



MATOC

A DREDGING CONTRACTOR'S PERSPECTIVE



MATOC History

South Atlantic Division Advertises Dredging MATOC Summer 2007

- All Districts in South Atlantic Division
- All Dredging Projects
- 5 Year Duration
- \$2 Billion in Value
- Best Value Selection Criteria
 - Subjectivity/Discretion
 - Price is Secondary Consideration

Industry Meets With USACE Contracting Officials in Washington, D.C. Fall 2007

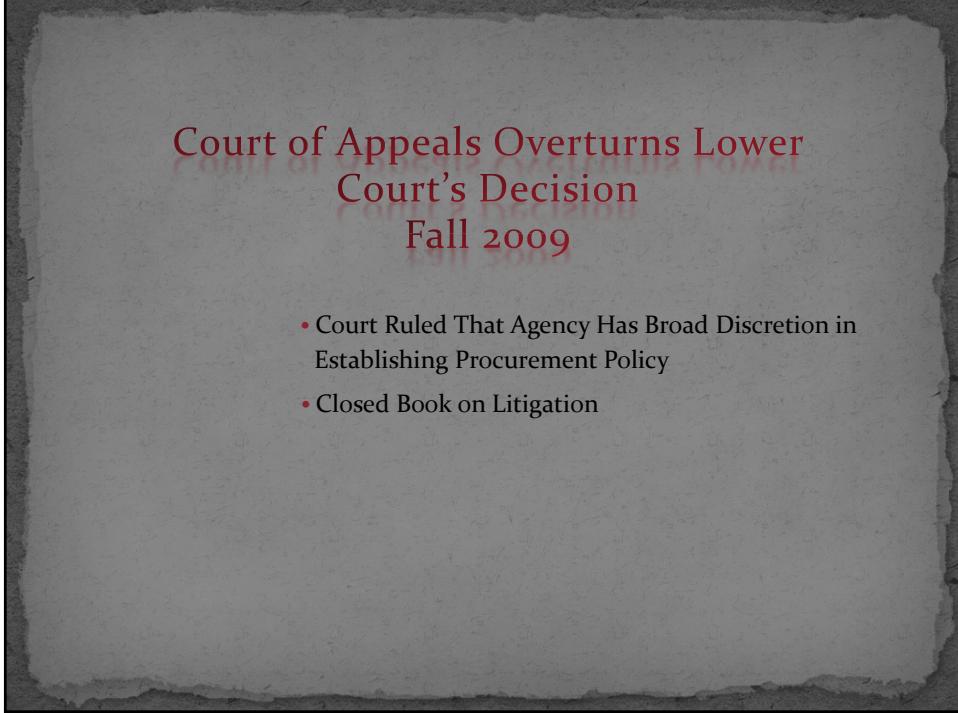
- Discuss Possibility of Modifying Solicitation
- Unable to Resolve

Weeks Marine, Inc. Files Protest with Court of Federal Claims Winter 2007

- Basis of Protest
 - Violates FAR
 - Sealed Bidding Required
 - a) Time Permits
 - b) Discussion Unnecessary
 - c) More Than One Bidder
 - d) Award Based Solely on Price
 - Lacks Rational Basis
- Administrative Record
 - “Shift Command, Control and Orchestration
of Dredging Work Back to the Government”

Court of Federal Claims Upholds Protest Winter 2007

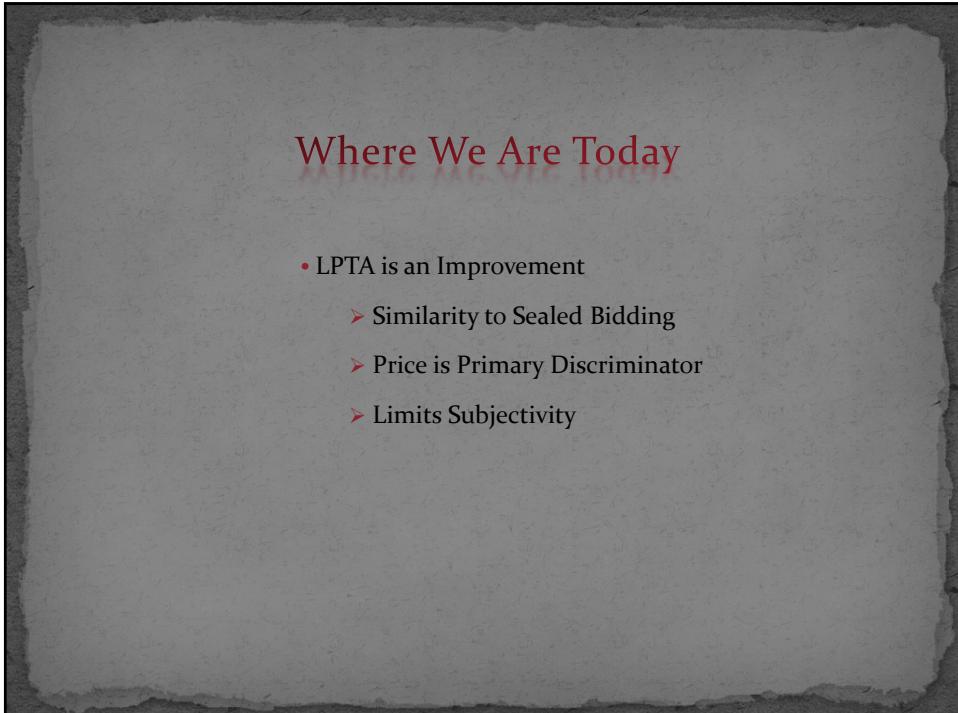
- Violates FAR Regulations
- Lacked a Rational Basis
- “If Not Appropriate for Dredging, It Is Difficult To
Imagine When Sealed Bidding Ought To Be Used”



Court of Appeals Overturns Lower Court's Decision

Fall 2009

- Court Ruled That Agency Has Broad Discretion in Establishing Procurement Policy
- Closed Book on Litigation



Where We Are Today

- LPTA is an Improvement
 - Similarity to Sealed Bidding
 - Price is Primary Discriminator
 - Limits Subjectivity

Concerns Persist

- Uncertainty Associated with Award is Crippling
- Dredging Industry is Unique
- Transparency
- Lack of Judicial Remedies