



CHIEF FINANCIAL
OFFICER

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 30, 2020

Mr. Ben Eazzetta, CEO
ARES Security Corporation
1924 Old Gallow Road, Suite 410
Vienna, Virginia 22182

Dear Mr. Eazzetta:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated February 19, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20050M906), requesting a fee waiver under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(ii). The fee waiver is specific to ARES Security Corporation's (ARES) request for the coordinating and submission of a topical report to obtain NRC's review and approval of its vulnerability assessment tool, AVERT. This tool is being used at commercial nuclear sites within the United States.

The NRC has established regulations for the granting of fee exemptions under 10 CFR 170.11, "Exemptions," which may be applied for in accordance with 10 CFR 170.5, "Communications."¹ The NRC staff has reviewed your request based on the following regulations:

10 CFR 170.11(a) No application fees, license fees, renewal fees, inspection fees, or special project fees shall be required for: (1) A special project that is a request/report submitted to the NRC— . . . (ii) When the NRC, at the time the request/report is submitted, plans to use the information in response to an NRC request from the Office Director level or above to resolve an identified safety, safeguards, or environmental issue, or to assist the NRC in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins).

10 CFR 170.11(a)(13) All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with § 170.5, and the Chief Financial Officer will grant or deny such requests in writing.

Certain pre-submittal activities with vendors of vulnerability assessment tools may help inform NRC proposed regulatory improvements (e.g., the development of regulatory guidance for staff and industry). These pre-submittal activities can help the NRC better understand vulnerability tools and thereby help the agency evaluate the effectiveness of an NRC licensee's physical protection system designed to meet the performance requirement of 10 CFR 73.55(b)(2) to protect against the design basis threat for radiological sabotage. Additionally, in certain circumstances, these pre-submittal activities will be consistent with prior Commission direction

¹ 10 CFR 170.5 provides that "All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM."

in 2016, Staff Requirements Memoranda to SECY-16-0073, "Options and Recommendations for the Force-on-Force Inspection Program in Response to SRM-SECY-14-0088," which the Commission advised the NRC staff, in part, to "[e]valuate how vulnerability assessments could be used to evaluate the licensee protective strategy [a physical protection system]."

Regarding ARES' waiver request, the NRC is currently developing guidance to establish minimum criteria, standards, and considerations for the acceptable application of vulnerability assessment models. These models will help the NRC to better understand how licensees characterize their facilities, analyze pathways, simulate combat, and determine system effectiveness. The assessments will also provide guidance to users of these models to ensure accurate modeling for realistic results. The pre-submittal activities with ARES will help inform the NRC staff's current initiative to draft staff and industry regulatory guidance. Accordingly, we grant a fee waiver for the cost of the NRC services provided in connection with any ARES pre-submittal activities .

However, the NRC denies ARES' request for a waiver of fees associated with the review of ARES eventual submittal to the NRC. Unlike the pre-submittal activities, which will help the NRC develop needed guidance, the review of ARES' request for NRC endorsement of the AVERT vulnerability assessment software would not appear to be an activity that will help the NRC make generic regulatory improvements or further generic regulatory efforts. Rather, the review would appear to specifically benefit ARES, and for that reason it would not be fee exempted.

In summary, the NRC staff finds that ARES' pre-submittal activities satisfy the requirements stated in 10 CFR 170.11(a)(1)(ii) for a fee waiver because these activities will assist the NRC in generic regulatory improvements or efforts. ARES' submittal of its assessment software for NRC review and endorsement, however, would not qualify for a fee exemption based on the information ARES provided.

If you have any technical questions regarding this matter, please contact Mr. Pete Lee at 301-287-3690. Please contact Ms. Jo Jacobs, of my staff, at 301-415-8388 for any fee-related questions.

Sincerely,

/RA/

Cherish K. Johnson
Chief Financial Officer

SUBJECT: LETTER TO BEN EAZZETTA IN RESPONSE TO FEE WAIVER FOR ARES
 SECURITY DATED: April 30, 2020

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