

Note from the Field

Operational Contract and Fiscal Law: Practice Tips

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Introduction

The practice tips contained in this note are a compilation of observations, lessons learned, and common-sense advice provided by judge advocates who recently deployed in a contract/fiscal law attorney position to Iraq or Afghanistan. The tips are intended to offer judge advocates easy-to-read advice that may not be found in more formal publications or instruction.

Tip # 1: “Work” Your Predecessor

Don't be surprised to find that your limited contract or fiscal law training and experience make you a prized, if not unique, commodity. A judge advocate with contract or fiscal law exposure or training is key to working contract actions that are vital to operational needs. As a theater matures, improvements in contracting will follow; however, adequate staff tracking processes or controls may not be in place to take full advantage of lessons learned. Soon after you are notified of a pending deployment, communicate with your predecessor as frequently as possible to get a sense of the substance and flow of work. Furthermore, overlap is essential to become acquainted with the mission and to intelligently review your predecessor's files. Finally, use the overlap to have your predecessor introduce you to other staffs and their key members.

Tip # 2: Overcome Challenges to Consistency

Prepare for disjointed tours with other staff personnel (both within and outside of your office) when dealing with a Joint Command. For example, it is not unusual for joint offices to have personnel who are deployed on four-, six-, nine-, or twelve-month tours, depending on the service branch, duty status (active duty, reserve, or guard), or country of service of the staff member involved. This wide variance in deployment tours is just one more reason to ensure that there are adequate staff action tracking systems and controls in place. Moreover, don't focus only on your office. To reduce the inherent confusion associated with personnel turnover, encourage other staff offices to implement effective tracking systems to systemically monitor and control staff actions. This is especially important for the staff sections with which judge advocates frequently coordinate actions (e.g., J-4 (Logistics); J-6 (Communication)¹; J-7 (Engineers); and J-8 (Comptroller)).

Tip # 3: Prevent Forum Shopping, “He said what?!!!!”

Don't be surprised if the different staff sections (J-1 to J-8) find your arrival an opportune time to revisit issues that your predecessors have already addressed. This is more likely to occur if an earlier opinion did not match the staff officer's wishes. An opposite approach, which is just as likely to lead to an incorrect fiscal law approach, is interpreting a previous opinion far more broadly than was originally intended. Judge advocates must be prepared to never answer a question “on the fly” and to try to contact their predecessors to find out the “rest of the story” behind the earlier opinion.

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¹ This staff section can assist you with setting up a retrievable data and file system.

Tip # 4: Go Beyond the Basics

When addressing fiscal issues unique to deployment operations, you will likely have to “drill down” into the underlying intent of fiscal rules, policies, or laws. For fiscal rules and restrictions, the key to determining legislative intent is thorough research of Senate and House Reports.² This review will allow you to fully understand the rationale behind the rules, policies, and laws. For most actions, this understanding will help you get to “yes.” If, however, the answer is “no,” going beyond the basics will allow you to place your opinion in context, provide a thorough explanation of why the answer is “no,” and perhaps suggest an alternative. This holistic approach will enhance customer understanding, inspire confidence in your advice, and cultivate a relationship of trust, which is absolutely essential in the high stakes environment of deployments.

Tip # 5: It’s Not a Sprint. It’s a Marathon

Remember to pace yourself and develop a sane, daily routine that keeps you “intellectually fresh.” The hours in a deployed environment are exceptionally long, and “burning out” in the first month will help no one, least of all you.

The fiscal and contract operational tempo (OPTEMPO) in a deployed environment ranges from continuous waves to tsunamis. You should concentrate on understanding your supervisor’s priorities, which will focus you on the issues that need immediate attention. Often, Staff Judge Advocates (SJAs) will hold an office meeting after staff meetings with the Commanding General so that everyone in the office understands the commander’s priorities. If the SJA does not hold such meetings, then suggest that he do so.

Prioritize, prioritize, prioritize. Every action is hot. That said, what is hot now, may not be as hot as something else an hour from now. Keep on top of constantly shifting priorities. Be prepared for some high priority actions to vaporize—it is not uncommon to put in a lot of work on an action that later may no longer be needed. Still, in such a case, retain your work product; the same issue may arise later.

Organize, organize, organize. As discussed above, establish a way to keep track of all actions. Electronic files and resources are helpful. Be sure to back-up frequently. Scanned documents are a must.

Tip # 6: A Physical Training (PT) Routine Is Essential

Do not fall into the trap of “I’m too busy to work out.” Physical training can help boost productivity by reducing stress and building endurance. In addition, a PT routine helps to clear one’s head, which often enhances the ability to work complicated problems and devise an appropriate solution. Last, but not least, PT improves the ability to work long hours with limited or no sleep.

Tip # 7: Know Your Teammates

The J-8 (comptroller), J-4 (logistics), and J-7 (engineering) all serve as critical sources of information. Much of your work will involve construction and generic nation-building. Early on, a judge advocate should take the initiative to reach out and meet these staff officers and offer to assist project officers and review project submissions in advance.

Become “locked at the hip” with key personnel in your organization as well as the other staff sections. Know who the most productive and knowledgeable people are and work with them to assist the less productive or less knowledgeable. By ingratiating yourself to the other staff sections and assisting them with their issues in advance, you will build bonds, open lines of communication, and learn about how other staffs conduct business.

Network with other judge advocates, both in-theater and reachback sources, to include your predecessors.³

² Many of these references can be found through the U.S. Army Fiscal Law Website, on the JAGCNET, <https://www.jagcnet.army.mil/fiscallaw>.

³ Along this line, the Office of the Judge Advocate General Contract and Fiscal Law Division has established the Fiscal Law Reachback Group, a highly responsive group of contract and fiscal law experts from throughout the JAG Corps. The Reachback Group can be contacted via the Army Fiscal Law Website and the Contract and Fiscal Law Division.

Tip # 8: Understand Your Client's Mission

Understand your client's mission and how you can best support that mission. Prepare before deploying. Although you may deploy in a contract and fiscal role, do not focus solely on that one discipline. A great starting point for a general understanding of other deployment issues is the *Operational Law Handbook*⁴ (don't leave home without it!).

Tip # 9: Participate in Construction-Related Military Decision Making Process (MDMP)⁵

Given the overall importance nation-building frequently has to mission success, always take the time to review construction project diagrams. Beyond the fiscal law review, you should ensure that the submissions make sense. Examine the doors, windows, plumbing (sewage), wiring, and electrical power source. The Department of Public Works, J-7 personnel, or an Engineer Brigade Construction Management Services Division are the best resources for explaining these diagrams. "Dumb check" the plans. For example, plumbing is great . . . if you have a sewer system.

Tip # 10: Get Military Gear that Fits

Make sure military gear fits properly before deploying. Do not be rushed, and try on everything. Most clerks at the central issuing facility are very experienced and can be helpful, but remember that each piece of gear or clothing will fit each individual differently. The gear you are issued will be worn all day, everyday. For example, one judge advocate encountered a clerk who tried to give him the wrong size desert camouflage pants, based on the clerk's understanding of what size pant goes with the size of top. Also, do not assume that the sizes are consistent—a size eight in one brand of boots may be a size nine in another.

Tip # 11: Pack or Ask for Comfort Items

With all the concentration on military equipment and the mission at hand, it may be easy to forget comfort items. Examples include pictures of family and friends, snack food, pillows, sheets, and towels. Comfort items are important sources of morale and should not be forgotten. Either pack comfort items with your gear or ask that they be mailed later.

Tip # 12: Handle Personal Affairs Before Deploying

This sounds obvious, but it needs to be said: take care of your personal matters *before* deploying. This may include one or all of the following: writing a will; setting up one or more powers of attorney; taking leave to see family or to just relax; setting up automatic payments for bills; ensuring other financial matters are taken care of; scheduling medical or dental appointments to resolve nagging ailments; and ensuring that your physical property, which may include your house and vehicle, is either secure or will be managed in your absence. During your deployment, you don't want the added stress of worrying about whether your family, financial matters, or property are properly taken care of.

Conclusion

The above comments reflect the experience of judge advocates who have deployed in support of demanding missions. The overall thrust of these remarks applies regardless of the legal topic. Indeed, they reflect a proactive attitude, pervasive throughout our JAG Corps, to work closely with commanders and staff to achieve mission success. Many times "problem-solving" extends well beyond legal issues to providing practical, no-kidding, "how do we get from here to there" advice. Although working in a deployed environment carries with it unique challenges, incorporating a few common-sense measures into your routine will enhance the overall quality of your deployment experience and the counsel you provide to your command.

⁴ INT'L & OPERATIONAL LAW DEP'T, THE JUDGE ADVOCATE GENERAL'S LEGAL CENTER AND SCHOOL, U.S. ARMY, JA 422, OPERATIONAL LAW HANDBOOK (2006). The *Operational Law Handbook* is available in hardback upon request from the Center for Law and Military Operations (CLAMO) or electronically at the CLAMO and U.S. Army Fiscal Law Websites.

⁵ See *id.* ch. 27.