Data Centers

OVERVIEW

Eckert Seamans provides end-to-end legal guidance across the full lifecycle of data center development, combining multidisciplinary strengths in real estate, land use, environmental, energy, finance, and regulatory law. The firm supports clients from the earliest stages of site selection and feasibility, helping to secure land rights and assess critical infrastructure constraints such as power availability, water access, and environmental sensitivities that can determine project viability. Their attorneys guide developers through complex zoning and local approval processes, including rezonings, variances, and community engagement, proactively addressing public concerns and positioning projects for successful outcomes. The team also navigates federal, state, and local environmental review and permitting requirements, coordinating with regulators and technical experts to manage compliance risks, avoid delays, and align development with evolving environmental standards.

Beyond early-stage development, Eckert Seamans advises on the most critical and capital-intensive aspects of data center projects, including power procurement and interconnection strategy, where they assist in negotiating utility relationships, structuring power purchase agreements, and managing capacity and policy risks. The firm also supports financing and incentive structuring, helping clients align equity, debt, and joint venture arrangements while securing and maintaining compliance with state and local economic incentives. During construction, they provide counsel on contracting, procurement, and risk mitigation in a highly specialized and supply-constrained environment. Once operational, Eckert Seamans continues to guide clients on regulatory compliance, environmental reporting, and evolving legal obligations, helping ensure long-term operational resilience, sustainability, and risk management for data center assets.

DATA CENTER DEVELOPMENT

Site Selection & Feasibility

The first phase of data center development is site selection and feasibility. At this stage, a developer should identify and secure land and evaluate the availability of critical infrastructure resources like sustainable power supply and water. Developers should conduct preliminary assessments of grid capacity and/or construction of on-site power generation, as well as water availability and cooling feasibility; these factors are determinative of whether a data center project is viable. A recurring risk in modern data center development is the misjudgment of available electricity, which has become the primary constraint on new projects. Choosing land that is politically or environmentally sensitive (i.e., agricultural areas, sites near residential areas, or the presence of wetlands, streams or flood zones) can open the door to public opposition and additional regulatory scrutiny that can jeopardize development before its inception. Establishing and negotiating site control (via lease(s), easement(s) and other documentation, as necessary) is critical in early stage data center development, as well.

ESCM attorneys have a wide range of experience helping clients navigate site selection concerns.

Zoning & Local Approvals

Once a site is selected, the developer then has to secure appropriate zoning and local governmental approvals. This process typically involves confirming that data centers are a permitted use under existing zoning ordinances or pursuing rezoning, variances, or special use permits where necessary. Engagement with local planning commissions, zoning boards, and municipal officials is necessary at this stage. Public hearings are often required, and community opposition can arise around concerns such as noise, traffic, water usage, and visual impact. Early stakeholder engagement and clear communication of how perceived negative community impacts will be avoided or mitigated, as well as of anticipated economic benefits (such as job creation and tax revenue), can materially improve the likelihood of approval.

Eckert Seamans' attorneys bring experience and expertise from a number of practice areas to help clients manage the approvals process and work to minimize and address potential community concerns.

Environmental Review & Permitting

Developers must navigate a range of environmental reviews and permitting requirements at the federal, state, and local levels. These include air emissions permits for possible on-site power generation and for backup generators, and water withdrawal authorization, water and wastewater discharge permits, environmental assessments, noise studies, stormwater management permits, spill containment, and waste handling issues, . Compliance with applicable environmental requirements can significantly affect project timelines. Delays often arise from incomplete studies, agency backlogs, or challenges from community or environmental groups. Proactive environmental due diligence and coordination with regulators are essential to mitigate these risks.

Eckert Seamans' environmental team has deep experience representing clients in developing, constructing and operating regulated facilities. Our attorneys routinely interface with local, state and federal regulators to work through compliance issues. We also routinely work with technical experts to provide a comprehensive and coordinated advice and guidance to clients.

Power Procurement & Interconnection

Securing sufficient and reliable power is one of the most critical and challenging aspects of data center development. Developers must coordinate with utilities and regional transmission organizations to obtain interconnection approvals and ensure adequate grid capacity. This process can involve lengthy studies, infrastructure upgrades, and queue delays. Power purchase agreements (PPAs), on-site generation, and renewable energy sourcing strategies are often pursued to meet both capacity and sustainability goals. As of recent, developers must also account for curtailment risks and evolving utility policies as demand for power-intensive facilities continues to rise.

Financing / Incentives Structure

Data center projects are capital-intensive and require careful structuring of financing and incentives. Developers typically combine equity, debt financing, and, in some cases, joint venture arrangements with hyperscale tenants or institutional investors. Lenders may provide capital for the construction of the facility itself, or for working capital for the project. Such lenders will require diligence into a number of areas, including real estate, environmental, permitting, and regulatory, among others, to ensure compliance with local, state and federal laws and regulations. State and local governments often offer incentives such as tax abatements, sales tax exemptions on equipment, and infrastructure support to attract data center investment. However, these incentives may come with performance requirements, including job creation thresholds or minimum capital investment levels. A clear understanding of incentive compliance obligations is necessary to avoid clawbacks or penalties.

Construction

The construction phase involves site preparation, utility installation, and the buildout of highly specialized facilities. Data centers require precise engineering for power distribution, cooling systems, redundancy, and physical security. Developers must coordinate multiple contractors and suppliers, often under tight timelines driven by tenant demand. Supply chain disruptions (common with electrical equipment like transformers and switchgear) can significantly delay delivery. Effective project management, procurement planning, and contingency strategies are essential to maintain schedules and budgets.

Operations & Ongoing Compliance

After commissioning, the data center enters the operational phase, which involves continuous monitoring, maintenance, and compliance. Operators must ensure uptime reliability, cybersecurity, and physical security while managing energy consumption and sustainability targets. Ongoing compliance obligations may include environmental reporting, permit renewals, and adherence to local regulations. As regulatory scrutiny increases, operators must remain adaptable to evolving legal and policy frameworks. Long-term success depends on efficient operations, strong tenant relationships, and proactive risk management.