



LIZ MURRILL  
ATTORNEY GENERAL

STATE OF LOUISIANA  
DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
P.O. BOX 94005  
BATON ROUGE, LA  
70804-9005

May 9, 2025  
OPINION 24-0151

Mr. Jacob Roussel  
Attorney  
Port of South Louisiana  
301 Main Street  
Baton Rouge, Louisiana 70821

90-A-1 PUBLIC FUNDS & CONTRACTS

La. Const. art. VII, § 14  
La. R.S. 38:2211  
La. R.S. 38:2212.1

The Public Bid Law applies to the acquisition of a movable, such as a custom fueling barge.

Dear Mr. Roussel:

On behalf of the Port of South Louisiana, you have requested an opinion of the Attorney General regarding the applicability of the Public Bid Law to the construction or fabrication of a custom fueling barge. Your request has been assigned to me for research and reply.

**Question: Does the Public Bid Law apply to the construction or fabrication of a custom fueling barge?**

**Conclusion: It is the opinion of this office that the contract for the acquisition of a custom fueling barge falls under the provisions of the Louisiana Public Bid Law.**

According to your request, the Port of South Louisiana ("Port") intends to contract for the construction of an E-Methanol Hydrogen Fueling Barge ("Barge"). This project will involve building and assembling the Barge in accordance with the plans and specifications issued by your designer, Elliot Bay Design Group ("EBDG"). The Port seeks to know if this project falls within the definition of a "public work" under the Public Bid Law.

The Port is a political subdivision of the state. La. R.S. 34:2471. As a political subdivision of the state, the Port is a public entity subject to the provisions of the Public Bid Law. La. R.S. 38:2211. The Louisiana Public Bid Law, as outlined in La. R.S. 38:2211 *et seq.*, governs contracts which relate to public works by public entities. *Id.* It mandates that public works and procurement of certain materials and supplies for public entities be subject to bidding procedures to ensure fair and transparent use of public funds. *Broadmoor, L.L.C. v. Ernest N. Morial New Orleans Exhibition Hall Auth.*, 2004-0211 (La. 3/18/04), 867 So. 2d 651, 656. The purpose of the law is to prevent public officials from awarding contracts on the basis of favoritism or at possibly exorbitant and extortionate prices. *Airline Const. Co. v. Ascension Par. Sch. Bd.*, 568 So. 2d 1029 (La. 1990). "Public

work” means the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity. La. R.S. 38:2211(A)(13).

A barge is a vessel that floats on water and by its design is considered a movable. *Mallard Bay Drilling, Inc. v. Kennedy*, 2004-1089 (La. 6/29/05), 914 So.2d 533, 549 (A barge is generally defined as a long, large, usually flatbottom boat for transporting freight that is generally unpowered and towed or pushed by other craft.); *see also Orgeron v. Avondale Shipyards, Inc.*, 561 So.2d 38 (La. 1990). As such, it appears the Barge would not meet the statutory definition of a public work, as it is a movable. La. R.S. 38:2211(A)(13).

Because the proposed Barge will not be considered a public work, the Public Bid Law would only apply if this particular project would be considered a “purchase of materials or supplies.” Our office has opined several times that the purchase of a vehicle, including a vessel, falls under the provisions of the Public Bid Law governing the purchase of materials and supplies. La. Atty. Gen. Op. Nos. 03-0357, 98-223, 92-725, and 86-173.

You mentioned in your request that the level of customization involved in the construction of the Barge may qualify this project as a contract to build rather than a “purchase of materials and supplies.” You specifically note that Louisiana law has set forth three major factors to determine whether a contract is a contract of sale or a contract to build or to work by the job. *See Law Enforcement District of Jefferson Parish v. Mapp Construction, LLC*, 2019-543 (La. App. 5 Cir. 5/29/20), 296 So.3d 1260, 1267-68. While such a determination could potentially remove this project from the governance of the Public Bid Law, we note that these three factors are used in claims for redhibition, not for Public Bid Law. *See First Am. Bankcard, Inc. v. Smart Bus. Tech., Inc.*, 178 F.Supp.3d 390 (E.D. La.2016).

Additionally, even though materials and supplies are not explicitly defined under the Public Bid Law, the law has been interpreted broadly to include standard items and specialized or custom-fabricated items when the end result is a tangible good owned by the public entity. Examples of such items are law enforcement vehicles and fire service vehicles that are customized on the specific needs and use of the public entity.

Even though the barge is built from the ground up to unique specifications, it remains a purchase of a tangible item – the completed barge – for the Port. The fact that it is customized and built-to-order does not negate its status as a “material or supply” for Public Bid Law purposes.

Considering the foregoing, it is the opinion of this office that the acquisition of a custom fueling barge by the Port of South Louisiana would be governed by the provisions of the Public Bid Law. We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

Yours very truly,

LIZ MURRILL  
ATTORNEY GENERAL

BY: *czachary*  
Chelsea Zachary  
Assistant Attorney General

LM/CZ