

# Procurement Tender Complaints

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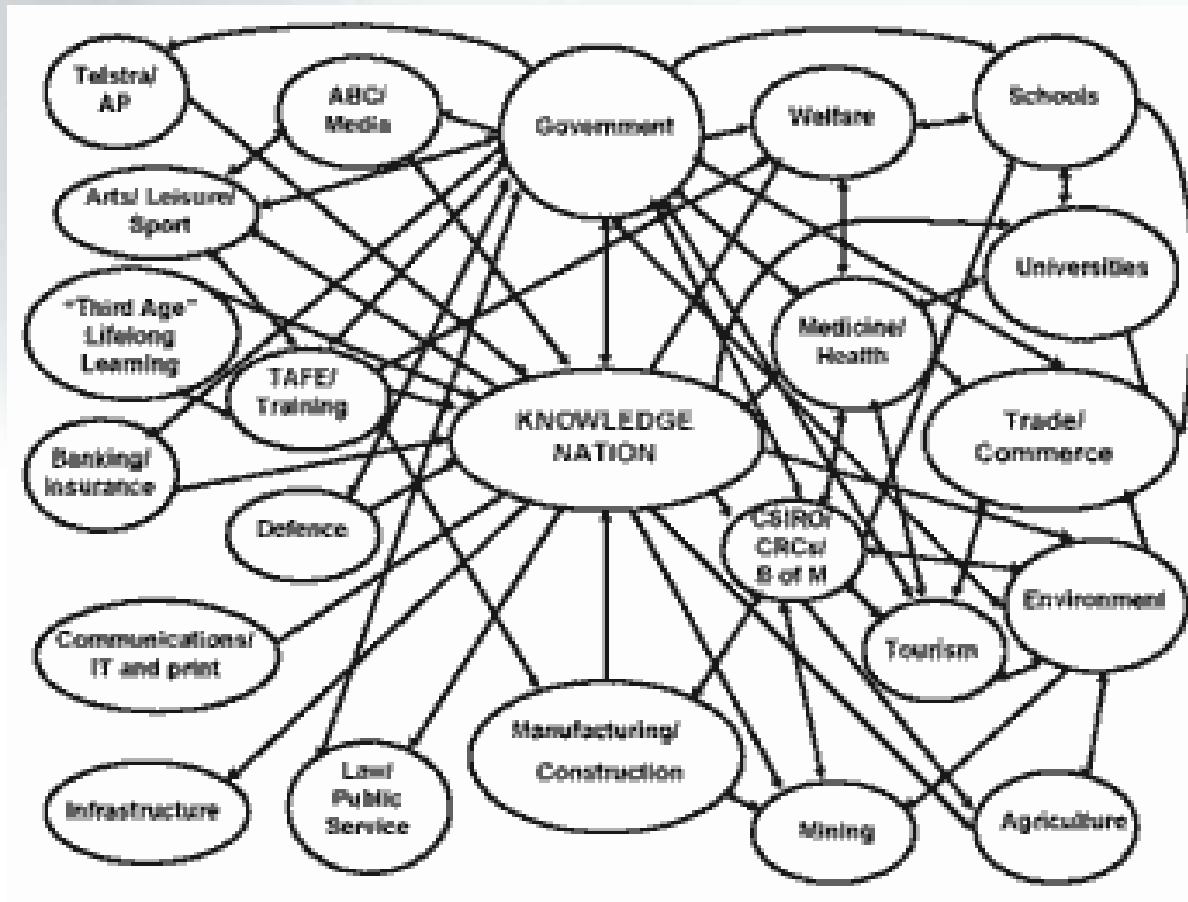
# Outline of Presentation

- i. Origin of tender complaint process
- ii. Complaint handling within DMO
- iii. Legal status of complaint handling

# Origin of tender complaint process

- Under the CPGs Commonwealth agencies have been required to devise complaint handling procedures since 2005.
- This requirement stemmed from Australia entering into the Australia US Free Trade Agreement.
- A clause of the FTA agreement stipulated that government tender decisions be subject to judicial review
- Some of you may be aware that in the US, government procurement is subject judicial oversight

# Complaint handling within DMO



# Complaint handling within Defence & DMO

Clause 7.34 of the CPGs require Commonwealth agencies to apply and publicise...Fair, equitable and non-discriminatory complaint handling procedures.

# Complaint handling within Defence & DMO

- Defence & DMO procedures are set out in Chapter 5.7B of the *Defence Procurement Policy Manual (DPPM)*
- Two Tier review
  - First level-conducted by Chair of Tender Evaluation Board
  - Second level-Independent internal review comprising technical, contracting and legal expertise typically made up of three to four officers

# Legal status of complaint handling

A review of a tender complaint is not strictly a legal process

- Not merits review
- Not judicial review

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## Conclusion

- Since the introduction of complaint procedures, DMO has handled 5 independent internal review complaints.
- Only one of these has been upheld but all have made findings in relation to improvements in process and these have been implemented.
- Demonstrates DMO/Defence treat the process seriously and see it as an opportunity to improve processes.

# Thank You For Your Attention

