PRESIDENT’S MESSAGE

May is here and the summer draws closer. We are finally starting to see a few glimmers of a positive economy. I wanted to remind everyone of the importance of being involved with our chapter. By being a member, we have the tremendous networking possibilities of exchanging information and establishing relationships with our colleagues that can advance our careers, our companies and our individual growth. I encourage all members and nonmembers to join, participate and take advantage of this great opportunity!

I wanted to give a quick reminder of our upcoming events:

- Jobsite walk at the LA Fitness conversion project in Mission Viejo on May 14.
- Golf Tournament on August 10.

Our topic this month is “Why a Buck a Yard?” presented by Steve Murow of the Moote Group should be of interest to everyone in the industry.

I look forward to seeing everyone at the May 11 meeting at the Ayres Hotel! The address is 325 Bristol Street, Costa Mesa, CA 92626

- Mike Mills

CALENDAR OF EVENTS

- May 11, 2011 – Dinner meeting
- May 14, 2011 - Job Walk in Mission Viejo
- May 20, 2011 - Annual Estimating Academy
- June 8, 2011 – Dinner meeting
- Aug 10, 2011 - Annual Golf Tournament

NEW MEMBERS! ASPE WELCOMES...

Brian Smith, CareerSmith

2011 GOLF DAY ON AUGUST 10!

For all of you who participated last year our tournament are great fun and best of all they don’t break your wallet!

By being a sponsor for as little as $250 you can display a banner of your business at our annual golf tournament. Many other similar tournaments require donations into the thousands for similar exposure. It is a affordable way to market your company and goes for a great cause, providing scholarships to needy students in the construction industry.

ASPE (American Society of Professional Estimators) is a non-profit professional organization which is committed to the field of construction by providing constant education and training in the field of estimating.

If you unable to provide sponsorships please participate as a player. Our player fees are very affordable and we will provide you with a box lunch. That night there will be an awards ceremony with prizes and dinner! The tournaments are extremely casual and fun is our number one goal at these events.

So please join us and help those students who are struggling in these economic times.

Gary Casper, ASPE 3rd Vice President, Email: casperces@gmail.com, Tel: 949.244.4602

ASPE Orange County -Chapter 3 - Volume 2011, Issue 39, Page 2
UPCOMING EVENTS: SAVE THESE DATES!

JOB WALK AT LA FITNESS

By: Tom Smithson

When: May 14 2011 (Sat), 8:30am.

Where: LA Fitness, 24491 Alicia Pkwy, Mission Viejo

Things to note: Please bring your own hard hats, safety shoes, vests (optional).

RSVP by May 12 to Tom Smithson at tom.smithson@rcrcompanies.com

LA Fitness is a privately owned American health club chain with over 340 clubs and millions of members across 21 US states and Canada. The company was formed in 1984 and is based in Irvine, California.

The company’s fitness clubs typically offer a variety of exercise equipment, spa and sauna, swimming pool, basketball and racquetball courts, group exercise classes including indoor cycling, personal training, and babysitting service. Many locations also offer a variety of healthy snacks, drinks, sports accessories, towels and more. LA Fitness also provides corporate wellness programs for companies of all sizes.

Through the mid-1990’s, the company expanded by acquiring under-performing fitness clubs in Southern California, and by developing, opening and operating newly constructed properties.

In 1995, LA Fitness designed and built a new multipurpose sports and fitness club that became the company’s signature model at that time. With a successful prototype in place, LA Fitness then expanded its in-house development efforts, and new club construction. In 1998, with 12 proven prototype clubs in Southern California and Arizona, the company rapidly increased the rate of new club development and began rolling out it’s concept into several new geographic regions across the U.S., including the Sun Belt, the Pacific Northwest, the Mid-Atlantic states, the Northeast and the upper Midwest. The rate of expansion was rapid, with over 180 new clubs added from 2006 to 2009.

In 2000, the company acquired the then largest health club chain in Atlanta, expanded into Canada with the acquisition of six fitness clubs in Toronto in 2007 and 2010 acquired ten more locations in Phoenix.

LA Fitness has also found it beneficial to acquire vacant buildings of adequate size and remodel them to suite their specifications. The job walk in May is just one of these conversion projects located at 24491 Alicia Pkwy, in Mission Viejo, on the Northeast corner of the Alicia Pkwy-Interstate 5 intersection. Many of you in the Orange County area may recognize this building as having been a Mervyn’s department store.

The walk is scheduled to begin at 8:30AM and will be hosted by Mr. Ted Robinson, the LA Fitness Senior Project Manager. Ted mentioned that one point of interest to all of us Estimators will be the extent of retrofit involved in converting one of these buildings into the finished LA Fitness product.

We hope to see you there. Remember safety shoes and hard hat!
**UPCOMING EVENTS:**
**SAVE THESE DATES!**

**ESTIMATING ACADEMY**

**ASPE CHAPTER 3**
**ORANGE COUNTY**

**REGISTRATION FORM**

**ESTIMATING ACADEMY**
**FRIDAY, MAY 20, 2011**

- **Registration, Sign In & Coffee:** 8:00—8:15 am
- **Track 1 - Plumbing Estimating:** 8:15
- **Track 2 - HVAC Estimating:** 10:00
- **Lunch:** 12:00—1:00 pm
- **Track 3 - Electrical Estimating:** 1:00—4:00 pm

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**Type of Business:**
- General Contractor
- Architect/Engineer
- Corporate

**Discipline:**
- Estimator
- CM
- Student

**Registration:**
- Morning Session
- Afternoon Session
- Full day

**Cost:**
- Full day (lunch incl.)
- Early Bird (before May 12)
- Half day (lunch excl.)
- Lunch only

- Member: $75
- Guest: $90
- $70
- $40
- $15

**Student discount:** A $10 discount per session will be refunded on the day when the student card or other proof is presented. Please make checks payable to: ASPE Chapter 3 (credit cards not accepted)

**RSVP to Wil Beukman at Willem.Beukman@fgould.com or 949 690 4153**
MEETING INFORMATION

Date: Wednesday, May 11, 2011
Time: 5:30 p.m. - Social Hour & Networking

6:30 p.m. - Program

Location: Ayres Hotel
325 Bristol Street
Costa Mesa, CA

COST: $40
Cost includes 3-course dinner, coffee and tea, tax, gratuity.


RSVP at www.aspechapter3.org

TOPIC

WHY $1.00 A CY?
AKA
GRADING 101

PRESENTED BY
STEVE MURROW
WITH
THE MOOTE GROUP

ABOUT THE SPEAKER

Mr. Murow has been a professional in the general engineering contracting industry for over thirty two years. During that time he has served as a principal in two leading contracting firms; consultant to major land developers; specifier and bid administrator; senior project manager and as an expert witness. He has extensive expertise in public and private engineering and building contracting. In May 1987, Mr. Murow joined Greg Clayton as a principal at Clayton Engineering, Inc. offering general engineering contracting services. In 1999, the company amassed sales of $46 million, had 160 employees, over 30 pieces of heavy equipment and was a major force in public contracting in Southern California. Mr. Murow held the position of Executive Vice President; performed sales and marketing for the company; estimated and/or supervised the estimating of over 1,500 bids and along with Greg managed and/or was responsible for the project management of over 250 projects.

In October, 2000 Mr. Murow joined The Moote Group to offer his expertise in developing pro forma's associated with mass grading and infrastructure development, perform mass grading analysis and budgets, develop mass grading bid packages and act as a project manager on grading and infrastructure related projects. He also developed the forensic estimating and litigation support division of The Moote Group. Mr. Murow has provided assistance to Owners, Municipalities, Developers and Contractors on claims analysis and mitigation and provided litigation support on projects involving general engineering and building construction in the public and private industry. He has assisted in case development, claim preparation, damage assessment and quantification, cost estimating, and performed expert witness testimony, rebuttal witness services and has facilitated equitable settlement agreements among Contractors and Owners.

Mr. Murow is the 2010-2011 President of the Orange County Forensic Expert Witness Association (FEWA) and a National Director, a member of the Construction Management Association of America (CMAA), the Building Industry Association (BIA) and the National Society of Professional Estimators. He also serves on the Board of Directors at the Arizona State University Parents Association, at the Merage Jewish Community Center of Orange County and is an Advisory Council Member for the Construction and Technology Department at Orange Coast College in Costa Mesa. Murow holds a General Engineering Contractors License (A-659969).
DOPING IN ESTIMATING

By: Wil Beukman, CPE, LEED AP, MRICS, AVS CPE

In recent years the word “doping” became part of sport jargon, perhaps most prominent in Cycling and Athletics.

Floyd Landis had his Tour de France title stripped to name but one. Not only that, he is a wanted man in France with a warrant out for his arrest – all relating to his doping charge and following actions. 100m Sprinting have seen Ben Johnson losing his Olympic title. Many other medals and records have been forfeited due to positive enhancement testing.

Golf had its hints at prominent players that might have been abusing forbidden chemicals although it has a much more lenient policy than the sports mentioned. The recent square groove saga has however brought great controversy to the sport.

My point is this: whether you are Tiger Woods or Joe Soap, the estimator, you are tied to a code of ethics. If you do not adhere to it you are gaining unfair advantage and although you may prosper in the short term, your actions are very detrimental to your profession. Governing bodies are trying to create a level playing field by the rules and regulations they install. Some players adhere thereto while others try to find a workaround.

The ASPE Canons are our anti-doping laws. It is meant as protection for the members rather than a threat to bad guys. The very essence of our profession is integrity and honesty. We need to be trustworthy and irreplaceable to be able to deliver bona-fide estimates to our clients. Regardless of whether you are a consultant or a Contractor’s Estimator, if you are peddling bids it will become apparent sooner rather than later. Once you have that standing you open yourself to bid rigging and other doubtful practices. You will eventually lose the cutting edge bids and your bids in return will falter.

This is a world with a multitude of cultures and the global village has brought the ends of the earth on our doorstep via the Internet and other technologies. It has also introduced business practices which often are not only foreign but also doubtful. To function in distant countries might need an alternate approach but without the inherent integrity we previously mentioned you can easily find yourself entangled in a labyrinth that end on the wrong side of the law.

Although the Canons often sound like common sense [which it really is] it remains a worthwhile reminder and a valued selling point for the future. Conduct your profession in such a way that you would always wish the same standard on your business associates.

Make yourself proud!

Wil is immediate past president for ASPE Chapter 3 and currently works at Faithful+Gould as a Lead Estimator and can be reached at willem.beukman@gould.com

ASPE CODE OF ETHICS

Canon #1
Professional Estimators shall perform services in areas of their discipline and competence.

Canon #2
Professional Estimators shall continue to expand their professional capabilities through continuing education programs to better enable them to better serve their clients, employers and the industry.

Canon #3
Professional Estimators shall conduct themselves in a manner, which will promote cooperation and good relations among members of our profession and those directly related to our profession.

Canon #4
Professional Estimators shall safeguard and keep in confidence all knowledge of the business affairs and technical procedures of an employer of client.

Canon #5
Professional Estimators shall conduct themselves with integrity at all times and not knowingly or willingly enter into agreements that violate the laws of the United States of America or of the states in which they practice.
NEW STANDARDS ON CONTRACTOR DELAY CLAIMS FOR PUBLIC WORKS CONTRACTS

Ref: Howard Contracting, Inc. v. G. A. MacDonald Construction Co., Inc.

By: Gregory Clayton, PE, CPE, LEED® AP

The California Supreme Court of Appeal has effectively held that a subcontractor can recover damages for cost overruns caused by delays and disruption even though an Agency’s prime contract barred the recovery of such claims. This case is significant for several reasons. First it emphasizes the statewide public work contract prohibition against “no damage for delay” clauses. Secondly, the Court held that in every construction contract, the law implies a covenant that the owner will provide the contractor timely access to facilitate performance of the work. Third, the Courts have included that, as a matter of law, a general contractor can prosecute a subcontractor’s “pass-through” claims against the project owner. Fourth, a contractor can recover extended overhead for the delay and use the Eichleay Formula for determining allocation of home office overhead in the contractor delay claims legitimized by the Courts.

No Damage For Delay Clauses - California Public Works Code 7102 provides that contract provisions in public works construction contracts and subcontracts that attempt to limit the public entity’s liability for delays it causes shall not preclude the recovery of damages by the contractor or subcontractor. The statute also provides that Agencies cannot require the waiver, alteration or limitation of the applicability of this section. The statute cannot be construed to void any provision in a public works construction contract that requires notice of delays or provides for liquidated damages.

In this case the agency, the City of Los Angeles, claimed that it was a charter city and as such, the statute could not be applied to any public works contracts it entered into. California public works procurement statutes are not always applicable to charter cities that have their own ordinances. The Court held that the “no damage for delay” provision of the City’s public works contract did not apply.

An Owner Cannot Interfere With Your Performance – Generally, a party to a contract cannot hinder the performance of the other party unless there is a legal excuse for such action. In this case, the Court accepted the rule “that in every construction contract, the law implies a covenant that the owner will provide the contractor timely access to facilitate the performance of the work”. In regards to public works projects, providing misleading plans and specifications is treated as breach of implied warranty of correctness of the plans. Therefore, providing misleading plans constitutes a breach of contract rather than a fraudulent act.

Subcontractor Pass Through Claims – When a subcontractor’s performance is altered by the acts of the owner, the subcontractor then seeks a change order from the prime contractor. The prime contractor then presents the change order or claim to the owner. The general contractor passes the change order or claim through to the owner since the subcontractor may or may not have legal standing to assert a claim directly against the public agency due to a lack of privity of contract, but may have the right to assert a claim against the general contractor. The Court in this case, reaffirmed as a matter of law that a general contractor can present a subcontractor’s claim on a pass-through basis.

Contractors Can Recover Extended Overhead and Eichleay Formula – There was a clear critical path delay by the City of Los Angeles in this case. The delay did not prevent the contractor from delivering the completed project within the time allowed in the contract. Generally, unabsorbed overhead consists of time-sensitive indirect costs incurred despite construction activity on a project, such as home office overhead.

The City argued since the project was completed on time, the contractor was not entitled to recover extended unabsorbed overhead. The court held that extended overhead for delays can be recovered even if the work was completed prior to the contract completion date, if the claim can be proven by satisfying a three-part test. The contractor must establish that the contractor had the intent and capability to complete early when it entered into contract and that it actually would have completed early but for the agency’s actions. Concluding, the California Supreme Court has outlined the new standards relating to contractor’s delay claims on public works projects in its decision in this case. Accordingly, contractors must be aware of their ability to recover for such damages and carefully document the delays as they occur to avoid the expense of finishing the project in the courts.

Greg is current 2nd Vice President and works at Contracting Engineers, Inc as President and can be reached at gclayton@4cei.com
CERTIFICATION

By: Art Quinion

Professional evaluation through Certification is one of the many ways the American Society of Professional Estimators endeavors to promote the profession and benefit the construction industry. ASPE Certification is the highest form of professional recognition an individual estimator can receive and is being sought by more construction estimators every year. Through its Certification Program, the American Society of Professional Estimators recognizes the estimating proficiency and ethical awareness of the Certified Professional Estimator (CPE).

If you would like to become certified, the certification process requires the candidate to write a 2,500 word technical paper, in addition to taking two examinations. The first exam is a General Knowledge Exam (GEK) consisting of approximately 500 questions across a variety of construction topics including AIA documents and general estimating knowledge. The candidate has four hours in which to complete this test. In addition, each candidate must also take a Discipline Specific Test (DST). These exams are a test of the candidate’s specific area of expertise. Currently ASPE has Discipline Specific Tests in numerous categories including General Estimating, Earthwork, Concrete, Roofing, Plumbing, HVAC Sheet Metal, and Electrical to name a few. The DST exam is an eight hour test with true/false and multiple choice questions as well as estimating problems that are basically mini-estimates. There are two testing cycles per year. The timeline for the next testing cycle is approaching soon, so you will need to fill out an application for certification as soon as possible. Once approved, you will be required to complete an online or chapter workshop to begin the testing process. The chapter will also be presenting an Introduction to Certification workshop in the near future, in addition to the required online workshop, to review what to expect from the technical paper and two tests.

Once recognized as a CPE, you will be expected to keep abreast of current trends and improved practices in the construction industry. Your conformance with this requirement is measured under the provisions of the Continuing Certification Program. CPEs subject to recertification must document active participation in the areas of ASPE service: professional, educational and creative contributions to construction estimating. Among the elements of continuing certification are review of technical papers, and the contribution of questions and problems to the Certification Test Data Bank.

As the Certification Chairman for ASPE Chapter 3, I’m available to answer any questions you may have about the certification process. Please feel free to email me at artq@phoenix-planning.com or call me at my office at (949) 581-9370.

APRIL DINNER MEETING RECAP

By: John Mauk

Last month’s meeting featured Ram Ramdass as our guest speaker. Ram is the Scheduling Practice Leader for O’Connor Construction Management, Inc. and spoke on the topic, “Using the Schedule as a Collaborative Tool for Project Control and Risk Management”.

Ram began by discussing the definition of risk as it relates to construction projects and how CPM (Critical Path Method) Scheduling traditionally has been used (or not used) as a tool to control project risk. Ram explained the difference between quantitative risk analysis and qualitative risk analysis. In quantitative risk analysis, an attempt is made to numerically determine the probabilities of different adverse events and the probability of the event taking place. Qualitative risk analysis, which is used more often, does not involve numerical probabilities or predictions. Instead, the qualitative method involves defining and evaluating the possible detrimental events, determining the extent of risk and what steps can be taken to lessen the chance of that identified event happening.

Ram also discussed 4D scheduling and showed several examples of real projects that have been modeled using various 3D modeling tools married with a CPM schedule to show the sequencing of construction in a 3D model. By providing real world examples and showing examples of typical graphical reports he produces as part of the risk analysis he provides at O’Connor, his presentation was both informative and interesting.
ASPE CHAPTER 3: STANDING RULES

The Standard Chapter Bylaws of ASPE allows in Article XVII for a chapter to adopt Standing Rules which will govern specific issues not detailed in the Bylaws. We have been functioning as such and in order to comply with the formalities we need to adopt these Standing Rules. Below are the Rules that we are proposing to vote on at the June 8th dinner meeting.

STANDING RULE NO. 1 – BOARD OF DIRECTORS

The Board of Directors will consist of the following:

Elected directors: a.) President, b.) 1st Vice President, c.) 2nd Vice President, d.) 3rd Vice President [optional] and e.) Treasurer.

Ex-officio directors: a.) Immediate Past President

Appointed directors: a.) Executive Secretary, b.) Webmaster, c.) Newsletter editor [appointed by the elected members from the membership or within]

Co-opted directors: a.) at the discretion of the officers mentioned above any member of the Chapter can be drafted in as Committee chairs or otherwise.

All of the above directors will have 1 vote on the Board if they are Members in good standing. The President will only vote to resolve tie breaks.

STANDING RULE NO. 2 – MEETING DATES

The Chapter shall have regular Membership meetings on the second Wednesday of each month at a venue determined by the Board of Directors. At the discretion of the Board some months may be skipped due to holidays, Convention month etc. Social, education and other meetings may be organized at the discretion of the Board of Directors. The Board of Directors will meet on the Wednesday before a membership meeting at a mutually agreed venue.

STANDING RULE NO. 3 – DUES, FEES AND CHARGES

Annual dues are $75-00 per year. It is collected by the SBO and paid to the Chapter. All meeting fees to be determined by the Board of Directors.

STANDING RULE NO. 4 – AMENDMENTS AND CONFLICT

Amendments to these Chapter Standing Rules require previous notice to the Chapter membership and a two-thirds vote of those present and voting. Only members in good standing may vote.

Any rule in conflict with the Charter of the American Society of Professional Estimators; the Chapter’s Corporate Charter; or the Bylaws, Standing Rules or official policies of the American Society of Professional Estimators, will be overruled by the conflicting item.
CHAPTER HISTORY

We have started to build up our archives for Chapter 3. Below is a list of known chairmen over the years. If anybody can assist with filling in the blanks [that is If you have the name of any committee member not showing in the list] please contact Wil Beukman at wbeukman@cox.net.

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Dan Schottlander, CPE - AECOM, 949.476.3365, dan.schottlander@aecom.com

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Certification – Art Quinion, CPE, LEED®AP – artq@phoenix-planning.com
Communications / Website – Paulette Rutlen, CPE, CEP – paulette.rutlen@constructioncostcontrols.com
GC Advisory – Greg Clayton, CPE, PE, LEED® AP – greg@4cei.com
Parliamentarian – Mike Mills, CPE – Michael.mills@jacobs.com
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By-Laws – Mike Mills, CPE – Michael.mills@jacobs.com
Historian – Mike Mills, CPE – Michael.mills@jacobs.com
Fundraising – Mike Mills, CPE – Michael.mills@jacobs.com
Ethics – Mike Mills, CPE – Michael.mills@jacobs.com
Education – Mike Mills, CPE – Michael.mills@jacobs.com
Standards – Mike Mills, CPE – Michael.mills@jacobs.com
Newsletter – ChiaYen Yuan – chiayen.yuan@fgould.com
Public Relations / Marketing – Anita Beukman – anita.beukman@fgould.com
Scholarships – Anita Beukman – anita.beukman@fgould.com
Mentoring – Mike Mills, CPE – Michael.mills@jacobs.com
FOR YOUR INFORMATION...

COMPANY MEMBER REPRESENTATIVES

Casper Estimating Services Consolidated Contracting Services Contracting Engineers Inc. Contractors & Cost Consultants
HAAS Marketing Group Helman Contract Glazing HMC Architects Jacobs Engineering Kanda Project Services Corp
Kerry Contractors, Inc. KFHP Inc. KGA, Inc. KHS&S L&R Construction Inc. Lawrence P. Lee & Associates Lombard Consulting Services, Inc.
Pete Fowler Construction Services, Inc. Phoenix Planning Project Control Assoc. LLC Raymond Interior Systems
Red Hill Services Construction RCR Plumbing & Mechanical Ronald Fedman Associates, Inc. Swinerton Builders TH Western Builder
The Clark Construction Group The Rosenthal Company Timko Inc. Woods Construction

TWITTER ACCOUNT

By: Paulette Rutlen

Twitter: ASPE3OrangeCty

Do you Tweet? With the advent of all of the social networking going on I figured we should be keeping up with the technology. For those of you not in the know, Twitter is a website that allows postings, called tweets, of no more than 144 keystrokes (yes, spaces count). With Twitter you can find individuals such as ASPE’s national Executive Director (ASPENatExecDir), other chapters (ASPE12Reno or ASPE51SLCUtah), construction related organizations such as NAWIC, MC2, or McGraw Hill.

I intend on finding links to individuals and organizations that may be of interest to our membership. If you find an organization that you think would be of interest to our chapter membership let me know. Just post a tweet to ASPE3OrangeCty and I’ll be sure to link us to the account.

Do you have insights to pass on to our membership regarding the construction industry in Orange County? With a Twitter account you can pass them along quickly. After all, how long can it take to type 144 characters? See a website or blog you think may be of interest, post the link with one tweet and the whole chapter can see it too.

Try it out. Even if you never post anything, you can follow the postings of whoever you may find interesting. Hopefully, one of those will be ASPE3OrangeCty.

FACEBOOK ACCOUNT

By: Anita Beukman

Our chapter Facebook account is up & running—ASPE Chapter 3, Orange County—we have added a few friends from last month and we need more! If you have an account, look us up, so you can follow our status for upcoming events!

BECOME OUR FACEBOOK FRIEND & LOOK US UP:

“ASPE CHAPTER 3, ORANGE COUNTY”
**Volunteers Wanted!**

We need your help! Anyone who is interested in serving on a committee for the OC chapter, please contact Mike Mills at michael.mills@jacobs.com for more information. This is a great way to give back to ASPE both personally and professionally. We encourage you to attend a board meeting to see what it’s all about. We meet every other month in a physical location and all ASPE members are welcome to attend.

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**Advertising Opportunities**

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If you would like to advertise with us, contact ChiaYen Yuan at chiayen.yuan@fgould.com for more details.

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**Become a Member**

Applications for membership can be downloaded from the national website, www.aspenational.org, or on our local website, www.aspechapter3.org. For more information, contact Gary Casper at garyc@coppertopent.com.

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**Thoughts or Suggestions?**

We are looking for your ideas and input regarding our newsletter and dinner programs. Do you have an idea for an upcoming dinner meeting? Would you like to be a presenter at one of our dinner meetings? Is there a topic of discussion that we should write an article about? Would you like to be a contributor to our newsletter? Please contact ChiaYen Yuan at chiayen.yuan@fgould.com.

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Serving construction estimating professionals by promoting ethical behavior, professional development, continuing education, standardization, certification and fellowship.

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We look forward to seeing you at this month’s meeting!