



The Campaign for Responsible Development

A project of FRESC, the Front Range Economic Strategy Center

The Value of High-Road Construction at the Cherokee-Gates Redevelopment Project

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BACKGROUND ON THE CRD

The Campaign for Responsible Development (CRD) is a diverse coalition of organizations and community residents working to maximize economic opportunities for Denver's families and communities through publicly subsidized redevelopment projects. Redevelopment builds greater economic opportunity and stronger local communities when it creates jobs that support families through good wages and health care, builds more affordable housing, and promotes neighborhood and environmental safety. To achieve these goals, the CRD has proposed a "community benefits agreement" including commitments in each of these areas for the publicly subsidized redevelopment of the old Gates rubber factory by Cherokee Partners. This issue brief focuses on the construction component of publicly-subsidized redevelopment projects.

WHY FOCUS ON CONSTRUCTION?

It is construction that transforms a physical space from a formerly blighted area into a new mix of businesses, homes, and community spaces. Construction is labor-intensive and requires a host of specific skills. This means that the productivity and quality of the construction workforce has significant impacts on the cost, quality, and schedule of a project.

But construction is not just about putting up buildings. In projects that are funded with tax dollars, construction jobs are the first form of "economic development" flowing from our public investment. Whether local contractors win the work, the wages and benefits workers receive, and the kind of skills and safety training workers get will significantly impact our local economy and communities. The choice of low-road vs. high-road construction practices makes a huge difference on what this impact will be. This issue brief will cover the following topics:

- Risks and costs of low-road construction—costs borne by owners, by investors, by workers and their families, by taxpayers, and by local communities.
- Principles of high-road construction, and the benefits to all stakeholders.
- Options for achieving high-road construction at publicly-subsidized projects like Cherokee-Gates.
- Challenges and opportunities for maximizing apprenticeship training for new construction workers, especially low-income, local residents, women, and minorities.

I. HIGH-ROAD CONSTRUCTION BEST MEETS THE INTERESTS OF OWNERS, INVESTORS, AND THE COMMUNITY

Low-Bid Contracts Without Quality Standards = Low-Road Construction

The criteria used to “let” or “bid out” construction contracts determines both the quality and productivity owners can expect from a project, as well as the economic benefits that will flow to the community. In some jurisdictions, the bidder promising to perform the work at the lowest price is automatically awarded the contract. Without consideration of the firm’s quality of performance, record of cost-overruns, or timeliness of completion, today’s low bid can cost investors far more in the long run due to late performance, shoddy work, and cost-overruns.

A low-bid system also results in low-road employment practices. Since labor constitutes approximately one-quarter of the costs of construction, the lowest bid is often made possible by cutting corners on skills and safety training, lowering wages, reducing or eliminating employer health care coverage, and reducing or eliminating workers’ retirement benefits. The direct impact on workers is easy to imagine, but there are secondary impacts as well, including poor quality, lower productivity, reduced safety, and shifting of medical costs to the public.

Safety is Enhanced by Quality and Employment Standards

Construction is dangerous work. Twenty-three Colorado construction workers died on the job in 2003 alone.¹ Non fatal injuries are much more common. Training and experience are critical to minimizing these risks. A rush to cut costs often leads to less training, higher turnover, and use of fewer highly skilled workers, thereby increasing the likelihood of on-the-job injuries.² In direct contrast, quality apprenticeship training and the increased worker retention on projects that pay a “prevailing wage” reduce worker injury rates.³ (Prevailing Wage is explained further in the next section.)

In addition to the human costs, injuries also drive up project costs by causing delays in work and increasing insurance rates. Further, in a low-road environment, where firms are less likely to provide adequate health insurance, the medical costs of injuries are more likely to be passed on to taxpayers through public health programs and higher insurance premiums to cover the costs of uncompensated care. (For further discussion see the Health Care section below).

Letting construction contracts based on quality criteria gives owners greater control over the safety practices of their contractors. For example, although professional licensing standards exist, the state of Colorado does not require crane operators to be licensed, and there have been several highly publicized injuries and accidents resulting from unlicensed crane operators in recent years.⁴ In high-road contracting, owners can demand equipment and safety certifications for workers who will be on the job, minimizing costly injuries due to inadequate training and experience.

The Union Advantage: Better Safety Practices

A study of work-related musculoskeletal injuries among union carpenters found that workers who had been members of the union for four or more years have lower risks for the vast majority of musculoskeletal disorders.⁵

Prevailing Wages Improve Productivity and Project Quality

Cutting costs by cutting wages may enable a low bid, but it does not ensure long term value in construction projects. Lower wages often translate into fewer highly skilled workers and lower productivity, both of which negatively impact the timeline and quality of a project.

Prevailing wage provisions establish minimum wages for various classes of construction workers, based on the wages and benefits actually paid on similar, local projects. Although frequently attached to public projects, it can also be attached to private projects, especially those that are publicly subsidized. Prevailing wages ensure a more highly skilled workforce than a low-road environment.⁶ Research demonstrates that prevailing wages result in higher productivity, offsetting the costs of higher wages.⁷ Moreover, the benefits of prevailing wage environments are not limited to owners; they are also associated with higher minority participation in apprenticeship training and greater economic gains for minority workers.⁸

The Union Advantage: Higher Productivity

A labor productivity study of over 1,000 projects involving more than 100 companies found that construction projects using an all union workforce were nearly 17% more productive than non-union or mixed union/non-union jobs⁹

Providing Health Care Benefits: The Responsible Way of Doing Business

The seasonal nature of construction and the prevalence of small companies with few employees often make it difficult to insure construction workers, but many high-road employers provide health insurance in spite of these barriers.¹⁰ Low-road contractors who do not provide health insurance fail to account for the true cost of maintaining a healthy and experienced workforce. This undermines the competitiveness of firms that responsibly cover these costs, and it negatively impacts their ability to continue providing health care benefits.

Low-road employers who fail to cover the full costs of doing business are also shifting the health care costs of their workers to the rest of the community. A Nevada study of inpatient, emergency room, and outpatient care found that construction accounted for a disproportionate amount of uncompensated care in all three categories.¹¹ The total cost of uncompensated care for uninsured Nevada construction workers between 1998 and 2000 was \$6.3 million.¹²

Failure to provide health care coverage also reduces the quality of construction due to greater absenteeism, reduced efficiency, and lower productivity.¹³ Alternatively, employer health care reduces worker turnover and improves retention of a more highly trained workforce.¹⁴

The Union Advantage: Better Health Care Coverage

Union construction trade employers join together in multi-employer pools, spreading administrative costs and risk, which lowers insurance costs and enables companies to provide coverage to a much higher percentage of workers. Nationally, 81.4% of union construction workers have employer-based health care coverage, compared with only 37.6% of non-union workers. This disparity is even more pronounced among the growing population of Hispanic construction workers—only 24.2% of non-unionized Hispanics have employer-based coverage, compared to 73.8% of Hispanics working for union firms.¹⁵

A Fair Playing Field for Local Contractors Makes Good Economic Development Policy

Another consequence of low-road bidding is an unfair playing field for local construction firms. One way low-road contractors underbid local construction firms is to bring in out-of-town or out-of-state construction workers, to whom they pay lower wages than they would have had to pay to maintain a local workforce.

This imposes considerable costs on the local economy. Most of the wages paid to non-local construction workforces will not be spent locally. Instead, workers send paychecks home to pay for rent/mortgages, family expenses, durable goods, and taxes in their hometown. This directly undermines the economic development effects intended to flow to the local economy in publicly subsidized “economic development” projects. A study of a \$100 million shopping center renovation project in Santa Clara County, California found that the local economy lost between \$9 million and \$11 million in economic impacts due to a construction workforce that was only 47% local.¹⁶ In a project like Cherokee-Gates, which will be ten times as large, maximizing opportunities for local firms and workers is even more important to the local economy.

Finally, when local firms are unable to compete for work against low-road, out-of-town firms, their capacity to hire and train new apprentices from the local community is greatly reduced. This represents a missed opportunity to grow the region’s highly trained construction workforce and to increase its economic competitiveness. (See Part III below for more on apprenticeships).

Compliance with Existing Laws Protects Workers and Public Safety-net Programs

Numerous state and federal laws govern the construction workplace. Laws that govern how workers are classified as employees versus independent contractors determine the kind of legal protections each is entitled to, such as worker’s compensation in the case of a workplace injury or unemployment benefits in the case of a layoff. Low-road construction firms cut costs by improperly classifying workers as independent contractors. This deprives government safety nets such as unemployment insurance of critical funds, and deprives workers of these insurance safety-nets. Quality contracting minimizes these violations by demanding strong legal compliance standards and monitoring employer policies and practices.

State and federal labor laws also protect the right of workers to join and form unions, or to engage in other collective actions on their own behalf. In spite of these protections, workers are frequently fired for attempting to join unions, or simply for seeking to enforce safety or working conditions. Federal remedies are time consuming and too weak to deter violations. Owners, however, can help deter violations directly and minimize the disruption such violations cause to the workplace by demanding strict adherence to labor laws as a condition of contracting.

II. SEVERAL PATHS TO HIGH-ROAD CONSTRUCTION

There are several different mechanisms for establishing high quality, high-road construction standards in the selection of construction contractors. In descending order, beginning with the most effective method, the distinct alternatives for achieving these goals are listed below.

Path 1 - The Project Labor Agreement (PLA): Uniform and Efficient Labor Provisions

A PLA establishes a common set of work rules, working conditions, hiring practices and dispute settlement mechanisms, and it bans work stoppages and lockouts. It is an efficient way of structuring labor provisions on a project because it reduces time spent on negotiation of varying work rules with different contractors, and on dealing with different (and sometimes conflicting) dispute resolution mechanisms when problems arise.

Most PLAs also include local hiring provisions, and PLAs have been one of the most successful ways of increasing the number of local residents, including minorities and women, into high-paying, career-path construction apprenticeship programs.

There is a common misconception that a PLA excludes non-union firms and “requires” or “guarantees” union firms the contracts. This is not the case. A PLA may designate a union hiring hall as the point for hiring workers—as a mechanism to ensure proper training, qualifications, and safety certifications for all workers on the job—but any contractor may bid on the job as long as they agree to abide by the wages, benefits, and standards required under the agreement. Non-union contractors have the same opportunity to bid on a PLA project as union firms, and they are routinely awarded contracts under PLAs.

Path 2 - Responsible Contractor Pre-Qualification: Blocking the Low Road

Responsible contractor policies, sometimes known as contractor prequalification systems, are threshold qualification tests that determine whether a firm is eligible to bid for work. Responsible contracting involves a two-stage process: qualification and then bidding. Contractors submit their qualifications on carefully established criteria intended to ensure the project’s success, such as past performance, bonding, licensing, safety record, compliance with applicable laws, wages paid, provision of health insurance, apprenticeship training, etc. Any firm that does not meet the established standard for each of the criteria will not be qualified to bid. The owner then invites qualified firms to bid on the work, and any firms selected are bound to maintain the criteria throughout the contract period. Sometimes prequalification is for just one project bid, but other times prequalification might entitle contractors to bid on any project that comes up with the same owner for a set period of time (such as for two years).

Responsible contractor systems can also include requirements to participate in local hiring programs and commitments to train and graduate apprentices.

Path 3 - Best Value Contracting Criteria: Maximizing the Values of High-Road Construction

Under the best value system, a private owner or a public jurisdiction places a numeric value or weight on different selection criteria that will be used to assess the contractors and bids, seeking to achieve the best value. Low price can still be weighted 50% or more in the selection criteria, but other credentials are also given value: past performance, safety record, wages and benefits, apprenticeship training, etc. The relative value or weight of these selection criteria is laid out in a “request for proposals” (RFP). Contractors submit bids under the clear criteria laid out in the RFP. Contractors also “pre-list” the major sub-contractors they intend to use, and provide these subcontractors’ past performance and qualifications as well. Bids are then scored and weighted,

based on all the best value criteria laid out in the RFP, and the highest scoring firm receives the contract. Contractors are bound by the quality criteria just like they are any other contract term, and there is monitoring to ensure that any on-going standards are met for the duration of the project.

According to the Associated General Contractors of America (AGC), “negotiated [Best Value] contracts continue to increase in popularity across companies of all sizes and within all geographic regions.”¹⁷ Several studies have looked at the use of quality criteria in the selection of contracts compared to reliance on price alone, and have demonstrated that “best value” contracting delivers quality facilities faster and controls costs better than pure low-bid processes.¹⁸ (No empirical studies have claimed that low-bid construction selection produces better results.¹⁹)

Path 4 - Project-based Construction Standards: Steering Firms On to the High Road

A final method for ensuring quality standards is focused solely on requiring contractors to comply with certain criteria going forward. This method differs from responsible contractor policy in that it does not consider past performance or past qualifications when selecting firms, it only considers a firm’s commitment to comply with set criteria on the project in question. In this situation, an owner uses any method to select contractors, but requires selected firms to comply with these terms. Such standards may include:

- Payment of prevailing wages to all workers. (Most prevailing wage provisions include health care requirements, or a pay differential in lieu of health insurance.)
- Requirements that workers in certain trades have appropriate certifications for operating equipment and other safety training standards.
- Utilization of certified apprentices and mandatory graduation rates to ensure apprentices are really receiving the training they should in order to advance in their abilities and trade.

Although this method is better than having no quality standards, if contractors without a strong record of past quality are selected, compliance with “new” standards can be much more difficult and may require greatly increased monitoring and administrative oversight to ensure compliance for the life of the project.

The Union Advantage: Under Budget and Ahead of Schedule

Legacy Plaza in downtown Denver was built primarily by union construction firms. The project was completed for \$2 million dollars under the square footage cost for other new buildings in the downtown area at the time. It was also completed 2 months ahead of schedule.

III. BUILDING DENVER’S SKILLED CONSTRUCTION WORKFORCE AND INCREASING LOCAL ACCESS TO CONSTRUCTION CAREERS THROUGH APPRENTICESHIP TRAINING

The service-sector & retail jobs that dominate the “new economy” rarely provide opportunities for advancement, self-sufficient wages, or benefits.

Employment in high-wage sectors like computers and technology have been steadily declining, while service-sector jobs are projected for continued growth. Many of these jobs are notable for low wages and poor benefits. These are not simply starter jobs for young workers, studies demonstrate that low-wage workers in these industries typically find themselves stuck in “low-wage careers” that can last a lifetime.²⁰ This is partly due to the fact that retail and other service industries rarely provide workers with new skills or opportunities for promotion.

Construction jobs are high-paying, career path opportunities.

Construction is one of the few potentially high-paying jobs available to non-college graduates.²¹ And construction is predicted for growth in the regional economy.²² Advanced training and improved technical skills correspond to opportunities for advancement within crafts, and there are ample opportunities for advancement to the position of foreman or by starting one’s own company within the industry. For Denver to make the most of construction employment opportunities, it must promote both the growth of a skilled, local construction work force, as well as active recruitment of young workers into skilled construction trades.

Construction that fails to support quality, local apprenticeship programs results in lost training opportunities for local workers and reduced economic competitiveness.

Use of out-of-area construction firms may occur for a variety of reasons, such as a lack of skilled workers in the local labor pool, or to cut costs through hiring of workers from areas with lower wage rates. When opportunities to train local workers are lost to out-of-area firms, the competitive disadvantage to the regional economy is compounded, because lost training opportunities will perpetuate the shortage of locally skilled workers to meet future demands.

Businesses serve their own interests when they support the growth and maintenance of a highly skilled construction workforce.

A 1997 study commissioned by the Business Roundtable, an association of CEOs of 200 of the largest private construction users in the country—including Exxon Mobil, GE, Monsanto and Dupont—focused on the impact of skilled worker shortages and the role businesses can play in addressing the problem.²³ One key finding was:

[O]wners should recognize they have a vested interest in ensuring that contractors bring qualified, skilled workers to their project sites. As such, training costs are part of the contractors’ cost of supplying services and the compensation due for those services.

The report went on to recommend that owners only do business with contractors who invest in training and maintain the skills of their work force. One mechanism the report suggested for doing so was making commitments to craft training a factor for evaluation in pre-qualification to bid on work.

Not all construction training programs are created equal.

A successful local construction industry is built on a foundation of safe and skilled craftsmanship. High quality training is essential both for the safety of current workers and the quality of current projects, as well as for advancing the skills and ensuring the longevity of the future workforce. Well run apprenticeship programs should be the mechanism through which workers advance their skills and safety knowledge under the supervision of trained professionals, providing a career ladder of increasing wages and benefits and ensuring quality craftsmanship through standardized requirements.

Yet many Colorado construction workers are not part of certified apprenticeship training programs at all. Further, there are serious problems with training programs run by multi-employer non-union associations, such as the Construction Industry Training Council (CITC). By 2004, the CITC had graduated only 15% of the apprentices registered in their program between 1995 and 1999.²⁴ In highly skilled crafts, such as electricians and plumbers, the CITC apprenticeship graduation rates are as low as 10% and 8% respectively. This means that only a small proportion of Colorado's non-union construction workforce is building the skills and experience that will give them access to the career ladder of higher wages and benefits that comes with graduating as "journeymen" workers, or to be qualified to teach and prepare the next generation of construction workers.

Apprenticeship programs operated jointly by construction trade unions and union contractors ("joint apprenticeships") have high graduation rates.

Joint apprenticeships in Colorado graduate nearly twice as many of their entering students as their non-union counterparts, which means that a joint apprentice is more likely to attain the better skills and higher-paying status of a journeyman.²⁵ For example, recent data shows that the apprenticeship program run jointly by union electrical contractors and the IBEW (known as DJEATC) graduated 79% of registered apprentices, whereas the technical college training program graduated only 6% of apprentices and the non-union employer program graduated only 29%.²⁶

Joint apprenticeship programs offer immediate employment with better pay, pensions and family health care benefits.

Unlike many vocational training programs, union apprentices gain both classroom instruction and on-the-job training with pay and benefits. Graduation from an apprenticeship program earns an individual the title of "journeyman," which entitles them to higher wages than individuals who do not graduate from apprenticeship programs, and better wages than those with other educational attainment. For example, wages for journey-level construction workers in less skilled trades are higher than the wages of the average college graduate.²⁷ Wages for highly skilled journey-level workers exceed the average earnings of individuals with a master's degree.

Joint apprenticeship programs actively recruit and train women and people of color.

Colorado joint apprenticeship programs have recruited twice as many women as their non-union counterparts, and a higher percentage of women graduate from joint programs.

Joint apprenticeship programs also do a better job recruiting and graduating apprentices of color. For African-Americans, joint programs in Colorado graduate nearly three times as many of their entering apprentices as non-union programs. Joint programs graduate nearly twice as many Hispanics in Colorado as their non-union counterparts.

Cooperation among developers, construction trades, community partners and local government can increase participation by low-income, local residents in apprenticeship training programs.

The Cherokee-Gates project will require hundreds of construction workers annually over the course of the next decade or more. A large-scale project such as this one will provide opportunities to train and hire many new workers embarking on a career in the construction industry. The more construction jobs that are provided to local construction firms with connections to quality apprenticeship programs, the more spaces will be available to train workers from nearby neighborhoods through a cooperative effort with union apprenticeship programs.

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- ¹ Julie Dunn, "Death Rate for Hispanics on Job Climbs in Colorado," *The Denver Post* (April 28, 2005).
- ² Peter Philips, Garth Mangum, Norm Waitzman and Ann YHeagle, *Losing Ground: Lessons from the Repeal of Nine Little Davis-Bacon Acts* (University of Utah: February 1995).
- ³ Ibid.
- ⁴ Julia Martinez, "State Fails to Oversee Crane Operators," *The Denver Post* (July 24, 2005).
- ⁵ H.J. Lipscomb, et al., *Surveillance of Work-Related Musculoskeletal Injuries Among Union Carpenters* (National Library of Medicine: December 1997).
- ⁶ A study of 391 public school projects concluded higher wages associated with prevailing wage standards ensured use of skilled labor, guarding against the cost of mistakes and future maintenance costs. Peter Philips, Ph.D., *A Comparison of Public School Construction Costs* (University of Utah: February 2001).
- ⁷ Hamid Azari-Rad, Peter Philips, and Mark Prus, "Making Hay When it Rains: The Effect Prevailing Wage Regulations, Scale Economies, Seasonal, Cyclical and Local Business Patterns Have on School Construction Costs," *Journal of Education Finance*, 27 (Spring 2002) 997-1012.
- ⁸ Peter Philips, Garth Mangum, Norm Waitzman and Ann YHeagle, *Losing Ground: Lessons from the Repeal of Nine Little Davis-Bacon Acts*. (University of Utah: February 1995).
- ⁹ Dean Findley, *Presentation to the Construction Users Roundtable. Understanding Labor Productivity in High Wage Regions: Labor Productivity Phase II* (Independent Project Analysis, Inc.: 2002).
- ¹⁰ Construction workers with small companies are more likely to have health coverage than those working for similarly sized companies in other industries. Mark A. Price, "Pension and Health Insurance Coverage in Construction Labor Markets," in Hamid Azari-Rad, Peter Philips, and Mark J. Prus, *The Economics of Prevailing Wage Laws* (Ashgate: 2005).
- ¹¹ Although construction accounted for only 10.1% of Nevada employment, it accounted for 19.1% of uncompensated inpatient care, 14.1% of uncompensated emergency room care, and 16.1% of uncompensated outpatient care between 1998-2000. C. Jeffrey Waddoups, "Health Care Subsidies in Construction: Does the Public Sector Subsidize Low Wage Contractors?" in Hamid Azari-Rad, Peter Philips, and Mark J. Prus, *The Economics of Prevailing Wage Laws* (Ashgate: 2005).
- ¹² Ibid.
- ¹³ Wilhelmine Miller, Elizabeth Vigdor, and Willard Manning, *Hidden Costs, Value Lost* (Institute of Medicine, National Academy Press: 2004).
- ¹⁴ Brigitte Madrian, *Quarterly Journal of Economics* 109 (February 1994), pp. 27-54. See also Sunhwa Lee, Ph.D., *Women's Work Supports, Job Retention, and Job Mobility: Child Care and Employer-Provided Health Insurance Help Women Stay on Jobs* (Institute for Women's Policy Research: November 2004).
- ¹⁵ Mark A. Price, "Pension and Health Insurance Coverage in Construction Labor Markets," in Hamid Azari-Rad, Peter Philips, and Mark J. Prus, *The Economics of Prevailing Wage Laws* (Ashgate: 2005).
- ¹⁶ Karen Chapple, et. al, *Analysis of Economic Impact on Santa Clara County of Eastridge Shopping Center Renovation Project* (University of California, Berkeley: July 2004).
- ¹⁷ Associated General Contractors (AGC) and Deloitte & Touche Consulting, *Insights in Construction, Fourth Report on the National's Leading Construction Companies* (2000), p. 5.
- ¹⁸ See Naval Facilities Engineering Command, *NAVFAC Capital Improvements Program, Acquisition Strategy Overview* (July 17, 2003), reporting a reduction in cost growth from 5.7% to 2.5%; and D. Greensburg and M. Ellicott, "Best Value Contracting Criteria," *Cost Engineering* (American Association of Cost Engineers: 1997), Vol. 39, No 6, pp. 31-34.
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- ²⁰ Center on Wisconsin Strategy, *No Pay No Gain: The Structure and Persistence of Bad Jobs in Wisconsin* (August 2002).
- ²¹ Bureau of Labor Statistics, *How Education Boosts Your Bottom Line, Average Gross Weekly Salary for U.S. Workers With Various Levels of Education* (1994).
- ²² Colorado Department of Labor & Employment, *Industry Clusters for the State of Colorado* (Fall 2003). Construction accounts for more than 100,000 jobs in the Denver metro area, and projected job growth in the skilled trades ranges from 46.9% growth for roofers to 71.2% for construction laborers by the year 2010.
- ²³ Business Roundtable, *Confronting the Skilled Construction Work Force Shortage* (October 1997).
- ²⁴ AFL-CIO, *A Final Report on Associated Builders and Contractors Apprenticeship Training: Flawed and Failing Programs* (April 2005). Data are from the Registered Apprentice Information System (RAIS), Office of Apprenticeship Training, Employer and Labor Services.
- ²⁵ All references to Colorado apprenticeship rates are from Colorado AFL-CIO and FRESC preliminary analysis of Colorado data from the RAIS system, reflecting graduation rates as of Spring 2004 for apprentices who registered between 1995 and 1999. For national data, see Cihan Bilginsoy, *Apprenticeship Training in the US Construction Industry* (September 1998).
- ²⁶ Data on the DJEATC, CITC, and IEC apprenticeship programs from the US Department of Labor.
- ²⁷ Bureau of Labor Statistics, *How Education Boosts Your Bottom Line, Average Gross Weekly Salary for U.S. Workers With Various Levels of Education* (1994).