagement, especially in major systems and software-driven procurements. Heightened scrutiny of rights assertions and increased emphasis on lifecycle IP planning will demand greater coordination among legal, technical, and business teams.

Contractors should familiarize themselves with the guidebook's frameworks, including the development of IP strategies and use of sustainment planning tools, as these are likely to influence both proposal evaluation and long-term contract execution. Moreover, the guidebook signals a broader cultural shift: The Department is aiming for transparency, consistency, and long-term value in its handling of IP, and expects industry to operate with the same clarity and discipline.

Attorneys in Wiley's Government Contracts Practice are available to help evaluate and advise on intellectual property matters, including negotiation of data rights and technology licensing.