

Fundamental Research Determination Request Letter Templates
For use with Pass-Through Entities with Federal Prime Contract Sponsors

Option 1: Request incorporated into proposal cover letter (can be easily modified for prime contract request)

Dear [Contact],

Attached for your review and evaluation is our proposal entitled "[Title]," submitted by [Institution Name]'s Dr. [Name].

The budget for the project is \$ [Total Cost] and the inclusive dates are expected to be [Dates]. The work described in this proposal is fundamental research intended to advance the state of the art and result in open scientific publications; as such, there should be no limitation on the freedom to publish or handle research results or data, nor restrictions on the citizenship or national origin of those performing the research. No "covered defense information," as defined in DFARS 252.204-7012, will be collected, developed, received, transmitted, used, or stored by [Institution] to support the performance of this work.

To ensure that terms appropriate to [Institution]'s proposed work are included in the prime contract and to ensure the timely execution of a resulting subcontract, it is imperative that [Pass-Through Entity Sponsor] communicate [Institution]'s fundamental research assertion to the Government Contracting Officer at the time of your prime proposal. If it is anticipated that DFARS 252.204-7000 will be incorporated into [Pass-Through Entity Sponsor]'s contract, [Institution] will require the Government Contracting Officer's written confirmation that the work under [Institution]'s subcontract is fundamental research.

We would be happy to provide additional information at the appropriate time in order to assist you in securing this determination. Should the Government decline to make a determination of fundamental research, [Institution] reserves the right to revise its proposed budget at any time to the extent it would incur additional costs to comply with security regulations.

[Institution] reserves the right to negotiate mutually agreeable award terms as appropriate for an educational institution conducting research as part of its core mission. For additional assistance or questions on this submission, contact [Insert Contact Name].

Sincerely,

Option 2: Request sent separately from cover letter, but at proposal stage

Dear [Contact],

[Institution] looks forward to its potential collaboration with [Pass-Through Entity Sponsor] on [Pass-Through Entity Sponsor]'s prime proposal to [Prime Sponsor Agency Name] in response to solicitation [Solicitation Number]. We have just submitted under separate cover [Proposal Reference Number and Title], and I am writing to request your assistance in communicating our fundamental research assertion to the Government Contracting Officer as part of your prime proposal.

As stated in our proposal, [Institution]'s portion of the overall project is fundamental research intended to advance the state of the art and result in open scientific publications. As such, our subcontract should not contain any

limitations on the freedom to publish or on the handling of research results or data, nor restrictions on the citizenship or national origin of those performing the research. No "covered defense information" as defined in DFARS 252.204-7012 will be collected, developed, received, transmitted, used, or stored by [Institution] to support the performance of this work.

To ensure that terms appropriate to [Institution]'s proposed work are included in a prime contract resulting from the proposal, it is imperative that this assertion is communicated to the Government Contracting Officer at the time of your prime proposal submission. If the prime contract contains requirements that the research be managed or executed in such a manner that it becomes subject to controls under US law or regulation, including export control, or in a way that it becomes subject to restrictions on the involvement of foreign researchers or to publication restrictions, we will require the Government's Contracting Officer's written determination that [Institution]'s subcontract scope of work is fundamental research in order to be able to execute a subcontract. Notifying the Government in advance that [Institution]'s work is fundamental research may facilitate that process.

Either:

We would be happy to provide additional information at the appropriate time in order to assist you in securing this written determination if required.

Or:

If it would be helpful to provide additional information to the Government in support of this fundamental research determination request, [PI name] has noted that [information from PI on how research advances the field/is intended to be shared broadly/civilian purpose or dual use/etc].

Should the Government decline to make a determination of fundamental research, [Institution] reserves the right to revise its proposed budget at any time to the extent it would incur additional costs to comply with security regulations.

Sincerely,

Option 3: Request sent upon notification of award containing or expected to contain restrictive terms:

Dear [Contact],

I am writing to respectfully request your assistance in securing a formal fundamental research determination for [Institution]'s pending subcontract under [Pass-Through Entity Sponsor]'s prime [Prime Sponsor Agency Name] contract [Contract Number].

It is anticipated that DFARS 252.204-7000, or other controls on who can perform the research or restrictions on publication/data dissemination, will be incorporated into [Pass-Through Entity Sponsor]'s prime contract. In accordance with DFARS 252.204-7000(a)(3), [Institution] will require a written fundamental research determination from the Government Contracting Officer in order to execute a subcontract with [Pass-Through Entity Sponsor].

As stated in our proposal [Proposal Reference Number and Title], the work to be performed by [Institution] is fundamental research intended to advance the state of the art and result in open scientific publications. As such, there should be no limitation on the freedom to publish or handle research results or data, nor restrictions on the citizenship or national origin of those performing the research. No "covered defense information," as defined in DFARS 252.204-7012 will be collected, developed, received, transmitted, used, or stored by [Institution] to support the performance of this work.

{Insert project-specific information from PI as appropriate.}

Should the Government decline this request, [Institution] reserves the right to revise its proposed budget to the extent it will incur additional costs to comply with security regulations required to perform this work.

[Institution] reiterates that it has also reserved the right to negotiate all terms and conditions appropriate to its status as an educational institution conducting research as part of its core mission.

Sincerely,