

OFFICEMAX INC  
Form 425  
July 29, 2013

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**WASHINGTON, DC 20549**

**FORM 8-K**

**Current Report**

**Pursuant to Section 13 or 15(d)**

**of The Securities Exchange Act of 1934**

**Date of Report: July 29, 2013**

**Date of earliest event reported: July 23, 2013**

**OFFICEMAX INCORPORATED**

**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State of Incorporation)**

**1-5057**  
**(Commission File Number)**

**82-0100960**  
**(IRS Employer Identification No.)**

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**263 Shuman Blvd.**

**Naperville, Illinois 60563**

**(Address of principal executive offices) (Zip Code)**

**(630) 438-7800**

**(Registrant's telephone number, including area code)**

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))

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**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers**

On July 23, 2013, Ms. Deborah A. O Connor was promoted to the role of Interim Chief Financial Officer, effective August 7, 2013. Ms. O Connor, 50, was elected Senior Vice President and Chief Accounting Officer of OfficeMax Incorporated (the Company ) in July 2008. Prior to that, she served as senior vice president and controller of the ServiceMaster Company, one of the world's largest residential services networks, from December 1999 to December 2007.

In connection with this promotion, the Executive Compensation Committee of the Company's Board of Directors approved an increase in Ms. O Connor's annual base salary to \$400,000 effective August 7, 2013, a one-time bonus of \$100,000 and a grant of 10,000 time-based restricted stock units ( RSUs ).

The one-time bonus was granted pursuant to a Retention Bonus Agreement dated July 24, 2013 (the Bonus Agreement ) and will vest (i) 50% on the earlier of March 31, 2014 or the closing of the Company's proposed merger with Office Depot, Inc. (the Closing ), and (ii) 50% on the earlier of June 30, 2014 or the date that is six months after the Closing.

The Bonus Agreement provides that Ms. O Connor must be employed by the Company in order for the bonus to vest, subject to exceptions in certain circumstances including involuntary termination qualifying her for severance under a Company plan, death or disability. In the event of involuntary termination qualifying her for severance under a Company plan, death or disability, the bonus will vest at that time. Bonus payments are to be made as soon as practical after the vesting dates. The Bonus Agreement includes a non-solicitation and non-compete clause that states that, beginning on the date of the Bonus Agreement and ending one year after terminating employment with the Company, Ms. O Connor will not (i) employ or solicit for employment any person who is, or was within six months prior to her termination date, an employee of the Company or (ii) commence employment or consult (in a substantially similar capacity to any position held with the Company and with responsibility over the same geographic areas over which she had responsibility during her last 12 months of employment) with any competitor engaged in the sale or distribution of products, or in the provision of services, in competition with the products sold or distributed or services provided by the Company. The Bonus Agreement states that violation of the non-solicitation and non-compete clause will result in forfeiture of the bonus and the Company may recover any bonus amount already paid. This summary does not purport to be complete and is subject to and qualified in its entirety by reference to the text of the Bonus Agreement, the form of which is included as Exhibit 99.1 to this filing and incorporated by reference.

The time-based RSUs were granted under the Company's 2013 long-term incentive plan pursuant to a Restricted Stock Unit Award Agreement Time Based dated July 24, 2013, the form of which was previously filed as Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q for the period ended March 30, 2013. A description of the material terms of the RSUs are set forth in the Company's Proxy Statement filed March 19, 2013 under the heading 2013 Long-Term Incentive Plan; Performance-Based RSUs and Time-Based RSUs and is incorporated by reference.

**Item 8.01 Other Events**

On July 24, 2013, the Company issued a press release regarding Ms. O'Connor's promotion. A copy of the press release was attached as Exhibit 99.1 to the Company's Current Report on Form 8-K filed July 24, 2013 and is incorporated by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

99.1 Form of Retention Bonus Agreement

Forward-Looking Statements

Certain statements made in this document and other written or oral statements made by or on behalf of OfficeMax and Office Depot constitute forward-looking statements within the meaning of the federal securities laws, including statements regarding both companies' future performance, as well as management's expectations, beliefs, intentions, plans, estimates or projections relating to the future. OfficeMax and Office Depot cannot guarantee that the macroeconomy will perform within the assumptions underlying their respective projected outlook; that their respective initiatives will be successfully executed and produce the results underlying their respective expectations, due to the uncertainties inherent in new initiatives, including customer acceptance, unexpected expenses or challenges, or slower-than-expected results from initiatives; or that their respective actual results will be consistent with the forward-looking statements and you should not place undue reliance on them. In addition, forward-looking statements could be affected by the following additional factors, among others, related to the business combination: the occurrence of any event, change or other circumstances that could give rise to the termination of the merger agreement or the failure to satisfy closing conditions; the ability to obtain regulatory approvals or third-party approvals for the transaction and the timing and conditions for such approvals; the risk that the synergies from the transaction may not be realized, may take longer to realize than expected, or may cost more to achieve than expected; disruption from the transaction making it more difficult to maintain relationships with customers, employees or suppliers; the ability to successfully integrate the businesses; unexpected costs or unexpected liabilities that may arise from the transaction, whether or not consummated; the inability to retain key personnel; future regulatory or legislative actions that could adversely affect OfficeMax and Office Depot; and business plans of the customers and suppliers of OfficeMax and Office Depot. The forward-looking statements made herein are based on current expectations and speak only as of the date they are made. OfficeMax and Office Depot undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of future events, new information or otherwise. Important factors regarding OfficeMax and Office Depot that may cause results to differ from expectations are included in the companies' respective Annual Reports on Form 10-K for the year ended December 29, 2012, under 1A Risk Factors, and in the companies' other filings with the SEC.

Additional Information and Where to Find it

This communication is not intended to and does not constitute an offer to sell or the solicitation of an offer to subscribe for or buy or an invitation to purchase or subscribe for any securities in any jurisdiction in connection with the proposed merger of Office Depot with OfficeMax or

otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable law. 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. Office Depot has filed with the SEC a registration statement on Form S-4 that includes a definitive Joint Proxy Statement of Office Depot and OfficeMax that also constitutes a definitive prospectus of Office Depot. The registration statement was declared effective by the SEC on June 7, 2013. Office Depot and OfficeMax mailed the definitive Joint Proxy Statement/Prospectus to their respective shareholders in connection with the transaction on or about June 10, 2013. **INVESTORS AND SHAREHOLDERS ARE URGED TO READ THE JOINT PROXY STATEMENT/PROSPECTUS AND OTHER RELEVANT DOCUMENTS FILED OR TO BE FILED WITH THE SEC CAREFULLY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT OFFICE DEPOT, OFFICEMAX, THE TRANSACTION AND RELATED MATTERS.** Investors and shareholders are able to obtain free copies of the definitive Joint Proxy Statement/Prospectus and other documents filed with the SEC by Office Depot and OfficeMax through the website maintained by the SEC at [www.sec.gov](http://www.sec.gov). In addition, investors and shareholders are able to obtain free copies of the definitive Joint Proxy Statement/Prospectus and other documents filed by Office Depot with the SEC by contacting Office Depot Investor Relations at 6600 North Military Trail, Boca Raton, FL 33496 or by calling 561-438-7878, and are able to obtain free copies of the definitive Joint Proxy Statement/Prospectus and other documents filed by OfficeMax by contacting OfficeMax Investor Relations at 263 Shuman Blvd., Naperville, Illinois 60563 or by calling 630-864-6800.

**SIGNATURE**

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.

Dated: July 29, 2013

OFFICEMAX INCORPORATED

By: /s/ Matthew R. Broad  
Matthew R. Broad  
Executive Vice President and General Counsel

EXHIBIT INDEX

<b>Number</b>	<b>Description</b>
99.1	Form of Retention Bonus Agreement