Maritime or inland port or other terminal facilities

1. A local authority which exploits a geographical area for the purpose of providing maritime or inland port or other terminal facilities to carriers by sea or inland waterway
2. A harbour authority within the meaning of section 57 of the *Harbours Act 1964*
3. A harbour authority as defined by section 38(1) of the *Harbours Act (Northern Ireland) 1970*

Contracting entities in the field of urban railway, tramway, trolleybus or bus services

1. London Bus Services Limited
2. London Underground Limited
3. Transport for London
4. A subsidiary of Transport for London within the meaning of section 424(1) of the *Greater London Authority Act 1999*
5. Strathclyde Partnership for Transport
6. Transport for Greater Manchester
7. Tyne and Wear Passenger Transport (trading as Nexus)
8. Brighton and Hove City Council
9. South Yorkshire Passenger Transport Executive
10. Blackpool Transport Services Limited
11. Conwy County Borough Council
12. A person who provides a London local service as defined in section 179(1) of the *Greater London Authority Act 1999* (a bus service) in pursuance of an agreement entered into by Transport for London under section 156(2) of that Act or in pursuance of a transport subsidiary's agreement as defined in section 169 of that Act
13. Northern Ireland Transport Holding Company
14. A person who holds a bus operator's licence under section 4(1) of the *Transport Act (Northern Ireland) 1967* which authorises that person to provide a regular service within the meaning of that licence

Contracting entities in the field of rail services

1. Network Rail plc
2. Northern Ireland Transport Holding Company
3. Northern Ireland Railways Company Limited
4. Providers of rail services which operate on the basis of special or exclusive rights granted by the Department of Transport or any other competent authority

Notes to Section C:

1. Procurement for the pursuit of an activity listed above when exposed to competitive forces in the market concerned is not covered by Chapter 15 (Government Procurement).

2. Chapter 15 (Government Procurement) does not cover procurement by procuring entities included in this Section:

(a) for the purchase of water and for the supply of energy or of fuels for the production of energy;

(b) for purposes other than the pursuit of their activities as listed in this Section or for the pursuit of such activities outside of the United Kingdom; or

(c) for purposes of re-sale or hire to third parties, provided that the procuring entity enjoys no special or exclusive right to sell or hire the subject of such contracts and other entities are free to sell or hire it under the same conditions as the procuring entity.

3. The supply of drinking water or electricity to networks which provide a service to the public by a procuring entity other than a contracting authority shall not be considered as an activity within the meaning of subparagraphs 1(b)(i) or 1(b)(ii) of this Section if:

(a) the production of drinking water or electricity by the entity concerned takes place because its consumption is necessary for carrying out an activity other than that referred to in subparagraphs 1(b)(i) through 1(b)(vi) of this Section; and

(b) supply to the public network depends only on the entity's own consumption and has not exceeded 30 per cent of the entity's total production of drinking water or energy, having regard to the average for the preceding three years, including the current year.

4. Chapter 15 (Government Procurement) does not cover procurement:

(a) by a procuring entity to an affiliated undertaking;[4] or

(b) by a joint venture, formed exclusively by a number of procuring entities for the purpose of carrying out activities within the meaning of subparagraphs 1(b)(i) through 1(b)(vi) of this Section, to an undertaking which is affiliated with one of these procuring entities,

for services or supplies contracts provided that at least 80 per cent of the average turnover of the affiliated undertaking with respect to services or supplies for the preceding three years

[4] **affiliated undertaking** means any undertaking over which the procuring entity may exercise, directly or indirectly, a dominant influence, or which may exercise a dominant influence over the procuring entity, or which, in common with the procuring entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation or the rules which govern it.