

CUBIC CORP /DE/
Form 8-K
April 19, 2018

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

April 18, 2018

Date of Report (date of earliest event reported)

Cubic Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation or
organization)

1-8931
(Commission File No.)

95-1678055
(I.R.S. Employer Identification No.)

9333 Balboa Avenue
San Diego, California
(Address of principal executive offices)

92123
(Zip Code)

Registrant's telephone number, including area code: **(858) 277-6780**

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N/A

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14-d-2(b) under the Exchange Act (17 CFR 240.14d-2(b)).
- ☐ Pre-commencement communications pursuant to Rule 13-e-4(c) under the Exchange Act (17 CFR 240.13e-4(c)).

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01

Entry into a Material Definitive Agreement

On April 18, 2018, Nova Global Supply & Services, LLC (Purchaser), an entity affiliated with GC Valiant, LP (Valiant), entered into a Stock Purchase Agreement (the Purchase Agreement) with Cubic Corporation (Cubic), and Cubic Global Defense, Inc. (CGD). Pursuant to the terms of the Purchase Agreement, Purchaser will acquire from Cubic all of the issued and outstanding capital stock of CGD and Omega Training Group, Inc., each a subsidiary of Cubic (the Services Subsidiaries), resulting in Purchaser owning all of the issued and outstanding capital stock of the Services Subsidiaries (the Acquisition). Cubic and Purchaser expect to complete the transaction in the second quarter of 2018 after satisfaction of customary closing conditions as described below.

At the closing of the Acquisition, Purchaser will pay Cubic aggregate cash consideration of \$135.0 million for the shares of the Services Subsidiaries, subject to adjustments in respect of, among other things, cash and cash equivalents, net working capital and indebtedness of the Services Subsidiaries. In addition, after closing of the Acquisition, Purchaser will pay Cubic an additional \$3.0 million if certain earn-out conditions related to the award of certain government contracts occurs.

Consummation of the Acquisition is subject to customary conditions, including without limitation: (i) approvals from regulatory bodies having jurisdiction over any such matters and receipt of certain third party consents; (ii) the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; and (iii) the absence of any law, injunction, judgment or ruling prohibiting the Acquisition or making the consummation of the Acquisition illegal. Moreover, each of Cubic's and Purchaser's obligation to consummate the Acquisition is subject to certain other conditions, including without limitation: (x) the accuracy of the other party's representations and warranties contained in the Purchase Agreement (subject to certain qualifiers); and (y) the other party's compliance with its covenants and agreements contained in the Purchase Agreement in all material respects.

The parties have made customary representations and warranties and covenants in the Purchase Agreement, including without limitation covenants that limit Cubic's and its affiliates' ability to engage in certain U.S. government-related services work not related to the products of Cubic and its affiliates for the five years following the closing of the Acquisition. The parties have also agreed to mutually indemnify each other for breaches of representations and warranties and covenants, subject to certain limitations set forth in the Purchase Agreement. As of signing, Purchaser has bound representation and warranty insurance which will provide coverage for breaches of representations and warranties of Cubic and the Services Subsidiaries contained in the Purchase Agreement, subject to deductibles, exclusions, policy limits and certain other terms and conditions. The Purchase Agreement contains certain termination rights for Cubic and Purchaser.

Purchaser has obtained debt and equity commitments and has represented in the Purchase Agreement that, upon receipt of the proceeds thereof, Purchaser will have access to sufficient cash to consummate the transactions contemplated by the Purchase Agreement.

The representations and warranties of Cubic, including the Services Subsidiaries, contained in the Purchase Agreement have been made solely for the benefit of Purchaser. In addition, such representations and warranties (i) have been made only for purposes of the Purchase Agreement, (ii) have been qualified by confidential disclosures made to Purchaser in connection with the Purchase Agreement, (iii) are subject to materiality qualifications contained in the Purchase Agreement which may differ from what may be viewed as material by investors, (iv) were made only as of the date of the Purchase Agreement or such other date as is specified in the Purchase Agreement and (v) have been included in the Purchase Agreement for the purpose of allocating risk between the contracting

parties rather than establishing matters as facts. Accordingly, the Purchase Agreement will be filed only to provide investors with information regarding the terms of the Purchase Agreement, and not to provide investors with any other factual information regarding Cubic or the Services Subsidiaries or their businesses. Investors should not rely on the representations and warranties or any descriptions thereof as characterizations of the actual state of facts or condition of Cubic or the Services Subsidiaries. Moreover, information concerning the subject matter of the representations and warranties may change after the date of the Purchase Agreement, which subsequent information may or may not be fully reflected in our public disclosures. The Purchase Agreement should not be read alone, but should instead be read in conjunction with the other information regarding Cubic that is or will be contained in, or incorporated by reference into, the Forms 10-K, Forms 10-Q and other documents that Cubic has filed and may file with the Securities and Exchange Commission.

Item 7.01 Regulation FD Disclosure.

A copy of the press release announcing the execution of the Purchase Agreement is being furnished as Exhibit 99.1 to this Current Report on Form 8-K and is hereby incorporated herein by reference. As described in the press release, Cubic will hold a conference call on April 19, 2018 to discuss the transaction. A copy of the accompanying presentation regarding the transaction, also available on the Events and Presentations section of Cubic's Investor Relations website, is attached hereto as Exhibit 99.2.

As provided in General Instruction B.2 of Form 8-K, the information contained in this Item 7.01, Exhibit 99.1 and Exhibit 99.2 shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the Exchange Act), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in filings under the Securities Act of 1933, as amended, or the Exchange Act, regardless of any general incorporation language in any such filing.

Forward-Looking Statements

Certain statements herein are forward-looking statements. Such forward-looking statements reflect Cubic's current expectations or beliefs concerning future events and actual events may differ materially from historical results or current expectations. Any such forward-looking statements are subject to various risks and uncertainties, including uncertainties as to the timing of the Acquisition, the possibility that various closing conditions for the Acquisition may not be satisfied or waived, the possibility that Purchaser will be unable to obtain sufficient funds to close the Acquisition, the parties' ability to consummate the proposed transaction on the contemplated timeline, and other factors which are set forth in Cubic's most recent Form 10-K filed with the SEC on November 20, 2017 and in all filings with the SEC made by Cubic subsequent to the filing of that Form 10-K. Cubic does not undertake to publicly update or revise its forward-looking statements, whether as a result of new information, future events or otherwise.

Item 9.01 Financial Statements and Exhibits

(d) List of Exhibits:

- 2.1* Stock Purchase Agreement, dated April 18, 2018, by and between Nova Global Supply & Services, LLC, Cubic Corporation, and Cubic Global Defense, Inc.

99.1 Cubic Corporation press release, dated April 19, 2018

99.2 Investor Presentation, dated April 19, 2018

- * The registrant has schedules and exhibits to this exhibit pursuant to the provisions of Regulation S-K, Item 601(b)(2). The schedule of exhibits omitted is included with such agreement. The registrant agrees to supplementally furnish a copy of any of the omitted schedules to the Securities and Exchange Commission upon request, provided, however, that the Company may request confidential treatment pursuant to Rule 24b-2 of the Securities Exchange Act of 1934, as amended, for any schedule or exhibit so furnished.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned hereunto duly authorized.

Date: April 19, 2018

CUBIC CORPORATION

By:	/s/ James R. Edwards
Name:	James R. Edwards
Title:	Senior Vice President, General Counsel & Secretary