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EMCORE CORP
 Form S-8
 August 10, 2004

AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON AUGUST 10, 2004

REGISTRATION NO. 333-

SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

FORM S-8
 REGISTRATION STATEMENT
 UNDER
 THE SECURITIES ACT OF 1933

EMCORE CORPORATION

(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

NEW JERSEY

22-2746503

(STATE OR OTHER JURISDICTION OF
 INCORPORATION OR ORGANIZATION)

(I.R.S. EMPLOYER IDENTIFICATION NO.)

145 BELMONT DRIVE, SOMERSET, NEW JERSEY 08873

(ADDRESS OF PRINCIPAL EXECUTIVE OFFICES)

EMCORE CORPORATION
 2000 STOCK OPTION PLAN

(FULL TITLE OF THE PLAN)

THOMAS G. WERTHAN
 EMCORE CORPORATION
 145 BELMONT DRIVE
 SOMERSET, NEW JERSEY 08873

(NAME AND ADDRESS OF AGENT FOR SERVICE)

(732) 271-9090

(TELEPHONE NUMBER, INCLUDING AREA CODE, OF AGENT FOR SERVICE)

CALCULATION OF REGISTRATION FEE

| TITLE OF SECURITIES TO BE REGISTERED | AMOUNT TO BE REGISTERED (1) (2) | PROPOSED MAXIMUM OFFERING PRICE PER SHARE | PROPOSED MAXIMUM AGGREGATE OFFERING PRICE | A REG |
|---|------------------------------------|---|---|----------|
| Common Stock, without par value | 2,100,000 | \$2.56 (3) | \$ 5,607,000 | |

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- (1) Plus an indeterminate number of additional shares of Common Stock that may be offered and issued pursuant to stock dividends, stock splits, or similar transactions.
- (2) This registration statement is being filed for purposes of registering 2,100,000 additional shares of Common Stock of EMCORE Corporation, issuable pursuant to our 2000 Stock Option Plan, as amended and restated (the "Plan"). We have previously registered 4,750,000 shares pursuant to a registration statement on Form S-8 (File No. 333-60816) under the Plan. The registration fee for the previously registered shares was paid at the time that the previous registration statement was filed.
- (3) Estimated pursuant to Rule 457(h) of the General Rules and Regulations under the Securities Act of 1933, as amended (the "Securities Act"), for the purpose of computing the registration fee, based on the average of the high and low sales price on the NASDAQ National Market on August 4, 2004.

EXPLANATORY NOTE

Pursuant to General Instruction E of Form S-8, the registrant, EMCORE Corporation (the "Registrant"), is filing this registration statement ("Registration Statement") with respect to the issuance of an additional 2,100,000 shares of its common stock, no par value per share (the "Common Stock"), under the Plan.

On May 11, 2001, the Registrant filed a registration statement (the "Prior Registration Statement") on Form S-8 (File No. 333-60816) with respect to the issuance of 4,750,000 shares of Common Stock under the Plan. The contents of the Prior Registration Statement are hereby incorporated in this Registration Statement by reference.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I will be sent or given to persons to whom the information is required to be given as specified by Rule 428(b)(1) of the Securities Act. Such documents are not being filed with the Securities and Exchange Commission (the "Commission") either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 of the Securities Act. Such documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Form, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents filed by the Registrant with the Commission are incorporated herein by reference:

- (1) The Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2003.
- (2) The Registrant's Quarterly Report on Form 10-Q for the quarter ended December 31, 2003.

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- (3) The Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2004.
- (4) The Registrant's Current Reports on Form 8-K filed with the Commission on October 14, 2003, November 18, 2003, December 29, 2003, January 21, 2004 (2), February 17, 2004, February 19, 2004, and July 16, 2004, and the Registrant's

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Current Reports on Form 8-K/A filed with the Commission on February 18, 2004 and May 19, 2004.

- (5) The Registrant's Registration Statement on Form 8-A, filed with the Commission on February 26, 1997 (File Number 0-22175) pursuant to Section 12(g) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which incorporates by reference the description of the shares of Common Stock contained in the Registration Statement on Form S-1 (File Number 333-18565) filed by the Registrant on December 23, 1996, as amended by Amendment No. 1 filed on February 6, 1997, Amendment No. 2 filed on February 11, 1997 and Amendment No. 3 filed on February 24, 1997, and declared effective by the Commission on March 6, 1997, and any amendment or report filed with the Commission for purposes of updating such description.

All reports and other documents filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14, and 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement, which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be part hereof from the respective dates of filing of such reports and documents.

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Somerset, State of New Jersey, on this 10th day of August, 2004.

EMCORE Corporation

By: /s/ Thomas G. Werthan

Thomas G. Werthan
Chief Financial Officer

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POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints and hereby authorizes Reuben F. Richards, Jr. and Thomas G. Werthan, severally, such

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person's true and lawful attorneys-in-fact, with full power of substitution or resubstitution, for such person and in his name, place and stead, in any and all capacities, to sign on such person's behalf, individually and in each capacity stated below, any and all amendments, including post-effective amendments to this Registration Statement and to sign any and all additional registration statements relating to the same offering of securities as this Registration Statement that are filed pursuant to Rule 462(b) of the Securities Act, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Commission granting unto said attorneys-in-fact, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as fully to all intents and purposes as such person might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement on Form S-8 has been signed by the following persons in the capacities and on the date indicated.

| SIGNATURE ----- | TITLE ----- | DATE ---- |
|----------------------------------|---|-----------------|
| ----- Thomas J. Russell | Chairman of the Board of Directors | August 10, 2004 |
| ----- Reuben F. Richards, Jr. | President, Chief Executive Officer and Director (Principal Executive Officer) | August 10, 2004 |
| ----- Thomas G. Werthan | Chief Financial Officer and Director (Principal Accounting and Financial Officer) | August 10, 2004 |
| ----- Richard A. Stall | Chief Technology Officer and Director | August 10, 2004 |
| ----- Robert Bogomolny | Director | August 10, 2004 |
| ----- John M. Gillen | Director | August 10, 2004 |
| ----- Robert Louis-Dreyfus | Director | August 10, 2004 |
| ----- Charles Thomas Scott | Director | August 10, 2004 |

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EXHIBIT INDEX

| Exhibit Number ----- | Description ----- |
|----------------------------|--|
| 4.1 | The Registrant's 2000 Stock Option Plan, as amended and restated, effective February 20, 2004.* |
| 4.2 | Restated Certificate of Incorporation, dated December 21, 2000 (incorporated by reference to Exhibit 3.1 of the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2000). |
| 4.3 | Amended By-Laws, as amended through December 21, 2000 (incorporated by reference to Exhibit 3.2 of the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2000). |
| 5.1 | Opinion of Dillon, Bitar & Luther L.L.C.* |
| 23.1 | Consent of Dillon, Bitar & Luther L.L.C. (included in Exhibit 5.1 to this Registration Statement).* |
| 23.2 | Consent of Deloitte & Touche LLP.* |
| 24.1 | Power of Attorney (included on signature page).* |

* Filed herewith.