



Risk Mitigation Tips for Contracting with Owner Operators



Owner-operators (OO) may subject your organization to increased liability risk in the event of an accident. Often utilized when a company does not have the means to transport goods to a necessary destination such as a jobsite or customer's location, owner-operators may engage with an organization directly or use a broker. Regardless of the path for the relationship, to mitigate risk, organizations should consider following certain protocols when selecting whom to contract with for the safe and secure transportation of goods. This is because, in an accident, the responsibility for hiring and vetting may extend to the organization that hired the OO and who holds the operating authority.

Owner-operators may operate under their own operating authority or may require hauling under your organization's operating authority. This is a key factor to consider, as when operating under your operating authority, OOs are transporting goods on your behalf and utilizing your credentials to do so, further solidifying the relationship between you and the operator. It is recommended that organizations exercise due diligence in vetting all potential OOs before doing business.

OOs may increase your liability risk. When contracting with an OO under your operating authority (OA), it is recommended that you exercise all driver qualification and vehicle inspection, testing, and maintenance accountability protocols that you would as if the individual were your employee^{1, 2, 3, 4}.



Operating authority (OA) dictates the type of operation a company may run and the cargo it may carry, as well as the level of insurance and financial responsibilities a company must maintain. Do not allow OOs to operate without the proper authority.

Licensing requirements vary by country and territory. Confirm requirements applicable to the origin, destination, and route of transport. Traveling into or through other countries may subject you to local regulatory requirements.

- In the US: A Department of Transportation (DOT) registration number and Operating Authority designation.
- In the UK: A goods vehicle operator's license³
- In EU: A standard international goods vehicle operator license⁴
- In Canada: Provincial/Territorial Commercial Vehicle Registration in the region of operation

Consider these additional steps when vetting and contracting with owner-operators:

Driver Qualification Practices

Obtain permission to complete a thorough background check on any owner-operators you plan to do business with. In addition to a background screen, conducting a motor vehicle record check, and reviewing historical driving violations for at least the past five (5) years is recommended.

Note: If a driver has a recently issued license, expand the background and motor vehicle record checks for other jurisdictions if applicable.

In the United States, OOs registered with the Federal Motor Carrier Safety Administration (FMCSA) Drug & Alcohol Clearinghouse⁵ and/or part of a consortium will help ensure drivers are compliant with FMCSA's mandatory drug and alcohol testing requirements. As a business owner, you have a right to check the Clearinghouse for enrollment and activity of drivers you plan to hire, either as an employee or as a third-party. Additionally, the clearinghouse stores data across state lines, so

drug and alcohol violations from one state will be seen if they do business in a different state⁶. Review [FMCSA's Drug & Alcohol Clearinghouse](#) website for additional information.

For United Kingdom operations, a workplace safety risk assessment utilizing HSG 136⁷ guidance drives drug and alcohol compliance. Further guidance on drug and alcohol requirements can be found on the [Health and Safety Executive website](#). Reference GOV.UK for additional guidance on driving within the UK⁸ and abroad⁹.

¹ <https://www.fmcsa.dot.gov/registration/types-operating-authority>

² 49 CFR §387, Minimum Levels of Financial Responsibility for Motor Carriers

³ Being a goods vehicle operator: Overview - GOV.UK (www.gov.uk)

⁴ Transport goods in Europe in vans or car and trailers - GOV.UK (www.gov.uk)

⁵ <https://www.transportation.gov/odapc/faq>

⁶ <https://clearinghouse.fmcsa.dot.gov/FAQ/Topics/Queries-Consent-Requests>

⁷ Health and Safety Executive, A Guide to Workplace Transport Safety, HSG136 (3rd edition), 2014

⁸ Legal obligations of drivers and riders - GOV.UK (www.gov.uk)

⁹ Drive abroad: step by step - GOV.UK (www.gov.uk)

Confirm that the OO has favorable driving histories and endorsements applicable to your business transport needs. Endorsements may also include verification that they are licensed to transport hazardous materials. In the event hazardous materials are being transported, verify that the OO has the appropriate endorsements and qualifications as outlined in the Globally Harmonized System of Classification and Labelling of Chemicals (GHS)¹⁰.

Vehicle Inspection, Testing, and Maintenance Practices

Owner-operators are responsible for purchasing or leasing their trucks and covering maintenance costs, fuel expenses, insurance, and other operational expenses¹¹. However, if the OO utilizes or leases your owned trailers, your organization is liable for adequate maintenance and inspection activities associated with those elements. Ensure there is a clear outline of physical and financial responsibilities between the OO and your organization.

Verify that OOs have complied with applicable regulated vehicle and trailer maintenance as outlined in local and national regulatory agency requirements¹² and that any past vehicle-related violations have been remedied.

Outline the responsibility of loading, unloading, and securing the materials. Owner-operators are generally responsible for the condition and care of load securement materials such as tarps, straps, winches, binders, and chains. While accountability lies with the OO, as the hiring organization, it is recommended that you verify that the OO has a protocol to properly inspect, maintain, and replace this equipment.

Contractual Agreement Protocol

It is recommended that contractual agreements clearly outline that the hired owner-operator is only allowed to carry your materials during the transport time and the time in which the contract stipulates that they are working under your operating authority.

Stipulate additional coverages your organization will require to conduct business with an owner-operator. This may include bobtail and/or deadhead liability coverage. When operating in the United States, confirm that all owner-operators carry minimum levels of financial responsibility as outlined by FMCSA¹³. Additionally, minimum insurance requirements are set forth by the UK government¹⁴ and within EU OSHA workplace requirements.



Outline any financial responsibility for the OO while they are not acting on behalf of transporting your goods. This may include driving to a store, restaurant, hotel, or maintenance shop. As the shipper, you may require owner-operators to carry non-trucking insurance coverage and outline what driving activities are and are not covered under the motor carrier's request.

Lastly, consult with legal counsel to ensure the proper indemnification and risk transfer language is in the contractual agreements and is worded favorably towards your organization. Even with verification that the OO has all financial requirements in place as outlined by regulatory requirements and your organization, it is recommended that contractual agreements are established and signed by all parties before beginning work.

Establishing and implementing a formal owner-operator qualification process will ensure that your organization is protected from inadvertent liability outside the scope of expected liability risks when doing business with owner-operators. Through best practices of risk transfer and vetting, your organization will be positioned for the best defense against erroneous claims.

¹⁰ Globally Harmonized System of Classification and Labeling of Chemicals (GHS), Tenth revised edition, United Nations, New York and Geneva, 2023

¹¹ <https://schneiderowneroperators.com/owner-operator-tips/what-is-an-owner-operator>

¹² 49 CFR §396, Inspection, Repair, and Maintenance

¹³ eCFR :: 49 CFR Part 387 -- Minimum Levels of Financial Responsibility for Motor Carriers

¹⁴ Vehicle insurance: Overview - GOV.UK (www.gov.uk)

To learn more about managing your risk and increasing efficiency, visit cna.com/riskcontrol.

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