



SENATOR THE HON MATHIAS CORMANN
Minister for Finance and the Public Service
Leader of the Government in the Senate

REF: MC18-002381

Mayor David O'Loughlin
President
Australian Local Government Association
8 Geils Court
DEAKIN ACT 2600

Dear Mayor O'Loughlin

Thank you for your letter dated 2 August 2018 regarding two National General Assembly of Local Government resolutions (four and 18), which are relevant to my portfolio.

Resolution four proposes that the Commonwealth adjust procurement policy practices to drive local content supply chain opportunities, specifically in regional areas, and ensure that contracts require local content outcomes that are measureable and accountable where Tier 1 and Tier 2 contractors are engaged.

The Commonwealth Procurement Rules (CPRs) form the basic rule set for all Commonwealth procurement activities. The CPRs incorporate the government procurement commitments from Australia's international trade obligations, which ensure that Australian businesses have access to the Government procurement markets of a number of other countries.

Reflecting our international obligations, the CPRs stress non-discriminatory procurement processes and require that all potential suppliers to government be treated equally, regardless of their size, degree of foreign affiliation or ownership, location, or the origin of their goods or services.

However, there are a range of existing policies in place that support local content and opportunities for Australian businesses, including the Indigenous Procurement Policy and the Australian Industry Participation policies and programs. These policies and programs facilitate the identification of opportunities for local and regional suppliers as well as developing the capability of Australian industry.

The CPRs also facilitate Small and Medium Enterprise (SME) involvement in a number of ways, such as encouraging procuring officials to apply procurement practices that do not unfairly discriminate against SMEs and provide opportunities for them to compete. In addition, the CPRs incorporate a commitment to source at least 10 per cent of procurement by value from SMEs, which is routinely exceeded.

In addition, on 1 March 2017 the CPRs were amended to require Commonwealth agencies to consider the Australian economic benefit when assessing value for money in construction procurements valued above \$7.5 million and all other procurements over \$4 million. The economic benefit will vary depending on the nature of the procurement, including what information and criteria is relevant to the individual procurement process, but can include: building, leasing or procuring infrastructure that supports Australian communities; providing skills and training that benefit Australian communities; and using SMEs in delivering goods and services, such as a subcontractor or a supplier.

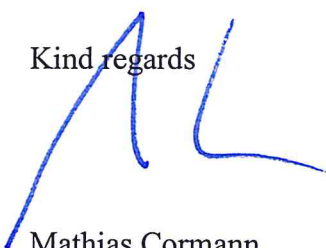
Resolution 18 refers to a national review into land acquisition procedures across all states and territories, and to harmonise state provisions for compensation of land acquisitions. As you are aware, state and territory land acquisitions are governed by the relevant laws and policies of the state or territory in which they occur and do not fall within the Commonwealth's jurisdiction.

The principle legislative basis of the Commonwealth's power to acquire property, including interests in land, is section 51(xxxi) of the Constitution, which empowers the Commonwealth to make laws with respect to the acquisition of property 'on just terms' for any public purpose in respect of which the Federal Parliament has power to make laws. Accordingly, the Lands Acquisition Act 1989 (Cwlth) (LAA) is designed to ensure that Commonwealth land acquisitions – whether by agreement or compulsory process – only occur for an authorised purpose and on just terms. This is an important distinction to state and territory land acquisition legislation that is not subject to a similar limitation.

The Government remains committed to ensuring that Commonwealth legislation is fit for purpose and meets the needs of its citizens. To this end the Government welcomes feedback on its Acts and in particular opportunities to better align provisions across state, territory and Commonwealth land acquisition legislation where appropriate.

I have copied this letter to Senator the Hon Bridget McKenzie, Minister for Local Government and Decentralisation.

Kind regards



Mathias Cormann
Minister for Finance

11 October 2018