

CONTRACTING WITH OWNER OPERATORS WHO EMBRACE YOUR ORGANIZATION'S SAFETY CULTURE

CLEARLY COMMUNICATING YOUR SAFETY EXPECTATIONS

Many trucking companies engage owner operators to deliver freight on their behalf. Owner operators are independent contractors who provide their own trucks. Because owner operators typically run under the carrier's operating authority, the trucking company can be responsible for managing the safe operation of these contractors.

Your safety performance and risk management can depend on the performance of your owner operators. While safety practices and expectations should not be different for owner operators as compared to company drivers, your company's safety expectations must be clearly expressed and included in the independent contractor contract.

To help ensure your owner operators are upholding and promoting your organization's safety culture, here are a few tips to consider:

VETTING PRACTICES.

Contracting with an owner operator who fits your safety culture starts with thorough vetting practices. You want to know if he/she will accept your company's safety culture before you enter into a contract. Ensure you have the right processes established to cross-check all aspects of a potential contractor's fit into your culture. This includes:

- **Background checks.** While background checks are required by the FMCSA, ensure your hiring team is taking a magnifying glass to the report and noting any potential red flags.
- **Review of roadside inspections.** If the potential contractor consistently fails roadside inspections, he/she may be likely to exhibit this same behavior when working for your organization and therefore may not be the best fit.
- **Pre-employment screening reports (PSP).** These should always be obtained as part of the review.
- **Cross-checking.** All material obtained during the hiring process should be cross matched to ensure the candidate has been truthful in the information provided.
- **Team review.** Have your team – both operations and professional drivers – interview the candidate. They may be able to notice if the candidate exhibits behavior that may not be aligned with your organization's safety culture.

A CLEAR CONTRACT.

Owner operators work under specific contracts that should be carefully drafted to reflect a company's requirements and expectations. If owner operators are required to uphold specific aspects of your organization's safety culture that may go above and beyond FMCSA regulations, those items should be specifically included in the contract. For example, if an owner operator is required to attend monthly safety meetings, install cameras, or abide by other specific organizational expectations, these should be outlined in the contract. All contracts should be reviewed by your attorney prior to being used.

Items to Consider Including in Owner-Operator Lease Agreements:

- ☑ Compliance with all federal, state, and local regulations.
- ☑ Proper allocation of risks and liabilities.
- ☑ Protection of the independent contractor status of the owner-operator.
- ☑ Outline of safety culture expectations and rules.
- ☑ Required periodic equipment inspections by a qualified diesel mechanic.
- ☑ If equipment defects are discovered, ensure the vehicle does not operate until the repairs are completed to the company's satisfaction.

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BEST PRACTICES FOR CONTRACTING WITH OWNER OPERATORS

- **Know from the Start.** If a potential contractor pushes back or expresses aversion to signing and abiding by all of your organization's rules, he/she is probably not a good fit.
- **Operations Buy-In.** Your organization's safety culture depends on more than your company drivers and owner operators. Your entire team should be aligned around safety as a nonnegotiable core value. If any part of your company is not aligned, that may spill over to the driver.
- **Reclassification Risk.** Federal and state laws establish criteria which must be followed to ensure that independent contractors are not reclassified as employees. Ensure you are familiar with these laws and consult with your attorney as warranted.
- **Follow the Rules.** Owner operators must follow federal guidelines. To succeed on your team, they must follow your safety rules, too.