33.205 Relationship of the Disputes statute to Pub. L.85-804.

(a) Requests for relief under Public Law85-804 (50 U.S.C. 1431-1435) are not *claims* within the Disputes statute or the Disputes clause at 52.233-1, Disputes, and *shall* be processed under subpart 50.1, Extraordinary Contractual Actions. However, relief formerly available only under Public Law85-804; *i.e.,* legal entitlement to rescission or reformation for mutual mistake, is now available within the authority of the *contracting officer* under the Contract Disputes statute and the Disputes clause. In case of a question whether the *contracting officer* has authority to settle or decide specific types of *claims*, the *contracting officer should* seek legal advice.

(b) A contractor's allegation that it is entitled to rescission or reformation of its contract in order to correct or mitigate the effect of a mistake *shall* be treated as a *claim* under the Disputes statute. A contract *may* be reformed or rescinded by the *contracting officer* if the contractor would be entitled to such remedy or relief under the law of Federal contracts. Due to the complex legal issues likely to be associated with allegations of legal entitlement, *contracting officers shall* make written decisions, prepared with the advice and assistance of legal counsel, either granting or denying relief in whole or in part.

(c) A *claim* that is either denied or not approved in its entirety under paragraph (b) of this section *may* be cognizable as a request for relief under Public Law85-804 as implemented by subpart 50.1. However, the *claim must* first be submitted to the *contracting officer* for consideration under the Disputes statute because the *claim* is not cognizable under Public Law85-804, as implemented by subpart 50.1, unless other legal authority in the agency concerned is determined to be lacking or inadequate.

Parent topic: Subpart 33.2 - Disputes and Appeals