

ECC INTERNATIONAL CORP
Form SC 13D/A
October 14, 2003

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE 13D
(Amendment #2)
UNDER THE SECURITIES EXCHANGE ACT OF 1934
ECC INTERNATIONAL CORP.

(Name of the Issuer)

Common Stock, \$0.10 par value per share

(Title of Class of Securities)

268255106

(CUSIP Number)

William L. Hoese, Esq.
Cubic Corporation
9333 Balboa Avenue
San Diego, CA 92123
(619) 277-6780

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

with a copy to
Barbara L. Borden, Esq.
Cooley Godward LLP
4401 Eastgate Mall
San Diego, CA 92121-9109

October 10, 2003

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition which is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

(Continued on following pages)

CUSIP No. 268255106

1. Names of Reporting Persons.
I.R.S. Identification Nos. of above persons (entities only)
Cubic Corporation

2. Check the Appropriate Box if a Member of a Group (See Instructions) (a)
(b)

3. SEC Use Only

4. Source of Funds (See Instructions)
WC

5. Check if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization
Delaware

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person
With

7. Sole Voting Power
7,576,222

8. Shared Voting Power
-0-

9. Sole Dispositive Power
7,576,222

10. Shared Dispositive Power
-0-

11. Aggregate Amount Beneficially Owned by Each Reporting Person
7,576,222

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

13. Percent of Class Represented by Amount in Row (11)
95.6%

14. Type of Reporting Person (See Instructions)
CO

CUSIP No. 26855106

1.

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Names of Reporting Persons.
I.R.S. Identification Nos. of above persons (entities only)

CDA Acquisition Corporation

2. Check the Appropriate Box if a Member of a Group (See Instructions) (a)
(b)

3. SEC Use Only

4. Source of Funds (See Instructions)
AF

5. Check if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)

6. Citizenship or Place of Organization
Delaware

Number of Shares Beneficially Owned by Each Reporting Person With	7. Sole Voting Power 7,576,222
	8. Shared Voting Power -0-
	9. Sole Dispositive Power 7,576,222
	10. Shared Dispositive Power -0-

11. Aggregate Amount Beneficially Owned by Each Reporting Person
7,576,222

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)

13. Percent of Class Represented by Amount in Row (11)
95.6%

14. Type of Reporting Person (See Instructions)
CO

This Amendment No. 2 amends and supplements the Schedule 13D (the "Schedule 13D") originally filed with the Securities and Exchange Commission on August 29, 2003 by Cubic Corporation, a Delaware corporation ("Cubic") and CDA Acquisition Corporation, a Delaware corporation and wholly owned subsidiary of Cubic ("CDA"), as amended by Amendment No. 1 to the Schedule 13D filed by Cubic and CDA with the Securities and Exchange Commission on October 1, 2003, relating to (i) the Agreement and Plan of Merger, dated as of August 20, 2003 (the "Merger Agreement") by and among Cubic, CDA and ECC International Corp. (the "Issuer"), and (ii) those certain Stockholder Tender Agreements by and between Cubic and certain stockholders of the Issuer (the "Stockholders"), who were affiliates of the Issuer (the "Stockholder Tender Agreements").

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The Merger Agreement provides for, among other things, (i) the offer by CDA to purchase all the outstanding shares of common stock, par value \$0.10 per share, of the Issuer at a price of \$5.25 per share, net to the seller in cash, without interest thereon, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated August 27, 2003, and the related Letter of Transmittal (which together with any amendments or supplements thereto, collectively constitute the "Offer") and (ii) the subsequent merger of CDA with and into the Issuer (the "Merger"), with the Issuer surviving the Merger as a wholly owned subsidiary of Cubic. The Stockholder Tender Agreements provide for, among other things, the tender pursuant to the Offer by each Stockholder and certain of their affiliates, of all of their shares of Issuer common stock, as well as any additional shares of Issuer common stock that they may acquire.

Item 4. Purpose of the Transaction

At midnight, New York City time on September 24, 2003, the Offer expired. On September 25, 2003, in accordance with the Merger Agreement, CDA accepted for payment 7,399,138 shares of Issuer common stock (approximately 93.4% of all outstanding shares) in the Offer. After the expiration of the Offer, CDA commenced a subsequent offering period (the "Subsequent Offering Period") which began at 9:00 a.m., New York City time, on September 25, 2003, and expired at 5:00 p.m., New York City time, on October 10, 2003. During the Subsequent Offering Period, CDA accept for payment all shares of Issuer common stock that were validly tendered at a price of \$5.25 per share and promptly paid for such shares of Issuer common stock after such shares were tendered. As a result of the Offer and the Subsequent Offering Period, CDA accepted for payment an aggregate of 7,576,222 shares of Issuer common stock. Cubic, CDA and Issuer will proceed, as promptly as practicable, to complete the Merger, pursuant to which CDA will acquire the remaining outstanding shares of Issuer common stock for \$5.25 per share in cash, subject to appraisal rights. Pursuant to the terms of the Merger Agreement, effective upon acceptance of and payment for the shares of Issuer common stock pursuant to the Offer, Cubic designated four persons who were appointed to Issuer's board and who constitute a majority of the total number of directors on Issuer's board. If the Merger is consummated, (i) Issuer will become a wholly-owned subsidiary of Cubic, (ii) the Certificate of Incorporation of Issuer will be amended and restated, (iii) the bylaws of Issuer will be replaced with the bylaws of CDA, and (iv) certain of the directors and officers of CDA will become the directors and officers of Issuer, as the surviving corporation in the Merger.

Item 5. Interest in Securities of the Issuer

As a result of CDA's acceptance of 7,576,222 shares of Issuer common stock upon expiration of the Offer and pursuant to the Subsequent Offering Period, CDA acquired beneficial ownership of all those shares or approximately 95.6% of Issuer's total outstanding shares. CDA has sole voting and dispositive power with respect to such shares.

Item 7. Material to be Filed as Exhibits

The following documents are filed as exhibits:

- | | |
|-------------------|--|
| Exhibit 1. | Name, Business, Address and Present Principal Occupation of Each Executive Officer and Director of Cubic and CDA.* |
| Exhibit 2. | Agreement and Plan of Merger, dated August 20, 2003 among Cubic, CDA and Issuer (incorporated by reference to Exhibit (d)(1) of the Reporting Person's Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on August 27, 2003).* |
| Exhibit 3. | Form of Stockholder Tender Agreement (incorporated by reference to Exhibit (d)(2) of the Reporting Person's Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on August 27, 2003).* |
| Exhibit 4. | Joint Filing Agreement, dated as of September 26, 2003, by and between Cubic and CDA.* |

*Previously filed.

SIGNATURES

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

October 14, 2003

Cubic Corporation

By: /s/ WILLIAM W. BOYLE

William W. Boyle
Vice President and Chief Financial Officer

CDA Acquisition Corporation

By: /s/ GERALD R. DINKEL

Gerald R. Dinkel
President and Director

EXHIBIT INDEX

Exhibit	Description of Document
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