

Military Medevac Raises COVID Questions for Contractors

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Alexander W. Major

Three patients who had tested positive for COVID-19 became the first to use the Air Force's "transportation isolation system." They were loaded Friday into biocontainment units inside a plane and flown nearly 4,000 miles from Afghanistan to a U.S. base in Germany.

Last weekend's transport was not so unusual, according to Alexander Major, a former U.S. Air Force intelligence officer who now co-chairs the government contracts practice group at McCarter & English LLP.

He said defense contractors often get medical airlifts out of war zones, and that "there aren't really a lot of ways out of Afghanistan right now." But the coronavirus might have elicited a quicker-than-usual response.

"For COVID-19, the issue is the uncertainty of the disease and the apparent ease with which it moves," he said. "I could see the base and regional commanders saying, 'Although we might have the ability to treat [these workers] locally, it's probably better to get them out of Dodge.'"

The desire to keep the disease from spreading on a war zone outpost was also likely in line with keeping the base "mission ready," Major added.

A factor further down the list may have been the government's liability under the Defense Base Act, a federal workers' compensation program that covers most defense contractors on overseas bases. Major said it might behoove the government "as the hirer of contractors" to facilitate treatment as efficiently as possible.

"Whenever you have any sort of injury under the Defense Base Act, you have to demonstrate a causal relationship between the occupational injury and the workplace," he said. "The fact they're somewhere that remote and that isolated and then come up with COVID-19 makes it pretty clear there's going to be that causal link."