

SMITH MIDLAND CORP
Form DEF 14A
August 06, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT
SCHEDULE 14A INFORMATION
Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934
(Amendment No.)

Filed by the Registrant x

Filed by a Party other than the Registrant o

Check the appropriate box:

- o Preliminary Proxy Statement
- o Confidential, For Use of the Commission Only (as Permitted by Rule 14a-6(e)(2))
- x Definitive Proxy Statement
- o Definitive Additional Materials
- o Soliciting Material Pursuant to Section 240.14a-12

SMITH-MIDLAND CORPORATION
(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- x No fee required
- o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

- o Fee paid previously with preliminary materials.

Edgar Filing: SMITH MIDLAND CORP - Form DEF 14A

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

SMITH-MIDLAND CORPORATION
5119 Catlett Road
Midland, Virginia 22728

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
To be held on Wednesday, September 4, 2013

Dear Stockholders:

You are cordially invited to attend the 2013 Annual Meeting of Stockholders of SMITH-MIDLAND CORPORATION (the "Company"), a Delaware corporation, to be held at Smith-Midland Corporation located at 5119 Catlett Road, Midland, Virginia 22728 on Wednesday, September 4, 2013 at 5:00 p.m. local time. The annual meeting is being held for the following purposes:

1. To elect five (5) members to the Board of Directors;
2. To ratify the appointment of the accounting firm BDO USA, LLP as the Company's Independent Registered Public Accountants for the current fiscal year;
3. To approve an advisory vote on executive compensation for named executives;
4. To approve an advisory vote on the frequency of advisory votes on executive compensation for named executives in future years; and
5. To consider and act upon any matters incidental to the foregoing and any other matters that may properly come before the meeting or any and all adjournments thereof.

The Board of Directors has fixed the close of business on July 16, 2013 as the record date for the determination of Stockholders entitled to notice of and to vote at the Annual Meeting and any adjournment or adjournments thereof. The foregoing items of business are more fully described in the Proxy Statement accompanying this notice.

We hope that all stockholders will be able to attend the Annual Meeting in person. In order to assure that a quorum is present at the annual meeting, please date, sign and promptly return the enclosed proxy whether or not you expect to attend the Annual Meeting. A prepaid postage envelope has been enclosed for your convenience. If you attend the annual meeting, your proxy will, at your request, be returned to you and you may vote your shares in person.

By Order of the Board of Directors

Rodney I. Smith
CEO/Chairman

Midland, Virginia
August 1, 2013

Important Notice Regarding the Availability of Proxy Materials for the 2013 Annual Meeting of Stockholders to be held on September 4, 2013. Pursuant to Securities and Exchange Commission rules we have elected to utilize the "full set delivery" option of providing paper copies of all of our proxy materials, including a proxy card, to our stockholders, as well as providing access to our proxy materials on a publicly accessible website. The Company's Notice of Annual Meeting, Proxy Statement and Annual Report to Stockholders for the fiscal year ended December 31, 2012 are available on our corporate website and may be accessed at www.edocumentview.com/SMID.

SMITH-MIDLAND CORPORATION
5119 Catlett Road
Midland, Virginia 22728

PROXY STATEMENT

The enclosed proxy is solicited by the Board of Directors of SMITH-MIDLAND CORPORATION (the "Company") for use at the Annual Meeting of Stockholders to be held on Wednesday, September 4, 2013, at 5:00 p.m. local time at Smith-Midland Corporation located at 5119 Catlett Road, Midland, Virginia 22728 and at any adjournment or adjournments thereof.

These proxy solicitation materials are first being mailed to stockholders of record on or about August 1, 2013, together with the Company's Annual Report to Stockholders.

This proxy statement, form of proxy and the annual report are available at: <http://www.edocumentview.com/SMID>

Stockholders of record at the close of business on July 16, 2013 will be entitled to vote at the Annual Meeting or any adjournment thereof. On or about the record date, 4,794,962 shares of the Company's Common Stock, \$.01 par value per share ("Common Stock"), were issued and outstanding. The Company has no other outstanding voting securities.

Each share of Common Stock entitles the holder to one vote with respect to all matters submitted to Stockholders at the Annual Meeting. A quorum for the Annual Meeting is a majority of the shares outstanding. Abstentions and broker non-votes are each included in the determination of the number of shares present and voting for the purpose of determining whether a quorum is present. Broker non-votes occur when shares held by a broker for a beneficial owner are not voted with respect to a particular proposal because (1) the broker does not receive voting instructions from the beneficial owner and (2) the broker lacks discretionary authority to vote the shares.

Abstentions or broker non-votes or failures to vote will have no effect in the election of directors, who will be elected by a plurality of the affirmative votes cast.

The affirmative vote of the holders of a majority of the shares present in person or by proxy and entitled to vote to ratify the appointment of BDO Seidman, LLP as the Company's independent auditors for the current fiscal year will be required for approval. An abstention will be counted as a vote against this proposal and broker non-votes will have no effect on the vote.

The affirmative vote of the majority of the shares present in person or by proxy and entitled to vote is required to approve an advisory vote on executive compensation for named executives. Because this vote is advisory it will not be binding on the Company's Board of Directors. Abstentions will be counted as votes cast against this proposal and broker non-votes will have no effect on the vote.

The frequency option (one year, two years or three years) receiving the plurality of the votes cast will be the frequency that has been "approved" by stockholders. Because the vote is advisory, it will not be binding on the Company's Board of Directors. However, the Board will consider the outcome of the vote when determining the frequency of future advisory votes on executive compensation. Abstentions and broker non-votes will have no effect on this vote.

An Annual Report, containing the Company's audited financial statements for the years ended December 31, 2012 and December 31, 2011, is being mailed to all Stockholders entitled to vote.

Execution of a proxy will not in any way affect a Stockholder's right to attend the Annual Meeting and vote in person. The proxy may be revoked at any time before it is exercised by written notice to the Secretary prior to the Annual Meeting, or by giving to the Secretary a duly executed proxy bearing a later date than the proxy being revoked at any time before such proxy is voted, or by appearing at the Annual Meeting and voting in person. The shares represented by all properly executed proxies received in time for the Annual Meeting will be voted as specified therein. In the absence of a special choice, shares will be voted in favor of the election of Directors of those persons named in this Proxy Statement and in favor of the proposal to ratify and approve the selection of BDO Seidman, LLP as the independent auditors for the Company for the year ending December 31, 2013. In addition, in absence of a special choice, shares will be voted in support of the compensation of the

named executive officers and for a three year frequency on future say-on-pay advisory votes for compensation of the named executive officers.

The Board of Directors knows of no other matter to be presented at the Annual Meeting. If any other matter should be presented at the Annual Meeting upon which a vote may be taken, such shares represented by all proxies received by the Board of Directors will be voted with respect thereto in accordance with the judgment of the persons named as attorneys in the proxies. The Board of Directors knows of no matter to be acted upon at the Annual Meeting that would give rise to appraisal rights for dissenting stockholders.

Proposal No. 1

ELECTION OF DIRECTORS

Five Directors, constituting the entire Board of Directors, are to be elected at the Annual Meeting. Each Director of the Company is elected at the Company's Annual Meeting of Stockholders and serves until his successor is elected and qualified. Vacancies and newly created directorships resulting from any increase in the number of authorized Directors may be filled by a majority vote of Directors then remaining in office. Officers are elected by and serve at the discretion of the Board of Directors.

Shares represented by all proxies received by the Board of Directors and not so marked as to withhold authority to vote for an individual Director, or for all Directors, will be voted (unless one or more nominees are unable or unwilling to serve) for the election of the nominees named below. The Board of Directors knows of no reason why any such nominee should be unwilling to serve, but if such should be the case, proxies will be voted for the election of some other person or for fixing the number of Directors at a lesser number.

The Board unanimously recommends that Stockholders vote FOR election of the five nominees for Director.

The following table sets forth certain information concerning each nominee for election as a Director of the Company:

Name	Age	Director Since	Position
Rodney I. Smith	74	1970	Chairman of the Board of Directors, President and Chief Executive Officer
Ashley B. Smith	51	1994	Vice President of Smith-Midland Corporation, President and Chief Operating Officer of Smith-Midland Virginia, Inc. and Director
Wesley A. Taylor	65	1994	Vice President of Administration, Secretary and Director
Frederick L. Russell	54	2012	Director
G. E. "Nick" Borst	72	-	Nominee

Background

The following is a brief summary of the background of each nominee for Director of the Company:

Rodney I. Smith. Chairman of the Board of Directors, Chief Executive Officer and President. Rodney I. Smith co-founded the Company in 1960 and became its President and Chief Executive Officer in 1965. He has served on the Board of Directors and has been its Chairman since 1970. Mr. Smith is the principal developer and inventor of the Company's proprietary and patented products. He is the past President of the National Precast Concrete Association. Mr. Smith has served on the Board of Trustees of Bridgewater College in Bridgewater, Virginia since 1986. The Company believes that Mr. Smith's extensive experience in the precast concrete products industry and his knowledge of the marketplace gives him the qualifications and skills necessary to serve in the capacity as the Chairman of the Board of Directors.

Ashley B. Smith. Vice President and Director. Ashley B. Smith has served as Vice President of the Company since 1990 and as a Director since 1994. Mr. Smith holds a Bachelor of Science degree in Business Administration from Bridgewater College. Mr. Ashley B. Smith is the son of Mr. Rodney I. Smith. The Company believes that Mr. Smith's education, experience in the precast concrete industry and business experience give him the qualifications and

skills necessary to serve in the capacity as a director.

Wesley A. Taylor. Vice President of Administration and Director. Wesley A. Taylor has served as Vice President of Administration of the Company since 1989 and as a Director since 1994, and previously held positions as Controller and Director of Personnel and Administration. Mr. Taylor holds a Bachelor of Arts degree from Northwestern State University. The Company believes that Mr. Taylor's education, business experience and his extensive experience in the precast concrete industry gives him the qualifications and skills necessary to serve in the capacity as a director.

Frederick L. Russell. Director. Frederick L. Russell has been a director of the Company since September 2012. He has been Managing Partner at Virginia Capital, a private equity fund, since its inception in 1996. Mr. Russell has more than 25 years of

venture capital and private equity experience. Mr. Russell is on the Board of substantially all of Virginia Capital's active venture capital investments and is the Chairman of several of these companies. He is on the Board of Kinsale Capital, Virginia Business Media, SC Business Media, Tall Cotton Partners, Clear Signal Towers, Car Pool and Sewickley Partners. Fred was previously with a \$1 billion private equity firm in Washington and a \$100 million venture capital fund before that. The Company believes that Mr. Russell's current and past investment experience as well as his service as a director of many boards provides him with the knowledge and skills necessary to serve in the capacity of director for the Company.

G. E. (Nick) Borst. Advisory Director. G. E. Nick Borst has served as an advisory member of the Board of Directors of the Company since 2005. For more than the past five years, Mr. Borst has been engaged in the private practice of law, advising clients in corporate legal matters. Prior thereto, he served as a trial attorney with the federal government. Mr. Borst previously served as president of the Fauquier County Bar Association and as a three-year treasurer of the Fauquier County Chamber of Commerce. In private law practice, Mr. Borst advised clients on business organization and governance. Mr. Borst is also a co-founder and past president of Hospice of Fauquier County and is co-founder and long-time board member of Verdun Adventure Bound, an organization that provides experiential learning programs to over 2,000 young people a year. The Company believes that Mr. Borst's current and past business-related experience provides him with the knowledge and skills necessary to serve in the capacity as a director of the Company.

GENERAL INFORMATION RELATING TO THE BOARD OF DIRECTORS AND OFFICERS

Director Independence

Currently Andrew G. Kavounis and Frederick L. Russell, Jr. are the only independent directors of the Company as determined under the NASDAQ Marketplace Rules. If elected G.E. Nick Borst will also be an independent director of the Company. The other Directors are not considered independent in view of their positions as executive officers of the Company.

Meetings and Committees of the Board of Directors

The Board of Directors has a standing Compensation Committee which consists of Messrs. Frederick L. Russell, Jr. and Andrew G. Kavounis. The Compensation Committee was established to set and administer the policies that govern annual compensation for the Company's executives. Messrs. Rodney I. Smith, Ashley B. Smith and Wesley A. Taylor may, in certain circumstances, make recommendations to the Compensation Committee with respect to compensation matters. Following review and approval by the Compensation Committee of the compensation policies, all issues pertaining to executive compensation are submitted to the Board of Directors for approval. The Compensation Committee negotiates and approves compensation arrangements for executive officers, board advisers and directors of the Company, including, but not limited to, the grant of options to purchase the Common Stock pursuant to the Company's 2008 Stock Option Plan or other plans which may be established. The Compensation Committee did not meet during fiscal 2012. Instead, the Board of Directors as a whole addressed these matters. The Company does not currently have a Compensation Committee charter.

The Company believes that a standing nominating committee is not necessary or cost efficient for a company its size. All directors participate in the consideration of director nominees. The Company does not have a formal nominating committee charter. For at least the past seven years, other than Mr. Russell's nomination and Mr. Borst's nomination as set forth in this Proxy Statement, the Board of Directors has not received a recommendation from a stockholder as to a candidate for nomination to the Board of Directors and therefore has not previously formed a policy with respect to consideration of such a candidate. Among other reasons, in view of the significant investment in the common stock of the Company by Tall Cotton Partners, LLC, of which Mr. Russell is Managing Partner, and his business background, Mr. Rodney I. Smith, Chairman of the Board, recommended Mr. Russell's nomination. In addition to the nomination of Mr. Russell, Mr. Rodney I. Smith, Chairman of the Board recommended Mr. Borst nomination to replace retiring board member Mr. Andrew G. Kavounis. It is the Board's intent to consider any stockholder nominees that may be put forth in the future. The Board has not identified any specific minimum qualifications or skills that it believes must be met by a nominee for director. It is the intent of the Board to review from time to time the appropriate skills and characteristics of directors in the context of the current make-up of the Board and the requirements and needs of the Company at a given time.

In selecting nominees for the Board, the Company considers the diversity of each candidate in regards to the anticipated needs of the Company as a whole so as to leverage the experience and education of each director in achieving the goals of the Company.

The Board of Directors met formally one time during 2012, met informally on a number of occasions, voting on corporate actions, in some cases, by written consent. All of the Company's current directors attended the meetings of the Board of Directors either in person or by telephone.

With the exception of Rodney I. Smith and Ashley B. Smith, who are father and son, respectively, no Director or executive officer of the Company is related by blood, marriage, or adoption to any of the Company's other Directors or executive officers.

Leadership Structure

We believe that the Company is better served by the combined Chairman/CEO type of leadership. By having a strong single leader, a company of our size can adapt to market changes faster with fewer levels of decision makers. It provides a cohesive vision and strategy for the Company and strong execution ability. This type of leadership model helps assure a clear and direct line of communication to the Board of any risks, challenges or other key management issues and opportunities.

Risk Oversight

It is the responsibility of the Board to oversee the assets of the Company and to ensure that appropriate controls are in place to minimize risks associated with such assets. While the Board is tasked with the responsibility to detect potential high

level risks, management is tasked with managing risk on a daily basis. Where possible, management, in conjunction with the Board, has defined high level risk controls to help mitigate the most significant risks to the Company.

Code of Ethics

Our Board of Directors has adopted a Professional Code of Ethics as well as a Finance Code of Professional Conduct. The Professional Code of Ethics covers all employees of the Company and describes the policies and procedures for their ethical conduct. The Finance Code of Professional Conduct covers conduct in the practice of financial management and specifically relates to the Chief Executive Officer, the Chief Financial Officer, Controller and other associates of the finance organization.

Audit Committee

The Company currently has a standing Audit Committee with the members being Messrs. Frederick L. Russell, Jr. and Andrew G. Kavounis. The audit committee did not meet during fiscal 2012 as the committee was not appointed until late 2012. Frederick L. Russell, Jr., is designated the committee's financial expert because of his 25 years experience in the finance industry. Messrs. Russell and Kavounis are considered to be independent when using the definition of the NASDAQ Marketplace Rules.

The Audit Committee discussed our audited financial statements as of and for the year ended December 31, 2012 with the Board of Directors and the Chief Financial Officer.

The Audit Committee reviewed and discussed with representatives of BDO USA, LLP, our independent registered public accounting firm, the matters required to be discussed by Statement on Auditing Standards No. 61 (Codification of Statements on Auditing Standards, AU §380), as amended. The Audit Committee has also received and reviewed the written disclosures and the letter from BDO USA, LLP required by PCAOB Standards, and has discussed with BDO USA, LLP their independence.

Based on the foregoing reviews and decisions, the Audit Committee and the Board of Directors recommended that the audited financial statements for fiscal year ended December 31, 2012 be included in the Company's Annual Report on Form 10-K for the fiscal year then ended.

Communications Between Stockholders and the Board of Directors

Stockholders and other interested parties wishing to communicate with members of the Board of Directors should send a letter to the Secretary of the Company with instructions as to which director(s) is to receive the communication. The Secretary will forward the written communication to each member of the Board of Directors identified by the stockholder or, if no individual director is identified, to all members of the Board of Directors.

Director Attendance at Annual Meeting

The Company has not in the past required members of the Board of Directors to attend each annual meeting of the stockholders because the formal meetings have been attended by very few stockholders, and have generally been brief and procedural in nature. All of the Company's directors, however, attended the 2012 and 2011 annual meetings of stockholders. The Board will continue to monitor stockholder interest and attendance at future meetings and re-evaluate this policy as appropriate.

Director Compensation

All Directors, whether employee or non-employee, receive \$1,000 per meeting attended as compensation for their services as Directors and are reimbursed for expenses incurred in connection with the performance of their duties. For the twelve months ended December 31, 2012, total payments made to all Directors were \$5,000.

Director Compensation Table for 2012

Name	Fees Earned or Paid in Cash (\$)	Stock Awards (\$)	Option Awards (\$)	Non-Equity Incentive Plan Compen-sation	Non- Qualified Deferred Compen- sation Earnings	All Other Compen-sation	Total (\$)
Rodney I. Smith	1,000	—	—	—	—	—	1,000
Andrew G. Kavounis (1)	1,000	—	—	—	—	—	1,000
Ashley B. Smith	1,000	—	—	—	—	—	1,000
Wesley A. Taylor	1,000	—	—	—	—	—	1,000
Frederick L. Russell, Jr.	1,000	—	—	—	—	—	1,000

(1) Mr. Kavounis held options to purchase 4,000 shares of common stock of the Company as of December 31, 2012, of which all were exercisable as of December 31, 2012.

Executive Officers

The executive officers and a key employee of the Company are:

Name	Age	Director or Executive Officer Since	Position
Rodney I. Smith	74	1970	Chief Executive Officer, President and Chairman of the Board of Directors
Ashley B. Smith	51	1994	Vice President, Director
Wesley A. Taylor	65	1994	Vice President of Administration, Secretary and Directory
William A. Kenter			