

COMFORT SYSTEMS USA INC
Form 8-K
February 26, 2019

**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) **February 21, 2019**

Comfort Systems USA, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

1-13011
(Commission
File Number)

76-0526487
(IRS Employer
Identification No.)

675 Bering Drive, Suite 400
Houston, Texas
(Address of principal executive offices)

77057
(Zip Code)

Registrant's telephone number, including area code **(713) 830-9600**

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

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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 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))

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 February 21, 2019, Comfort Systems USA, Inc. (the Company) entered into a Purchase Agreement (the Purchase Agreement) with Walker TX Holding Company, Inc., a Texas corporation (Walker), the holders of all the outstanding securities of Walker (collectively, the Shareholder Sellers) and Scott Walker, as representative of the Shareholder Sellers, pursuant to which the Company will acquire all of the outstanding securities of Walker.

Pursuant to the Purchase Agreement, at the closing of the transaction, the Company has agreed to pay to the Shareholder Sellers an initial aggregate purchase price comprised of approximately \$178 million payable in cash, subject to working capital and certain other adjustments set forth in the Purchase Agreement, and \$25 million aggregate principal amount of an unsecured promissory note (the Note) bearing interest at a rate of 4% per annum and to be paid in two equal installments of \$12.5 million on the third and fourth anniversaries of the closing of the transaction. In addition, the Purchase Agreement provides for an additional earn-out amount to become payable by the Company to the extent that Walker's EBITDA (as defined in the accompanying earn-out agreement) during each of the years following the closing of the transaction through December 31, 2023 exceeds certain thresholds (the Earn-Out Payments). The Note and the Earn-Out Payments will be subject to offset by the Company in respect of any indemnity claims made pursuant to the Purchase Agreement. The Purchase Agreement contains customary representations, warranties, covenants and indemnities. The closing of the transaction is subject to customary closing conditions.

The foregoing description of the Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the Purchase Agreement, a copy of which is filed as Exhibit 2.1 hereto and is incorporated herein by reference.

The Purchase Agreement and the above description have been included to provide investors with information regarding the terms of the Purchase Agreement. They are not intended to provide any other factual information about the Company, Walker or their respective subsidiaries or affiliates. The representations, warranties and covenants contained in the Purchase Agreement were made only for purposes of those agreements and as of specific dates, were solely for the benefit of the parties to the Purchase Agreement, and may be subject to limitations agreed upon by the parties, including being qualified by confidential disclosures made by each contracting party to the other for the purposes of allocating contractual risk between them that differ from those applicable to investors. Investors should be aware that the representations, warranties and covenants or any description thereof may not reflect the actual state of facts or condition of the Company, Walker or any of their respective subsidiaries, affiliates or businesses. Moreover, information concerning the subject matter of the representations, warranties and covenants may change after the date of the Purchase Agreement, which subsequent information may or may not be fully reflected in public disclosures by the Company or Walker. Accordingly, investors should read the representations and warranties in the Purchase Agreement not in isolation but only in conjunction with the other information about the Company and Walker and their respective subsidiaries that the Company includes in reports, statements and other filings that it makes with the U.S. Securities and Exchange Commission.

ITEM 9.01 Financial Statements and Exhibits*

(d) The following Exhibits are included herein:

Exhibit 2.1 Purchase Agreement, dated February 21, 2019, by and among the Company, Walker, the Shareholder Sellers and Scott Walker, in his capacity as representative of the Shareholder Sellers.

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*The schedules to the Purchase Agreement have been omitted from this filing pursuant to Item 601(b)(2) of Regulation S-K. The Company will furnish copies of such schedules to the SEC upon its request; provided, however, that the Company may request confidential treatment pursuant to Rule 24b-2 of the Exchange Act for any schedule so furnished.

EXHIBIT INDEX*

**Exhibit
Number**

Exhibit Title or Description

- | | |
|-----|---|
| 2.1 | <u>Purchase Agreement, dated February 21, 2019, by and among the Company, Walker, the Shareholder Sellers and Scott Walker, in his capacity as representative of the Shareholder Sellers.</u> |
|-----|---|

*The schedules to the Purchase Agreement have been omitted from this filing pursuant to Item 601(b)(2) of Regulation S-K. The Company will furnish copies of such schedules to the SEC upon its request; provided, however, that the Company may request confidential treatment pursuant to Rule 24b-2 of the Exchange Act for any schedule so furnished.

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.

COMFORT SYSTEMS USA, INC.

By:

/s/ Laura F. Howell

Laura F. Howell, Vice President and General Counsel

Date: February 26, 2019