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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

September 24, 1973

B-172019

The Honorable
The Secretary of the Army

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Dear Mr. Secretary:

Reference is made to a letter dated June 20, 1973, from your Chief, Logistics and Contract Law Team, Procurement Law Division, requesting a decision with respect to whether payment of \$440.00 may be made on a claim by Draperies by Hasco, Gallup, New Mexico, for the furnishing and installations of draperies for the U.S. Army Recruiting Station. Requests for decisions in matters such as this should be submitted by the head of a Department or by the authorized certifying or disbursing officer concerned with the payment. Therefore, the submission will be treated as a request for a decision by you. 43 Comp. Gen. 227 (1963); 41 Comp. Gen. 767 (1962).

The record indicates that through an alleged misunderstanding within the procuring agency, Draperies by Hasco was requested by an unauthorized person within the agency to provide and install draperies. Since the draperies were ordered by an unauthorized person, payment has been denied for that reason.

As indicated, the United States cannot be bound beyond the actual authority conferred upon its agents by statute or regulation. However, the courts and our Office have recognized that in appropriate circumstances, payment may be made for services rendered on a quantum meruit basis (the reasonable value of work and labor), or for goods furnished on a quantum valebat basis (the reasonable value of goods sold and delivered). 40 Comp. Gen. 447, 451 (1961). Before a right to payment under such basis may be recognized, it must be shown that the Government has received a benefit, and that the unauthorized services were expressly or implicitly ratified by authorized contracting officials of the Government. B-166439, May 2, 1969.

It is reported that the \$440.00 requested by Hasco is a fair and reasonable price, and that no effort has apparently been made to return the draperies, which are and have been in the possession of the United States since June 1972. The record

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discloses that the Government retained the benefits of the goods delivered in good faith by the claimant, with the knowledge and acquiescence of responsible Government personnel. In view of these facts, payment should be made on a quantum meruit and quantum valebat basis.

Accordingly, the request for our decision, together with the accompanying papers, is returned herewith, and you are advised that payment in the amount of \$440.00 is authorized, if otherwise correct.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States

Enclosures

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