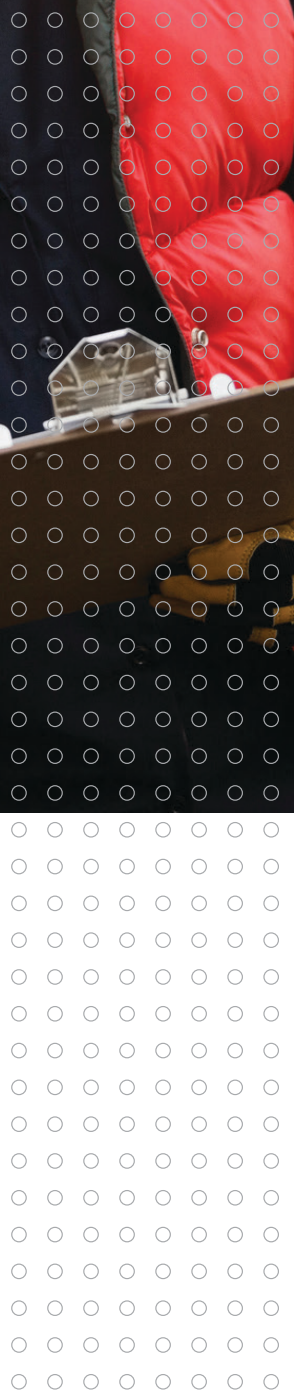




Assess Your Risk

Motor Carrier Contractual Checklist



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Working with independent contractors can be a liability for a motor carrier. From the lease agreement to insurance and state and federal regulations, it's important to know your risks and exposures. The following checklist will provide you with a greater understanding of your rights and responsibilities when engaging with the owner-operator independent contractor.

Review the Lease Agreement

Have your lease agreement drafted and reviewed annually by an attorney. Many motor carriers will use legacy or boilerplate lease agreements, but today's auto liability policies may contradict the language in these old contracts. Make sure yours is up to date and reflects your current business practices.

Spell out Equipment Requirements

The lease agreement should spell out all equipment requirements you have for your owner-operator independent contractor, including the driver's responsibility for their own truck maintenance and upkeep, route choices, refueling, etc.

Require Workers' Compensation

Require owner-operator independent contractors to purchase workers' compensation or occupational accident policies with limits of at least \$1 million. If the motor carrier procures the insurance policy for the independent contractor to purchase, make sure the lease agreement states that the coverage is required, but the independent contractor doesn't have to purchase it through the motor carrier.

Pay According to Status

Be sure that you pay the independent contractor either a percentage of the load, a percentage of the revenue or in another form that is not an hourly wage, i.e. by the mile, etc. This arrangement will ensure that they are considered an independent contractor and not an employee, as hourly or salaried payment will deem the owner-operator independent contractor an employee.

Affirm the Relationship

Do as you say in the lease agreement. Motor carriers that manage their owner-operator independent contractors like employees, i.e. requiring them to take certain loads, refuel at certain stations, etc., could be required to treat those drivers as employees, including providing employee benefits, paying employment taxes and more, regardless of what's written in the lease agreement.

Know Your State Regulations

Independent contractor status is governed by the states and therefore each state will view the roles of the motor carrier and the owner-operator independent contractor differently. Know your state requirements.

Know the Federal Regulations

The Federal Motor Carrier Safety Administration dictates minimum limits for auto liability and motor truck cargo coverage. Know your exclusions and liability gaps and work with your HUB broker to ensure necessary coverage.

Avoid Exclusions

Purchase your commercial auto policy and non-trucking liability policy from the same insuring agent when possible, as their exclusions can overlap.

Educate Your Drivers

Educate owner-operator independent contractors on Department of Transportation (DOT) requirements and on how to be good business people. Create a mentorship program or offer seminars on how to put away money for repairs, a new truck and more. Doing so will encourage responsibility among drivers and promote a positive rapport between the driver and the motor carrier.

Contact a HUB International advisor
to help you assess your contractual liability and exposures.

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