The News Tribune

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Documents: Tacoma police using surveillance device to sweep up cellphone data

By Kate Martin

Staff writerAugust 26, 2014

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A man works on a cluster of cell phone antennae atop a small tower over a building near downtown Tacoma, August 26, 2014.

PETER HALEY — Staff photographer Buy Photo

The Tacoma Police Department apparently has bought — and quietly used for six years — controversial surveillance equipment that can sweep up records of every cellphone call, text message and data transfer up to a half a mile away.

You don't have to be a criminal to be caught in this law enforcement snare. You just have to be near one and use a cellphone.

Known as Stingray, the device — small enough to be carried in a car — tricks cellphones into thinking it's a cell tower and draws in their information.

News that the city was using the surveillance equipment surprised City Council members, who approved an update for a device last year, and prosecutors, defense attorneys and even judges, who in court deal with evidence gathered using the surveillance equipment.

"If they use it wisely and within limits, that's one thing," said Ronald Culpepper, the presiding judge of Pierce County Superior Court, when informed of the device Tuesday. "I would certainly personally have some concerns about just sweeping up information from non-involved and innocent parties — and to do it with a whole neighborhood? That's concerning."

For years, a growing number of local law enforcement agencies have used the surveillance devices to track a cell signal to deduce a subject's location, who he communicates with, for how long and how often.

Law enforcement investigators can use the technology to find drug dealers and violent criminals. Civil libertarians charge police also are secretly scooping up data from innocent people during these broad searches for suspects.

No state or local law enforcement agency in Washington state has acknowledged possessing the required surveillance devices. Tacoma Police Department has not confirmed that it has a Stingray, but Pierce County sheriff's spokesman Ed Troyer said Tuesday that the Police Department sometimes assists the sheriff's office with the device.

Documents — including purchase orders, invoices, contracts and even a police newsletter — further make the case that Tacoma officials will not.

Police Chief Don Ramsdell, through a spokeswoman, declined an interview request to talk about the police department's apparent purchase of a Stingray device and associated technology. The department cited a nondisclosure agreement it has with the FBI.

The police department did offer to have a lieutenant review The News Tribune's questions but only if they were submitted in advance so that they could be vetted to determine whether they violated the FBI agreement. The newspaper sent questions, and the department said it would respond Wednesday (Aug. 27).

Earlier this month, city officials blacked out portions of relevant purchase documents requested by The News Tribune.

Deputy City Attorney Michael Smith redacted much of the identifying information on a May 2013 invoice for the equipment, saying disclosure "would allow the identification of confidential pieces of technology."

However, unredacted portions of those public records as well as other documents reviewed by The News Tribune indicate the Police Department has had the ability to wirelessly search neighborhoods since as early as 2008.

The Police Department appears to have updated its equipment last year with money authorized by a City Council whose members now say they didn't know what they were buying.

"I've got to find out what I voted on before I comment," Councilman David Boe said Monday. "This is new information."

The devices are indiscriminate in the information they collect, and that bothers civil libertarians.

"They are essentially searching the homes of innocent Americans to find one phone used by one person," said Christopher Soghoian, principal technologist with the American Civil Liberties Union in Washington, D.C. "It's like they're kicking down the doors of 50 homes and searching 50 homes because they don't know where the bad guy is."

City Manager T.C. Broadnax said he does not know the specifics of what the police department bought. But he believes the department "adequately briefed the City Council on the particulars of what we were buying and how and when they would use it under certain circumstances."

"I'm not in law enforcement, but it's my impression that it assists them in doing their job more effectively, and that's to protect the public," Broadnax said.

Mayor Marilyn Strickland said it doesn't bother her that she wasn't told the full capabilities of the device. She is comfortable with the Police Department having it — as long as they also protect civil liberties.

"If our law enforcement need access to information to prevent crime or keep us safe, that's a legitimate use of the technology," she said. "We are more focused on preventing crime and keeping our community safe than getting in people's business."

One City Council member said the Police Department's purchase of surveillance equipment doesn't concern him.

Councilman Joe Lonergan said he wasn't told about the purchase he helped approve last year but said the police using such a device wouldn't surprise him.

"There are lots of things, I imagine, not that I know about, that you don't want to tell everyone how you process your investigation," he said. "That's why information on investigations are always slow to come out."

Four members of the City Council — Marty Campbell, Anders Ibsen, Robert Thoms and Lauren Walker — could not be reached for comment. Councilwoman Victoria Woodards said she needed to check with the city manager for more information

RECORDS DOCUMENT STINGRAY BUYS

Tacoma police officials might not want to talk about cellphone surveillance devices, which commonly are known as Stingrays, a popular model manufactured by Harris Corp. of Melbourne, Florida.

But public records tell part of the story.

A city memo last year in which the Police Department sought to bypass competitive bidding requirements is the first clue.

The memo cites the need to update equipment "utilized by Special Investigations in support of field operations for criminal investigations" and states that "current Harris Corporation technology owned by TPD was received through a Department of Justice (DOJ) Law Enforcement Grant Award in 2007."

A few months later in 2008, the federal government sent the city via FedEx overnight a Stingray and a similar Harris Corp. device, called a Kingfish, according to documents posted this month on Muckrock, a website that helps people file public records requests.

The equipment was given under a federal program — the Counterdrug Technology Assessment Center, Technology Transfer Program — that provides equipment to local law enforcement agencies to fight the drug trade. It was shipped to police Detective Jeffrey Shipp.

In 2008, the city named Shipp an employee of the month in another apparent indication of the city's pursuit of Stingray technology.

Shipp was praised in an employee newsletter "for his work in procuring a \$450,000 training and equipment grant for a cellular phone tracking system — one of only five awarded across the country. Great job!"

The detective's name showed up yet again in a March 2013 Police Department request to spend \$251,752 to upgrade its Harris Corp. equipment. Most of the money — \$188,814 — came from a federal port security grant through the Department of Homeland Security.

Shipp and Chief Ramsdell sold the purchase to the City Council as a boon to Tacoma's bomb squad.

Ramsdell wrote in a memo to the city's purchasing department: "This new equipment offers enhanced technological capabilities for the Tacoma Police Department Explosives Ordinance Detail (EOD) with IED (improvised explosive device) prevention, protection, response and recovery measures."

But left unredacted on a May 2013 invoice for the purchase was this telling explanation for why the city was getting a laptop free of charge: "This \$3,500 valued Laptop PC is included in the cost of the Stingray II Enhancement."

Technically, the Stingray could be used to find someone with a cellphone who wants to set off an IED, or jam cell signals in an area, but that's not its primary purpose.

"Chances are the city of Tacoma is not using it to find IEDs," said Soghoian of the ACLU. "They're using it to get drug dealers."

The City Council unanimously approved buying the equipment March 19, 2013. Council members apparently did not know that the technology was not created to detect bombs.

Councilman Ryan Mello said he remembers talking with police about a grant relating to port security and improvised explosive devices, but not about cellphone surveillance.

"This is the first I'm hearing of it," he said.

The Police Department should have disclosed what the device was really for, Mello said.

"I would expect that there would be policies in place about how people's information, whether it's sensitive or not, how people's information is handled and used," he said.

But the city manager insists that council members were told. For council members who do not remember the briefing, "I question what their recollection is. It's been over a year since they got briefed on it." Broadnax said.

HOW IT WORKS

In gathering information, a Stingray device exploits a flaw in cellphone signal security.

Cellphones seek the strongest cell tower signal, and a Stingray pretends to be a cell tower with a strong signal.

Soghoian of the ACLU described the process as a high-tech game of "Marco Polo."

The Stingray sends a signal: "Marco." All cellphones within range, not just the ones police are seeking, are compelled to respond: "Polo."

The phones are tricked into passing data through government equipment before going to a legitimate cellphone tower — and the cellphone's owner has no idea what happened.

Deployed in tandem with analytical software, such cellphone surveillance technology could be used by police to analyze massive amounts of metadata — who you call or text, when you contact them and for how long you talk — to determine associations between groups of people.

One maker of such software is Pen-Link of Lincoln, Nebraska. Purchasing records show Pierce County paid \$8,400 for a year's access to Pen-Link software as recently as 2012.

"Software is installed on Tacoma Police Department network for regional intelligence group," the entry reads.

Sheriff's spokesman Troyer said the county first bought the software in 2005 as part of a terrorism prevention program. The department uses the software as an investigative tool by analyzing data lawfully obtained through a warrant, he said.

In February, the Tacoma police bought software from another data-analysis company, Verint of Melville, New York, for \$51,727, purchasing records show.

The Police Department's purchase last year of updated Stingray technology appears to have ensured it can continue to track cellphones in the years ahead.

A 2013 invoice indicates the city bought Harris Corp. equipment under a federal General Services Administration contract. The city paid \$109,421 — exactly the price the federal contract specified as the cost of a Stingray upgrade called Hailstorm.

Hailstorm appears to be aimed at keeping cellular surveillance equipment up to date.

"We don't know everything about what the Hailstorm does," said Soghoian of the ACLU. "... It's not surprising that law enforcement agencies are seeking this equipment. It's definitely not cheap."

A March 2014 purchase order from the DEA states: "The Hailstorm upgrade is necessary for the Stingray system to track 4G LTE phones."

The 4G LTE standard allows rapid data transfer over a wireless network and is becoming the standard in cell phone technology.

Stingrays can tap these phones, but only because the current generation of 4G LTE phones is compatible with the older 2G standard, Soghoian said. That won't always be the case — and law enforcement agencies know this, he said.

USE OF CELL DATA NOT NEW

Law enforcement agencies long have been able to acquire cellphone records with permission from a judge.

When investigators want to learn the location of a suspect, they routinely pay a cellphone company a fee to find the

person's cellphone — but only after a judge has signed off on the request for what's known as a "pen register."

The information from cellphone companies shows only where a person has been and who the person has called or texted. A Stingray shows where the person is and who he or she is calling or texting in real time.

Stringrays and similar devices also are more precise. Small enough to be portable, a Stingray can be driven around a target location to more accurately pinpoint the location of a subject.

Nationally, some agencies have used pen registers as permission to deploy Stingrays and similar devices. It often is unclear whether judges approving the orders were told that officers would be privy to information about a whole neighborhood, not just the subjects they said they would be tailing.

In 2012, a U.S. magistrate judge in Texas refused to grant the federal Drug Enforcement Agency permission to use a Stingray in part because the agency did not explain "what the government would do with the cellphone numbers" of innocent people and other information recorded on the equipment.

In June, Phil Mocek, a prolific user of the Muckrock website, asked the Tacoma police to produce documents showing its use of cell site simulators, which is what a Stingray is. The city responded earlier this month with a list that shows 168 cases since 2009 in which police sought court permission to access cellphone records.

In the same time frame, police used emergency orders, which do not require a judge's immediate permission, 10 times. Such situations included finding people involved with the killing of four Lakewood police officers in 2009, kidnappings and people suspected of child prostitution.

The list also shows that Tacoma police officers filed for pen register orders and used a Stingray on behalf of other agencies, such as the Pierce County Sheriff's Department, the DEA in Seattle and Immigration and Customs Enforcement.

Troyer said the sheriff's department has asked Tacoma police to use its Stingray on Pierce County's behalf in at least two cases since April. One man threw a bottle of gunpowder at a victim. The sheriff's office got a warrant to locate the suspect, who was then arrested.

Deputies also asked Tacoma in June to use the Stingray to find a homicide suspect, Troyer said.

"We were given the cell number of the homicide suspect and got a court order to locate the phone, and the suspect was arrested," Troyer said.

OFFICIALS NOT IN LOOP

Neither the Pierce County Prosecutors Office, nor public defenders — not even superior court judges — were aware of Tacoma police using this surveillance technique, officials with those departments said Tuesday.

"We have not been given any information that any information was obtained by using something like a Stingray," said Michael Kawamura, director of the Pierce County Department of Assigned Counsel.

He said other jurisdictions have used the device without a warrant — and if that's happening here, Kawamura said, that's a problem.

"You are not allowed to invade a person's right to privacy absent judicial authority," he said. "We weren't aware of any particular cases where it was being used. It gives us something to look at."

Prosecutor Mark Lindquist said local law enforcement agencies have long relied on cellphone locations obtained from cellular providers with a judicial order.

"There are cases where we've relied on triangulation," he said. "What I'm not sure on and what I'd have to look into is if we are doing it the old-fashioned way or if we're using Stingray technology."

Prosecutors have to be able to defend evidence in court, he said. As far as he knows, local law enforcement is "playing by the rules."

"None of this evidence has been successfully challenged by the defense, and from that, I can infer that law enforcement is doing it right," he said. "Both prosecutors and defense attorneys will review warrants and make sure that they are valid."

Judge Culpepper said police must show probable cause to get a pen register order, but as far as he knows, Tacoma police have never said they planned to use a Stingray to collect a suspect's information.

If police delete information gathered from innocents, Culpepper said, "maybe there's no harm." But "If they are storing it, what are they storing it for? And who says they can store it in the first place?"

After revelations that the Seattle Police Department had bought drones and installed surveillance cameras near the waterfront without public notice, the Seattle City Council last year adopted a policy requiring council approval before any department acquires surveillance equipment.

Councilman Mello said Tacoma should create a similar policy.

Doug Honig, spokesman for the ACLU in Seattle, said governments need to have transparent policies on the use of "invasive surveillance technology."

"Use of a Stingray by local law enforcement can be very problematic because they gather a lot of information about innocent people in addition to whoever might be a target of an investigation," Honig said. "Any data not relevant to criminal activity should be gotten rid of, or should not be retained for very long."

Culpepper said he plans to ask more questions of the Police Department when investigators next ask him for a pen register order or a warrant:

"I think I'll probably ask what kind of device are you going to use?" he said.

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.



RESOLUTION NO. 38646

A RESOLUTION relating to port security; authorizing the execution of a grant agreement with the U.S. Department of Homeland Security ("DHS"), Port Security Grant Program, in the amount of \$188,814.31; accepting and depositing said sum into the Police Special Revenue Fund; authorizing the amount of \$62,938.10, as a required grant match, budgeted from the Police Special Revenue Fund; and authorizing the execution of an agreement with Harris Corporation, in the amount of \$251,752.41, to purchase technical support equipment to assist in the prevention, detection, response, and recovery of improvised explosive devices.

WHEREAS the Tacoma Police Department submitted a grant application to the U.S. Department of Homeland Security ("DHS") to fund the purchase of technical support equipment to assist in the prevention, detection, response, and recovery of improvised explosive devices, and

WHEREAS this equipment will enhance security for the Port of Tacoma ("Port") and the City, and

WHEREAS the Port Security Grant Program requires the City, as recipient of the grant, to purchase the equipment in full and then receive reimbursement from DHS, and

WHEREAS the grant requires the City to provide 25 percent in matching grant funds, which amount equals \$62,938.10; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That the proper officers of the City are hereby authorized to enter into a grant agreement with the U.S. Department of Homeland Security ("DHS"), Port Security Grant Program, in the amount of \$188,814.31.

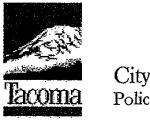
Section 2. That the proper officers of the City are authorized to accept and deposit the sum of \$188,814.31 into the Police Special Revenue Fund; and to



 authorize a required 25% grant match, in the amount of \$62,938.10, budgeted from the Police Special Revenue Fund, to fund the purchase of technical support equipment to assist in the prevention, detection, response, and recovery of improvised explosive devices.

Section 3. That the proper officers of the City are hereby authorized to execute an agreement with Harris Corporation, in the amount of \$251,752.41, to purchase said equipment, as on file in the Tacoma Police Department.

9	Adopted		
10			
11	Attest:	Mayor	
12	7.11.001.		
13			
14	City Clerk		
15	Approved as to form:		
16			
17	Deputy City Attorney		



City of Tacoma Police Department

EXHIBIT "A"	38643
RESOLUTION NO.:	
ITEM NO.:	4
MEETING DATE:	MARCH 19, 2013

DATE:

March 1, 2013

TO:

Board of Contracts and Awards

SUBJECT: Waiver of Competitive Solicitation Request - Sole Source

Harris Corporation Mobile Technical Equipment Budgeted from Police Special Revenue Fund #1267

RECOMMENDATION: Tacoma Police Department Special Investigations requests a waiver of competitive procurement procedures and recommends that a contract be awarded to Harris Corporation, Melbourne, FL, for specialized technical equipment, in the amount of \$251,752.41, including sales tax.

EXPLANATION: Tacoma Police Department uses specialized technical equipment to support field operations for criminal investigations and Homeland Security Initiatives. This new equipment offers enhanced technological capabilities for the Tacoma Police Department Explosives Ordinance Detail (EOD) with IED prevention, protection, response and recovery measures. This proprietary equipment is manufactured by the Harris Corporation. This one-time purchase is 75% funded by a federal grant. The remaining 25% match is budgeted from the Tacoma Police Federal Asset Seizure fund.

COMPETITIVE BIDDING: The requested equipment is a proprietary technology upgrade to existing TPD Special Investigations technical equipment which is manufactured exclusively by the Harris Corporation Wireless Products Group.

CONTRACT HISTORY: New contract.

<u>FUNDING</u>: Funds for this are available in the Police Special Revenue Fund #1267.

HUB/LEAP COMPLIANCE: Not applicable.

PROJECT ENGINEER/COORDINATOR: Detective Jeff Shipp, 253-606-1808.

Donald L. Ramsdell Chief of Police

cc: Marie Holm, Senior Buyer, Finance/Purchasing

3701 South Pine Street - Tacoma, Washington 98409-5735



Harris Proprietary

Invoice INV6779-03715

Date 5/21/2013

Page: 3/2/2 1

HARRIS CORP - WIRELESS PRODUCTS GROUP

P.O BOX 9800, M/S R5-11A MELBOURNE, FL 32902-9800

PH. 800-358-5297, FAX: 321-309-7437,wpg@harris com

P6 450 0338085 Invoice

Bill To:

Tacoma Police Department City of Tacoma Accts Payable PO Box 1717 Tacoma WA 98 III III



Ship To:

Tacoma Police Department Headquarters 3701 S. Pine Street

Tacoma WA 98409

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Harris Proprietary

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Date	5/21/2013
Page:	2

HARRIS CORP - WIRELESS PRODUCTS GROUP P O. BOX 9800, M/S R5-11A MELBOURNE, FL 32902-9800

PH: 800-358-5297, FAX. 321-309-7437,wpg@harris com

Bill To:

Tacoma Police Department City of Tacoma Accts Payable PO Box 1717 Tacoma WA 98401

Date	5/21/2013
Page:	2

Invoice

Ship To:

Tacoma Police Department Headquarters 3701 S. Pine Street

Tacoma WA 98409

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Please Remit Payments: Harris Corporation Citibank Delaware P.O. Box 7247 - LB 6759 Philadelphia, PA 19170-6759 USA Account No: 30533187 ABA Rtg No: 021000089 TIN: 340276860 QTE6779-03295 Date: 02/26/13

QUOTATION

Bill & Ship To: Tacoma Police Department 3701 S. Pine Street Tacoma, WA 98409

Purchase Order	' Payment Terms	Harris Order No:
TBD	Net 30	TBD

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ORDERED	SHIPPED	BO	ITEM NUMBER	DESCRIPTION	UNIT PRICE	EXT. PRICE
1			SYSTEM	System Upgrade	\$109,421	\$109,421.00
1	h		SOFTWARE-1	Software One	\$22,000	\$22,000.00
1			LAPTOP	Computer	\$0.00	\$0.00
1			AMP-1	AMP One	\$16,915	\$16,915.00
1			AMP-2	AMP Two	\$18,419	\$18,419.00
1	,		AMP-3	AMP Three	\$18,419	\$18,149.00
1			TOOL	Tool	\$10,125	\$10,125.00
1			UPGRADE SW	Upgrade Software	\$20,000	\$20,000.00
4			TRAINING	Training	\$4,000	\$16,000.00

Intermediary Account Holder: Harris Corp. 2400 Palm Bay Road NE Mailstop 3-11B Palm Bay, FL 32905 Bank Address: Citibank Delaware Philadelphia, PA Swift Code: CITIUS33

Subtotal	\$231,299.00
Tax:	\$20,453.41
Freight:	\$00.00
Purchase Price:	\$251,752.41 USD

^{*}Tax Rate is 9.5% as of 2/26/2013 Rates
*Training is not taxable.

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REQUISITION AND INVOICE / SHIPPING DOCUMENT

Form Approved OMB No. 0704-0246 Expires Dec 13, 1996

Public reporting burden for this collection of Information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Sulte 1204, Arlington, VA. 22202-4302, and to the Office of Management and Budget, Papenwork Reduction Project (0704-0246), Washington, DC 20503.

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1	STINGRAY		1,71				SYS	1	1	- "		0.00	0.00
199													
	LUNIO FIOLI						0.40						
1	KINGFISH						SYS	1	1	- -		0.00	0.00
	COMPANY: HARRIS CORP.												
131													
	SERIAL NUMBER: STINGRA	Y S/N 32		ISH S/N 22 .APTOP BI									1
16. TRAN	ISPORTATION VIA MATS OR MSTS CHARGEAB	LE TO		AFTOF DE	DIVIIVIND		17, SPECI	AL HANDLING	1				
18.	ISSUED BY	TOTAL	TYPE CON-		DESC	RIPTION	TOTA	тот				MMDD) BY	SHEET TOTAL
R E o		CON- TAINERS	TAINER		DESCR	AFTION	WEIGH	T CUE	3E	RECEIVED EXCEP AS NOTED	"		1
O F			23	C-0107					R				
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A M			une T					-	P	AS NOTED			
ENT	PACKED BY D.O.	5	вх	StingRay	with KingFish		148			POSTED	DATE (YY	MMDD) BY	20. RECEIVER'S VOUCHER NO.
	D.O.				TOTAL								

				4	•	**		(a) O M	SHEET NO.	Public review Inform	
	UNITED STATES ARMY ELECTRONIC PROVING GROUND SPECIAL PROGRAMS OFFICE (TTP DD1149) c/o KENTCO 4266 INDUSTRY DRIVE, SUITE 1 SIERRA VISTA, ARIZONA 85635-2255	PLEASE SIGN AND RETURN THIS SHEET ONLY TO:	x 7/31/2008 DATE	TELEPHONE NUMBER	TACOMA POLICE DEPARTMENT & WASHINGTON AGENCY STATE	* JEFFEY L. SHIPP PRINTED NAME	SIGNATURE OF RECIPIENT	FEDERAL STOCK NUMBER, DESCRIPTION, AND CODING OF MATERIEL AND / OR SERVICES (b)	NO. OF SHEETS 6. REQUISITION NUMBER StingRay with KingFish	Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suile 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0246), Washington, DC 20503.	REQUISITION AND INVOICE / SHIPPING DOCUMENT
				•		. •	SYS	UNIT OF ISSUE	11a. VOUCHER NUMBER	structions, searching exist on, including suggestions rement and Budget, Paper	MENT (Cont
			10 J					REQUESTED ACT		ng data sources, gath for reducing this burds work Reduction Proje	tinuation
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SHEET TOTAL	e e e e e e e e e e e e e e e e e e e							UNIT PRICE	b. VOUCHER NUMBER & DATE 2000725		1
	P							TOTAL COST	UMBER & DATE 2000725	77	Form Approved OMB No. 0704-0246 Expires Dec 13, 1996