

MARTIN MARIETTA MATERIALS INC

Form 425

January 28, 2014

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

Date of Report (Date of earliest event reported): January 27, 2014

Martin Marietta Materials, Inc.
(Exact name of registrant as specified in charter)

North Carolina (State or Other Jurisdiction of Incorporation)	1-12744 (Commission File No.)	56-1848578 (I.R.S. Employer Identification No.)
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2710 Wycliff Road, Raleigh, North Carolina (Address of Principal Executive Offices)	27607 (Zip Code)
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(919) 781-4550
(Registrant's telephone number, including area code)

Not applicable
(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 (see General Instruction A.2. below):

- x Written communications 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 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 2.02 Results of Operations and Financial Condition.

On January 28, 2014, Martin Marietta Materials, Inc. (“Martin Marietta”) announced financial results for the fourth quarter and year ended December 31, 2013. The press release, dated January 28, 2014, is furnished as Exhibit 99.1 to this report and is incorporated by reference herein.

Item 7.01 Regulation FD Disclosure.

On January 28, 2014, Martin Marietta announced financial results for the fourth quarter and year ended December 31, 2013. The press release, dated January 28, 2014, is furnished as Exhibit 99.1 to this report and is incorporated by reference herein. Additional information about the quarter and year end, and Martin Marietta’s use of non-GAAP financial measures, is available on Martin Marietta’s Web site at www.martinmarietta.com by clicking the heading “Financials”, in the “Investors” section and then clicking the quick link “Non-GAAP Financial Measures”.

Martin Marietta will host an online Web simulcast of its fourth-quarter and year ended December 31, 2013 earnings conference call on Tuesday, January 28, 2014. The live broadcast of Martin Marietta’s conference call will begin at 8:30 a.m., Eastern Time, on January 28, 2014. An online replay will be available approximately two hours following the conclusion of the live broadcast. A link to these events will be available at Martin Marietta’s Web site at www.martinmarietta.com. For those investors without online web access, the conference call may also be accessed by calling 866-610-1072 (international: 973-935-2840), confirmation number 51412630. A transcript of the online Web simulcast will be filed on a subsequent Form 8-K. Additional information about Martin Marietta’s use of non-GAAP financial measures, as well as certain other financial or statistical information Martin Marietta may present at the conference call, will be provided on Martin Marietta’s Web site.

Item 8.01 Other Events.

On January 27, 2014, Martin Marietta, Texas Industries, Inc., a Delaware corporation (“TXI”), and Project Holdings, Inc., a North Carolina corporation and a wholly owned subsidiary of Martin Marietta (“Merger Sub”), entered into an Agreement and Plan of Merger (the “Merger Agreement”). The Merger Agreement provides for a business combination whereby Merger Sub, a wholly owned subsidiary of Martin Marietta, will merge with and into TXI (the “Merger”). As a result of the Merger, the separate corporate existence of Merger Sub will cease and TXI will continue as the surviving corporation in the Merger. Pursuant to the Merger Agreement, at the effective time of the Merger, each share of TXI common stock will be converted into the right to receive 0.70 of a fully paid and nonassessable share of Martin Marietta common stock. A copy of the joint press release issued by Martin Marietta and TXI announcing the transaction is attached as Exhibit 99.2 to this Current Report on Form 8-K and is incorporated herein by reference. The terms of the Merger Agreement, including the conditions to the Merger, will be described in a subsequent filing on Form 8-K.

On January 28, 2014, Martin Marietta released an investor presentation, which is attached hereto as Exhibit 99.3 and is incorporated herein by reference.

On January 28, 2014, Martin Marietta sent a letter and FAQ statement to its employees regarding the Merger, which are attached hereto as Exhibits 99.4 and 99.5, respectively, and are incorporated herein by reference.

Cautionary Statements Regarding Forward-Looking Statements

Certain statements in this communication regarding the proposed acquisition of TXI by Martin Marietta, the expected timetable for completing the transaction, benefits and synergies of the transaction, future opportunities for the combined company and products and any other statements regarding Martin Marietta's and TXI's future expectations, beliefs, plans, objectives, financial conditions, assumptions or future events or performance that are not historical facts are "forward-looking" statements made within the meaning of Section 21E of the Securities Exchange Act of 1934. These statements are often, but not always, made through the use of words or phrases such as "may", "believe," "anticipate," "could", "should," "intend," "plan," "will," "expect(s)," "estimate(s)," "project(s)," "forecast(s)", "positioned," "strategy," "ou expressions. All such forward-looking statements involve estimates and assumptions that are subject to risks, uncertainties and other factors that could cause actual results to differ materially from the results expressed in the statements. Among the key factors that could cause actual results to differ materially from those projected in the forward-looking statements are the following: the parties' ability to consummate the transaction; the conditions to the completion of the transaction, including the receipt of approval of both Martin Marietta's shareholders and TXI's stockholders; the regulatory approvals required for the transaction not being obtained on the terms expected or on the anticipated schedule; the parties' ability to meet expectations regarding the timing, completion and accounting and tax treatments of the transaction; the possibility that the parties may be unable to achieve expected synergies and operating efficiencies in connection with the transaction within the expected time-frames or at all and to successfully integrate TXI's operations into those of Martin Marietta; the integration of TXI's operations into those of Martin Marietta being more difficult, time-consuming or costly than expected; operating costs, customer loss and business disruption (including, without limitation, difficulties in maintaining relationships with employees, customers, clients or suppliers) being greater than expected following the transaction; the retention of certain key employees of TXI being difficult; Martin Marietta's and TXI's ability to adapt its services to changes in technology or the marketplace; Martin Marietta's and TXI's ability to maintain and grow its relationship with its customers; levels of construction spending in the markets; a decline in defense spending and the commercial component of the nonresidential construction market and the subsequent impact on construction activity; a slowdown in residential construction recovery; unfavorable weather conditions; a widespread decline in aggregates pricing; changes in the cost of raw materials, fuel and energy and the availability and cost of construction equipment in the United States; the timing and amount of federal, state and local transportation and infrastructure funding; the ability of states and/or other entities to finance approved projects either with tax revenues or alternative financing structures; and changes to and the impact of the laws, rules and regulations (including environmental laws, rules and regulations) that regulate Martin Marietta's and TXI's operations. Additional information concerning these and other factors can be found in Martin Marietta's and TXI's filings with the Securities and Exchange Commission, including Martin Marietta's and TXI's most recent Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K. Martin Marietta and TXI assume no obligation to update or revise publicly the information in this communication, whether as a result of new information, future events or otherwise, except as otherwise required by law. Readers are cautioned not to place undue reliance on these forward-looking statements that speak only as of the date hereof.

Additional Information and Where to Find It

In connection with the proposed transaction between Martin Marietta and TXI, Martin Marietta and TXI intend to file relevant materials with the Securities and Exchange Commission, including a Martin Marietta registration statement on Form S-4 that will include a joint proxy statement of Martin Marietta and TXI that also constitutes a prospectus of Martin Marietta. **INVESTORS AND SECURITY HOLDERS ARE URGED TO READ THE JOINT PROXY STATEMENT/PROSPECTUS AND ANY OTHER RELEVANT DOCUMENTS WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT MARTIN MARIETTA, TXI AND THE PROPOSED TRANSACTION.** The joint proxy statement/prospectus and other documents relating to the proposed transaction (when they are available) can be obtained free of charge from the SEC's

website at www.sec.gov. These documents (when they are available) can also be obtained free of charge from Martin Marietta upon written request to the Corporate Secretary at Martin Marietta Materials, Inc., 2710 Wycliff Road, Raleigh, NC 27607, telephone number (919) 783-4540 or from Martin Marietta's website, <http://ir.martinmarietta.com> or from TXI upon written request to TXI at Investor Relations, Texas Industries, Inc., 1503 LBJ Freeway, Suite 400, Dallas, Texas 75234, telephone number (972) 647-6700 or from TXI's website, <http://investorrelations.txi.com>.

Participants in Solicitation

This communication is not a solicitation of a proxy from any investor or security holder. However, Martin Marietta, TXI and certain of their respective directors and executive officers may be deemed to be participants in the solicitation of proxies in connection with the proposed transaction under the rules of the SEC. Information regarding Martin Marietta's directors and executive officers may be found in its Annual Report for the year ended December 31, 2012 on Form 10-K filed with the SEC on February 2, 2013 and the definitive proxy statement relating to its 2013 Annual Meeting of Shareholders filed with the SEC on April 16, 2013. Information regarding TXI's directors and executive officers may be found in its Annual Report for the year ended May 31, 2013 on Form 10-K filed with the SEC on July 22, 2013 and the definitive proxy statement relating to its 2013 Annual Meeting of Shareholders filed with the SEC on August 23, 2013. These documents can be obtained free of charge from the sources indicated above. Additional information regarding the interests of these participants will also be included in the joint proxy statement/prospectus when it becomes available.

Non-Solicitation

This communication shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits.

Exhibit No.	Description
99.1	Press Release, dated January 28, 2014.
99.2	Joint Press Release, dated January 28, 2014.
99.3	Investor Presentation
99.4	Letter to Employees
99.5	Employee FAQ

The information reported under Item 2.02 and contained in Exhibit 99.1 in this Current Report is being furnished and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (“Exchange Act”), nor shall such information be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as expressly stated by specific reference in such filing.

SIGNATURES

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

MARTIN MARIETTA MATERIALS, INC.

Date: January 28, 2014

By:

/s/ Roselyn R. Bar

Name: Roselyn R. Bar

Title: Senior Vice President, General
Counsel

And Corporate Secretary

EXHIBIT INDEX

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