

FEDERAL RESERVE BANK OF NEW YORK

NEW YORK, N.Y. 10045-0001

AREA CODE 212-720-5000

April 9, 2009

**McKinsey & Company, Inc. Washington, DC**  
**600 14<sup>th</sup> Street, NW, Suite 200**  
**Washington, DC 20005**  
**Attn:**

Dear

This letter sets forth the agreement between McKinsey & Company, Inc. Washington DC (the "Vendor") and the Federal Reserve Bank of New York (the "Bank"), a corporation organized under the laws of the United States (the "Agreement"), pursuant to which the Vendor will provide skilled consultants to assist the Bank in expanding the Term Asset-Backed Securities Loan Facility ("TALF"). Accordingly, effective as of March 23, 2009, the Bank and the Vendor agree as follows:

**I. Consultant Services**

The Vendor agrees to provide the services described in Section II below at the price specified in Exhibit A, consisting of the March 23, 2009 letter from \_\_\_\_\_, which Exhibit is attached hereto and made a part hereof. The Bank and Vendor may agree to extend the term of this agreement or expand the team provided by Vendor by a writing signed by both parties. The Bank shall also have the right to interview and approve or disapprove each consultant prior to assignment to the Bank. If any consultant is unacceptable to the Bank, the Vendor will propose another similarly qualified individual acceptable to the Bank.

**II. Scope of the Project**

The Consultant will perform or provide the following at the direction of the Bank and the Bank's designated employees or agents:

- A. Recommendations and analysis regarding the selection and engagement of service providers to carry out tasks necessary for implementing TALF 2.0 and Legacy TALF.
- B. Recommendations on other aspects of TALF 2.0 and Legacy TALF in order to better achieve the objectives of the program.
- C. Consulting with and advising the Bank team on other matters relevant to TALF as directed by the Bank.

### **III. Conditions of the Project**

- A. The Consultant will perform work at the Bank's facilities. The Consultant shall have access to the Bank's facilities during the Bank's normal business hours or at other times with the Bank's prior written permission. The Bank reserves the right to adjust the Consultant's working hours based upon the availability of computer time or other factors. The Consultant will observe the Bank's holidays unless otherwise authorized in writing by the Bank.
- B. Vendor, its agents and employees shall abide by any of the Bank's security arrangements. The Vendor hereby agrees that the Bank may at any time perform background checks on any employee or agent of the Vendor that has been granted physical access to the Bank or access to the Bank's computer systems (including, but not limited to, criminal background checks, drug testing of Consultants working on this engagement by the Bank's agents, fingerprinting, credit history checks and prior-employer reference checks) and that the Consultant hereby consents to and will cooperate fully in such matters. Vendor also agrees that any security related question concerning any employee or agent of the Vendor may constitute grounds for removal from the Bank at any time. Vendor further agrees that any employees or agents of the Vendor will immediately terminate all electronic and/or physical means of accessing the Bank, and will return all property and data belonging to the Bank, upon termination of this Agreement.
- C. Because of the sensitive and confidential information about the Bank's business affairs, operation and security procedures which the Vendor may be given or have access to during the term of this Agreement, the Bank will conduct background investigations of Vendor at Vendor's expense. In the Bank's sole discretion, the Bank may conduct more than one such background investigation during the term of this Agreement and such investigations may include, but not be limited to, researching the Vendor's ownership, business history and record of ethical

conduct. If: (i) the Vendor fails to promptly cooperate with any such background investigations; or (ii) the Bank determines, in its sole discretion, that the results of any background investigation are not satisfactory to the Bank, the Bank may, at its sole option, terminate this Agreement immediately and without any liability on behalf of the Bank, other than to pay Vendor of any services that have been properly rendered under this Agreement as of the date of termination. In the event the Bank terminates this Agreement in connection with an unsatisfactory background check, the Bank shall have no obligation to inform the Vendor of the specific results of the background check or why the Bank deemed those results unsatisfactory.

- D. All original written material, including programs, tapes, listings, and other programming documentation originated and prepared for the Bank pursuant to this Agreement shall belong exclusively to the Bank, however, except that Vendor retains all right, title and interest, including, without limitation, intellectual property rights, in and to the "Vendor Tools" (as defined below). To the extent that the Vendor deliverables include any Vendor Tools, Vendor hereby grants to the Bank a non-exclusive, non-transferable, non-sublicenseable, worldwide, royalty-free, perpetual license to use and copy the Vendor Tools solely for internal purposes and solely as part of the Vendor deliverables. The "Vendor Tools" consist of any and all proprietary analytical concepts, tools, frameworks, and models used by Vendor in connection with services hereunder. "Internal Use" shall be defined as any use benefiting any or all of the twelve Federal Reserve Banks, the Board of Governors of the Federal Reserve System, and the United States Department of the Treasury ("Treasury") whenever the Bank acts as fiscal agent to the Treasury.
- E. All inventions, discoveries or improvements, other than those which include Vendor Tools, shall be likewise the sole property of the Bank. Ideas, concepts, know-how or techniques related to the services provided hereunder which are developed by Vendor personnel under this Agreement, can be used by the Bank and the Vendor in any way they may deem appropriate.
- F. The Vendor or any consultant shall provide a written report concerning the services rendered under this Agreement, if so requested by the Bank.

#### **IV. Term and Termination**

- A. Unless terminated sooner pursuant to Sub-Section B below, the initial term of the engagement for this Agreement shall be two weeks commencing on March 23, 2009 unless extended by mutual consent of the parties.

- B. This Agreement may be terminated at any time in whole or in part at the option of the Bank for any reason or no reason. The right of termination provided in this Section is in addition to any other remedy available to Bank. If this Agreement is terminated by the Bank, Bank will pay Vendor only the pro rata portion of the fee accrued prior to such cancellation.

V. **Payment**

- A. The Bank agrees to pay the Vendor a fixed fee for the services of the Consultant as described in Exhibit A.
- B. The parties may extend the expected period of service specified in Exhibit A by agreement in accordance with Exhibit A.
- C. Properly billed amounts shall be paid by the Bank within thirty (30) days of receipt of Vendor's invoice. All payments properly due from the Bank to Vendor pursuant to this Agreement will be made by electronic funds transfer into a deposit account specified in writing by the Vendor to the Bank. Vendor's written account notice to the Bank (the "Account Notice") shall include the Vendor Profile Form to be provided to the Vendor by the Bank, and shall include the name of the Vendor's bank, the ABA routing number for that bank, and Vendor's account number. The Bank shall not be required to make any payments pursuant to this Agreement until Vendor provides a proper Account Notice to the Bank. Vendor agrees that the Bank shall have no liability for payments which are misdirected as a result of inaccuracies in the Account Notice. Vendor also agrees to give the Bank immediate telephone notification whenever there is a change in the written account notice information contained in the Account Notice, followed by written notification within three (3) business days in the form of a new Account Notice. Upon receipt of the new Account Notice, the Bank will cause future payments to be made pursuant to the new Account Notice, effective no later than five (5) business days after receipt of such Account Notice.
- D. No overtime charges, per diem or living or travel expenses associated with work performed by the Vendor or any consultant will be charged to or paid by the Bank except unless agreed to in writing by the Bank prior to the incursion of such charges.
- E. Charges under this Agreement shall be exclusive of Federal, State, county or local sales, use, excise or other taxes, however designated, from which the Bank, as a Federal Reserve Bank, is exempt pursuant to the third paragraph of Section 7 of the Federal Reserve Act (12 U.S.C. § 531).

## VI. Removal of the Consultant

### A. By the Vendor

The Vendor agrees that it will not voluntarily remove any consultant provided hereunder without the Bank's prior written consent. If any consultant assigned to the Bank hereunder ceases to perform services for the Bank for reasons beyond the control of the Vendor, the Vendor will use its best efforts to replace promptly such individual with another similarly qualified person acceptable to the Bank.

### B. By the Bank

#### 1. Without Cause

- a. The Bank may terminate the services of any consultant provided under this Agreement by notifying the Vendor in writing five (5) days in advance of any such termination, and by providing a non-discriminatory reason for such removal.
- b. In the event of such termination, the Bank will be liable to the Vendor only for such amounts properly charged for the services of such consultant through the date of such termination.

#### 2. With Cause

- a. The Bank may require the Vendor to remove immediately any consultant assigned to perform services under this Agreement for cause. The Bank shall have cause to require immediate removal if the Bank reasonably believes that any consultant has, through any willful or negligent act or omission, caused damage to the Bank's property, personal injury to Bank employees or invitees, or breached any of the confidentiality requirements of this Agreement.
- b. The Bank may require the Vendor to remove immediately any consultant assigned to perform services under this Agreement for non-performance of assigned tasks. Non-performance of assigned tasks shall mean the consultant's inability, for any reason, other than through some fault of the Bank, third parties or Acts of God, to complete successfully assigned tasks in a timely fashion.

- c. In the event of the termination of any consultant pursuant to Sub-Sections (a) or (b) above, the Bank will be liable to the Vendor only for such amounts properly charged for the services of such consultant through the date of such termination.
3. In the event that the services of any consultant are terminated by the Bank, the Vendor shall utilize its best efforts to provide a replacement consultant suitable to the Bank if the Bank so requests.

## VII. Confidentiality

- A. The Vendor acknowledges that all information and material provided by the Bank to the Vendor pursuant to this Agreement, including, but not limited to:
  1. material related to the Bank's data processing systems, applications, procedures, policies and standards;
  2. the physical security of the Bank;
  3. economic data;
  4. financial, statistical and personnel data pertaining to member banks of the Federal Reserve System, Foreign Central Banks and International Organizations, the United States Treasury, and all other financial institutions; and
  5. financial, statistical, personnel, planning and similar information relating to the past, present or future activities of the Bank which has or will come into the possession or knowledge of the Vendor in connection with this Agreement or any other prior agreement with the Bank or the performance hereof,

shall be considered to be confidential and proprietary, the disclosure of which to third parties, or use by third parties will be damaging to the Bank. The Vendor, therefore, agrees to use such information only for the Bank's benefit and will use the same effort to avoid publication or dissemination of such information as it employs with respect to the Vendor's own confidential information.

- B. The Vendor agrees that it will require its agents or employees that have access to the Bank confidential technical data, by means of appropriate written agreements,

neither to copy nor disclose such data to third parties without the Bank's prior written consent.

- C. The Vendor agrees to take all reasonable measures to enforce its agreements with its agents and employees required above and to recover any data or information wrongfully disclosed under the above provisions.

### **VIII. Advertising**

The Bank and the Vendor agree that each shall not use the Bank's or Vendor's name in any communication external to the Bank or the Vendor for any purpose including without limitation in press releases, web sites, offering memoranda, and conversations with analysts and shall not publicize in any way the relationship of the Bank and the Vendor without the prior written consent of the Bank or the Vendor as applicable.

### **IX. Status of Consultant**

The Vendor acknowledges that any consultant performing services for the Bank under this Agreement shall be deemed an independent contractor during the course of the performance of such services and shall not for any purpose be deemed an employee of this Bank within the meaning of any Federal or State income tax law, unemployment insurance law, workers' compensation law or similar law. As employer of such persons, the Vendor agrees to withhold from their wages and make payment of Federal income taxes and Federal Insurance Contribution Act taxes, in such amounts as may be required under applicable law. The Vendor further agrees to provide for the payment of any workers' compensation benefits, disability benefits, and unemployment benefits to which such persons may be entitled.

### **X. Non-solicitation of Employees**

Neither the Vendor nor the Bank shall solicit the other's employees associated with this Agreement for the purposes of employment while this Agreement is in effect, and for a period of six (6) months after this Agreement terminates or expires without the other's prior written consent. Notwithstanding the foregoing, in the event the Bank hires an employee of the Vendor, upon request the Bank will pay the Vendor no more than five percent (5%) of said employees' first year salary at the Bank. Notwithstanding the foregoing, Vendor shall not be precluded from hiring any such employee who: initiates discussions regarding such employment without any direct or indirect solicitation by Vendor or responds to any general, public advertisement placed by the Vendor.

## **XI. Intellectual Property Infringement**

- A. Notwithstanding anything in this Agreement to the contrary, the Vendor will defend or settle at its own expense any suit, claim, or proceeding brought against the Bank based on a claim that any of the work performed under this Agreement constitutes a theft or appropriation of proprietary information or trade secrets. The Vendor will pay all damages and reasonable costs (including attorneys' fees) incurred by the Bank in connection therewith. If any software or other work product produced under this Agreement is held to constitute an infringement and its use enjoined, the Vendor shall, at its own expense, exercise due diligence to accomplish the following remedies:
1. Obtain for the Bank the right to continue to use such program or work product; or
  2. Modify such program or work product so that it is not infringing and yet performs in accordance with the Bank's specifications.
- B. During and after the term of this Agreement, the Vendor shall not assert or permit any other party to assert against the Bank or its vendors and customers, mediate or immediate, any patent or other rights that the Vendor or any consultant has or may assert because of the practice of any process or the manufacture, use, sale or any product by the Bank arising out of the subject matter of this Agreement.

## **XII. Indemnity for injury**

Each party ("Indemnifying Party") shall indemnify and hold harmless the other party ("Indemnified Party") and the Indemnified Party's agents and employees from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of or resulting from the performance of services pursuant to this Agreement, provided that such claim, damage, loss or expense:

- A. Is attributable to bodily injury, sickness or disease or death, or to injury or destruction of property, including the loss of use resulting therefrom; and
- B. Is caused in whole or in part by a negligent act or omission of the Indemnifying Party, or any subcontractor of the Indemnifying Party, or anyone directly or indirectly employed by the Indemnifying Party for whose act such party may be liable, regardless of whether or not indemnified hereunder.

**XIII. Insurance**

The Vendor shall maintain the following insurance in such form and with such companies as are acceptable to the Bank which shall not be canceled except upon ten (10) days' prior written notice from such company to the Bank:

- A. Workers' Compensation and Employer's Liability insurance as required by law; and
- B. Comprehensive General Liability insurance with limits of not less than \$1,000,000 for bodily injury, including death, to any one person and \$2,000,000 for each accident and not less than \$1,000,000 for each occurrence of property damage.

The Vendor shall, upon the Bank's request, provide a certificate of such insurance.

**XIV. Professional Warranty**

All services shall be performed in a professional manner, in accordance with the high standards of the Vendor's profession, and with a level of care, skill, diligence, and technical skill commensurate with the requirements of the scope of services to be performed under this Agreement. Vendor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and other items and services furnished under this Agreement. If Vendor fails to meet applicable professional standards, or the requirements of this Agreement, Vendor shall, without additional compensation, immediately correct or revise any errors or deficiencies.

**XV. Miscellaneous**

- A. Notices
  - 1. Notices to the Vendor should be sent to the address set forth above, or to such other address as may be designated to the Bank by the Vendor in writing.
  - 2. Notices to the Bank should be sent to:

Federal Reserve Bank of New York  
33 Liberty Street  
New York, NY 10045

or such other address as may be designated to the Vendor by the Bank in writing.

B. Governing Law and Jurisdiction

1. This Agreement and the rights and obligations under this Agreement shall be governed by and construed in accordance with the Federal law of the United States of America and, in the absence of controlling Federal law, in accordance with the laws of the State of New York, notwithstanding New York's conflict of law rules. The exclusive jurisdiction for any legal proceeding regarding this Agreement shall be the United States District Court for the Southern District of New York located in New York, New York, and the parties hereof expressly submit to the jurisdiction of that court.

C. Survival

The following Sections shall survive termination or expiration of this Agreement: VII (Confidentiality); VIII (Advertising); IX (Status of Consultant); X (Non-Solicitation of Employees); XI (Intellectual Property Infringement); XII (Indemnity for Injury); and XVI (Conflicts of Interest) and shall bind the Bank and the Vendor and their successors and assigns.

- D. The titles provided in this Agreement are provided for the convenience of the parties, and are not to be construed as influencing the meaning of any Section of this Agreement in any manner whatsoever.
- E. This Agreement (including all Schedule A's subsequently executed and resumes subsequently attached to such Schedule A's) supersedes all oral and written agreements, if any, between the Vendor and the Bank with respect to the subject matter of this Agreement, and may not be modified except by a writing signed by both parties.
- F. This Agreement is for the personal services of the Vendor and any consultant and may not be transferred or assigned by the Vendor without the prior written consent of the Bank.

**XVI. Conflicts of Interest**

During the term of this engagement, Vendor shall advise the Bank prior to undertaking any activity that Vendor has identified in good faith as giving rise to an actual or perceived conflict of interest with respect to this engagement. Vendor and the Bank shall exercise common sense, good judgment, and sound discretion to neutralize or mitigate any conflicts in the best interests of the parties. If, in the judgment of the Bank the conflict cannot be effectively mitigated or neutralized, the Bank may direct Vendor to cease participating in the activity giving rise to the conflict.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement on the dates set forth below.

***AGREED:***

**McKinsey & Company, Inc.  
Washington, DC**

***AGREED:***

**Federal Reserve Bank of  
New York**

**Exhibit A**

March 23, 2009 letter  
to

# McKinsey&Company

March 23, 2009

Federal Reserve Bank of New York  
33 Liberty St, 9<sup>th</sup> Floor  
New York, NY 10045

Dear

McKinsey & Company, Inc. Washington, D.C. is pleased to accept the Federal Reserve Bank of New York's Request for Consulting Services regarding the TALF engagement. Our team structure for this engagement comprises an engagement manager plus one associate for two weeks. The total firm-fixed price for this effort is \$161,752.86. If further support is needed after two weeks, we will revisit the team structure and associated fees at that time. Attached is our government pricing schedule for your reference.

This acceptance is conditioned upon receiving a contract from the Federal Reserve Bank of New York with the same terms and conditions as the successfully negotiated contract with the Bank dated September 2, 2008.

We look forward to working with you. Please do not hesitate to contact me at  
with any questions.

Regards,

Principal

# General Services Administration Federal Supply Service

*Authorized Federal Supply Schedule Pricelist for  
McKinsey & Company, Inc. Washington, D.C.*

**Supplement No. 3 effective May 1, 2008**

## **GENERAL SERVICES ADMINISTRATION INFORMATION**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA Advantage!™, a menu-driven database system. The INTERNET address for GSA Advantage!™ is: <http://www.gsa.gov>

Schedule Title: Mission Oriented Business Integrated Services (MOBIS)

Special Item Number (SIN) offered: Consulting Services

Contract number:

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at [fss.gsa.gov](http://fss.gsa.gov).

Contract period: January 27, 2006 to January 27, 2011

Contractor's name and contact information: McKinsey & Company, Inc.  
Washington, DC, 600 14<sup>th</sup> St., NW Suite 200, Washington, DC 20005,

Type of contractor: Large

## CUSTOMER INFORMATION

1a.

SIN number offered	SIN name
	Consulting services

McKinsey & Company, Inc. Washington, D.C. (McKinsey Washington) works to help clients achieve substantial, lasting improvements in their performance. To do so, we establish working relationships with senior leaders, explore their aspirations and challenges, and jointly define engagements that have the potential for lasting impact. McKinsey Washington will provide expert consulting services to customers on issues such as strategy, organization, operations, and business technology.

1b. Lowest price model number/Lowest unit price

McKinsey Washington is offering four different teams to its customers under SIN. These four teams are described briefly below. The table that follows indicates the government price for each team.

1. **Team A** comprises of an engagement manager and an associate, both of whom are devoted exclusively to the engagement. They receive ongoing support and guidance from an engagement director and other senior leaders. Engagement directors and other senior leaders typically divide their time between two to three engagements at any one time.
2. **Team B** includes an engagement manager and two associates, all three of whom are devoted exclusively to the engagement. They receive ongoing guidance and support from an engagement director and guidance from an engagement director and other senior leaders. Engagement directors and other senior leaders typically divide their time between two to three engagements at any one time.
3. **Team C** is a larger version of Team B, comprising one engagement manager and three associates, all of whom are devoted exclusively to the engagement. They receive ongoing guidance and support from an engagement director and guidance from an engagement director and other senior leaders. Engagement directors and other senior leaders typically divide their time between two to three engagements at any one time.

4. **Team E** is our smallest team. It provides our services to clients who do not need a full-fledged engagement team and is often used for implementation support or counseling efforts. The team comprises an associate (who is devoted exclusively to the engagement) and may include an engagement director. The team does not include an engagement manager and typically does not include additional leadership support.

Each of the five types of teams also draws upon the worldwide resources available from McKinsey affiliates, including a research and information network of 1,200 people and over 20 global functional and industry practices.

<b>Team Type</b>	<b>Brief Team Description</b>	<b>GSA Weekly Price</b>
Team A	EM+1	\$75,585.45
Team B	EM+2	\$93,288.00
Team C	EM+3	\$116,374.75
Team E	No EM, 1 Associate	\$31,195.51

1c. Hourly rates: Not applicable

2. Maximum order: \$1,000,000.00

3. Minimum order: \$300.00

4. Geographic coverage: domestic and overseas

5. Point(s) of Production (City, County, and State or Foreign Country): Not Applicable

6. Discount from list prices: Discounts are reflected in the prices shown in 1b.

7. Quantity Discount(s): None

8. Prompt Payment Terms: None

9a. Credit card acceptance: McKinsey Washington will accept payment by government purchase card for purchases at or below the micro-purchase threshold of \$2,500.

9a. Credit card acceptance: McKinsey Washington verifies that the firm will not accept payment by purchase card in accordance with clause 552.232-77, Payment by Government Commercial Purchase Card for purchases over the micro-purchase threshold of \$2,500.

10. Foreign items: None

11a. Time of delivery: Specified on each Task Order

11b. Expedited delivery: Not applicable

11c. Overnight and 2-day delivery: Not applicable

11d. Urgent Requirements. Not applicable

12. FOB points: Destination

13a. Ordering address

McKinsey & Company, Inc. Washington, DC  
600 14<sup>th</sup> St., McKinsey NW, Suite 200  
Washington, DC 20005

Attention:

Telephone

Fax: \_ \_

Email:

13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPAs), and a sample BPA can be found at the GSA/FSS Schedule homepage ([fss.gsa.gov/schedules](http://fss.gsa.gov/schedules)).

14. Payment information:

*Wire transfer payments:*

McKinsey & Company, Inc. – United States

Citibank N.A.

Bank Account Number:

Bank ABA Routing Number

*By check:*

McKinsey & Company, Inc. – United States  
P.O. Box 7247-7255  
Philadelphia, PA 19170-7255

Federal tax ID#:

15. Warranty: Not applicable

16. Export packing changes: Not applicable

17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level): Not applicable

18. Terms and conditions of rental, maintenance, and repair: Not applicable

19. Terms and conditions of installation: Not applicable

20. Terms and conditions of repairs parts indicating date of parts price lists and any discounts from list prices: Not applicable

20a. Terms and conditions for any other services: Not applicable

21. List of service and distribution points: Not applicable

22. List of participating dealers: Not applicable

23. Preventive maintenance: Not applicable

24. Special Attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants): Not applicable

24b. Section 508 Compliance: Not applicable

25. Data Universal Number (DUNS) Number:

26. Registration in Central Contractor Registration (CCR) Database: McKinsey & Company, Inc. Washington, D.C. is registered in the Central Contractor Registration (CCR) Database.

27. Uncompensated overtime: not used for offered services



FEDERAL RESERVE BANK OF NEW YORK  
33 LIBERTY STREET  
NEW YORK, NY 10045-0001  
TELEPHONE

July 15, 2009

VIA FEDEX

McKinsey & Company, Inc. Washington, DC  
600 14<sup>th</sup> Street, NW, Suite 200  
Washington, DC 20005

The Federal Reserve Bank of New York is pleased to confirm our acceptance of the continuing consulting support provided by McKinsey & Company, Inc. Washington, D.C. for the time period and the firm fixed price described in your April 20, 2009 letter to me. As we discussed, the continuing support is being provided under the terms of the agreement contained in my April 9, 2009 letter to you.

In addition, we request that McKinsey & Company further extend the engagement by deploying an engagement manager plus two associates for an indefinite period at a rate for each two weeks (\$199,636.32). This further extension will end at a time designated by the Bank, unless McKinsey terminates earlier in accordance with the terms of the April 9, 2009 agreement.

Please confirm that this further extension is acceptable to McKinsey & Company.

Sincerely,