

Congress of the United States
House of Representatives
Washington, DC 20515-2207

June 22, 2010

The Honorable Vice President Joseph Biden
Office of the Vice President
Room S-212, The Capitol
Washington, DC 20510

Dear Mr. Vice President,

I am writing to alert you to an immediate and growing problem that is costing us American jobs. This situation was brought to my attention by Full Spectrum Solutions of Jackson, Michigan, a company in my congressional district that manufactures and sells energy efficient lighting for offices, homes, industrial use and municipal use, including street lights.

Full Spectrum Solutions has competed for, and is currently competing for, contracts with local units of government who have been awarded Energy Efficiency Community Block Grant funding under the American Recovery and Reinvestment Act (ARRA) which, as you know, includes a Buy American requirement at Section 1605. Full Spectrum Solutions is facing unfair competition from distributors located in the United States who are importing cheap lighting products that are 100% made in China, and then mislabeling and otherwise misrepresenting them as products that are made in the United States, in order to win contracts funded under ARRA. The company has presented me with a binder of information to back up its allegations, which I have summarized in the attached document entitled "Summary of Full Spectrum Solutions' China Problem."

Full Spectrum Solutions is not the only American manufacturer of lighting products that is currently losing sales, and jobs, to companies that are misrepresenting and mislabeling Chinese-made products as "Made in the U.S.A." Other U.S. lighting companies affected or potentially affected by these practices include: LexaLite of Charlevoix, MI; H.E. Williams, Inc. of Carthage, MO; Lithonia Lighting of Conyers, GA; Acuity Brands, Inc. of Atlanta, GA; and Kim Lighting of City of Industry, CA. Additionally, these practices are costing us American jobs in the lighting component supply chain.

Full Spectrum Solutions and my office have attempted to find a resolution to this problem through the U.S. Department of Energy, Office of Energy Efficiency; U.S. Customs and Border Protection; and the International Trade Administration. We have also reviewed the False Claims Act for potential relief. Our efforts have uncovered that there is currently no enforcement mechanism in place to prevent or stop this type of fraudulent activity in a timely enough manner to be effective, particularly regarding contracts that are funded by ARRA. Our efforts to date to try to resolve the problem are detailed in the attached document entitled "Efforts to Resolve Full Spectrum Solutions' China Problem Have So Far Been Unsuccessful."

I am writing to you, Mr. Vice President, because if we don't take immediate action, American jobs will continue to be lost. The financial incentive and opportunity for unscrupulous companies to try to pass off cheap goods made in China as goods that are made in the USA is growing. If unchecked, unscrupulous companies will continue to commit these deceptions to unfairly compete for government contracts that are subject to ARRA and other statutory Buy American requirements, and to unfairly take advantage of the increasing public demand across our nation for American-made products.

I believe potential solutions to this problem could include all of the following, although I would welcome others, as well:

- A mechanism for businesses to report violations they believe to exist, and receive responses "at the speed of business."
 - Businesses in a particular industry are the parties most likely to be aware of the supply chains in their industry; in particular they are likely to have more information than local units of government about where and how products in their industry are made.
 - For reasons of accountability, such a mechanism should not be an anonymous system.
 - Complaints should be required to be accompanied by evidence that substantiates them at the time of submission.
- Increased awareness among buyers at all levels of government about this type of fraudulent activity so those who want to Buy American, or who are required to, can truly do so.
- An up-to-date, on-line resource for potential buyers that lists companies who have been found in violation of Buy American provisions, and companies against whom complaints are outstanding, so buyers can have access to that information as they are reviewing bids they receive.
- Increased public awareness about this type of fraudulent activity so consumers who want to Buy American will know to watch for it.
- More effective civil and criminal penalties to provide a practical, functional deterrent to businesses engaging in this sort of fraud.

Thank you for your attention to this matter. Please feel free to contact me directly, or my Chief of Staff, Ken Brock, if you have any questions or need further information.

Sincerely,



Mark Schauer
Member of Congress

Attachments