

Data Center Risks Include Schedules, Supply Chain, Labor

By **Randa Adra, Lily Geyer and Natasha Dahl** (August 10, 2026, 4:12 PM EDT)

Data center construction and risk have been at the forefront of local and national news, with new, head-spinning developments every day.

On July 13, Meta Platforms Inc. announced the expansion of its Hyperion campus in Richland Parish, Louisiana, which is now estimated to cost more than \$50 billion with 5 GW of capacity.[1]

The next day, New York state announced a one-year data center construction moratorium.[2]

The reality is that if you are operating in this dynamic space, your team needs to be prepared to manage the technical and legal risks related to data center development.

This is the first part of a two-part article examining the risks associated with data center construction, and strategies for mitigating them — both through proactive project controls and risk management planning, and through targeted contract drafting and dispute resolution mechanisms.

This installment covers compressed schedules and liquidated damages; supply chain and long-lead equipment challenges; and labor shortages, productivity risk and acceleration.

The second part will address power availability, reliability and grid interconnection; government regulations and public opinion; and project controls, risk management planning and dispute management.

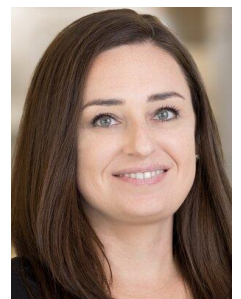
The State of Data Center Construction

Data center development is presently the leading market for construction in the U.S. When comparing outlooks for 2025 to 2026, according to the Associated General Contractors of America, only two types of projects have a positive net change: data centers (+15%) and power (+2%).[3]

The strategic importance of data center projects is also undeniable. An executive order **issued** by the White House in July 2025 stated that AI data centers are "essential to national security, economic



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prosperity, and scientific leadership."[4]

The unprecedented surge in data center construction — driven by the rapid adoption of artificial intelligence — presents a unique convergence of technical and legal risks that parties and their legal counsel must consider, from compressed schedules and supply chain constraints to power availability challenges and quickly evolving regulatory landscapes.[5]

Managing Schedule, Supply Chain and Labor Risks: Technical Strategies and Contract Tools

Planning for Compressed Schedules and Liquidated Damages

The growing need for data centers, and the desire to bring them online as soon as possible, is driving developers to require compressed schedules, often resulting in little to no float and no room for schedule contingency. Even minor delays or disruptions may affect the critical path, increasing the likelihood of delay disputes.

To address this risk, the project team must begin planning as early as possible, preparing a full model of the scope — from design, procurement and fabrication to construction, testing and commissioning.

Schedule contingency — dedicated buffer time built into the project timeline to absorb the impact of supply chain disruptions, permitting delays, power interconnection timelines and other risks — should be treated as a critical risk management factor.

Rather than planning to the tightest possible completion date, project teams should incorporate reasonable time allowances at key milestones to preserve schedule flexibility and reduce the likelihood of liquidated damages, or LD, exposure.

Given the extended lead times associated with critical equipment and components, stakeholders should also consider locking in pricing as early as practicable, to mitigate the risk of inflation that may materially affect costs over the duration of the lead time.

In practice, delays are already a common affliction in the construction industry, and the rapidly increasing demand for data centers is confronting supply-chain backlogs, labor shortages and other challenges that are driving many data center projects far behind schedule.[6]

From a legal perspective, owners need a predictable delay remedy while contractors need LD exposure bounded and tied to events within their control.

Courts will often enforce LDs when they reflect a reasonable preestimate of damages, but may strike them when they operate as penalties. Enforceability often turns less on the label and more on application and available evidence.

In data center projects, where even a single day of delay can have significant financial repercussions, the stakes of LD drafting are particularly acute. To improve the predictability and enforceability of their LD provisions, parties should consider making LDs milestone-specific and capped, rather than tying a single daily rate to final completion.

A contract may also benefit by memorializing float and concurrency rules, including whether concurrent delays entitle the affected party to time, money, both or neither.

Finally, where the owner wants to preserve a completion date, the contract should clearly identify which party is responsible for each element that may affect timely completion — including the authority to direct acceleration, and the issuance of written directives about pricing changes or schedule rebaselining.

Supply Chains and Long-Lead Equipment

Specialty equipment and components required for data centers have been affected by tariffs, inflation and other hurdles imposed by geopolitics. Long-lead equipment includes transformers, switchgear, generators and specialized cooling equipment, each of which can take more than 24 months before delivery to site.

Other material components, including central processing units, graphics processing units and solid state drives, have been subject to similar supply constraints. Compressing a 24-to-30-month lead time into an 18-month construction schedule is a factor that contractors and owners must discuss at the outset.

To mitigate potential supply chain delays, project teams should diversify vendors and material and equipment suppliers to avoid procurement backlog. Additionally, using prefabricated or modular power and cooling components may allow for less onsite construction and more efficient project delivery.[7]

For an example of how parties have been handling these challenges, consider Amazon.com Inc.'s Project Houdini[8] or Siemens Energy AG's and Eaton Corp.'s joint solution.[9]

Given these lead-time realities, early procurement may benefit from being addressed through dedicated contract provisions — particularly for the transformers, switchgear, generators and specialized cooling equipment central to data center builds.

Where equipment is purchased before full design is complete, the contract can address title and risk-of-loss rules, storage and insurance obligations, substitution rules (including redesign costs), and consequences for missed delivery dates.

And force majeure should be defined with precision, including specifying whether a qualifying event affecting parts of or the entire supply chain entitles the affected party to time only, time plus cost, or time plus cost after a shared-impact period, along with notice requirements, mitigation duties, and prolonged-event suspension or termination rights.

Suppliers, for their part, should approach data center supply agreements with equal attention to risk allocation. Suppliers can also seek price escalation mechanisms that adjust for documented increases in input costs occurring between contract execution and delivery, rather than accepting fixed pricing over extended lead times.

Additionally, suppliers can seek to cap aggregate liability at a level proportionate to the contract value, and to exclude consequential, incidental and indirect damages — including lost revenue and downstream LD exposure — through mutual waivers.

Where delivery date commitments carry LD exposure, suppliers can ensure that force majeure relief extends to upstream supply chain disruptions, export restrictions and tariff-related events, with clearly defined notice and mitigation obligations.

Retention of title and security interest provisions can protect suppliers against purchaser insolvency by preserving ownership of equipment until full payment is received, even after delivery to site.

Finally, suppliers can evaluate whether the obligations they accept in their supply agreements are consistent with the protections available to them from their own subsuppliers, seeking back-to-back alignment on delivery timelines, warranty terms, force majeure relief and liability caps to avoid gaps in contractual coverage.

Labor Shortages, Productivity Risk and Acceleration

The construction workforce shortage is a long-running industry trend, and as noted above, the current boom in data center construction has not been immune to this challenge.[10] This labor shortage is driven by an aging workforce, shifting demographics and education pathways, immigration policies, and rapid technological change.

Because the skills required for data centers revolve around mechanical and electrical scopes, builders are finding short-term solutions to labor shortages by providing higher wages and more extensive benefits, particularly to attract the much-needed skilled laborers.

For medium to long-term solutions to the labor shortage, Google Inc.,[11] Amazon[12] and Meta Platforms Inc.[13] have all launched workforce development programs that train individuals in general construction and fiber optics.

When schedules are compressed and skilled labor is scarce, project teams often resort to overtime, double shifts and trade stacking to accelerate. Data center construction is particularly susceptible to these pressures because the work is disproportionately concentrated in trades already in acute shortage.

Disputes frequently turn on whether the underlying delay was excusable, whether the contractor preserved notice rights and can prove critical-path impact, and risk allocation — i.e., who should pay for any resulting acceleration costs.

Contract tools to manage this risk include incorporating staffing plans as exhibits, especially for in-demand trades; defining overtime and shift reimbursement rules; and requiring a written directive or formal denial of a time extension before acceleration compensation is triggered.

Additionally, the contract should clearly delineate risk allocation by specifying which party bears responsibility for each category of delay, to help avoid or minimize disputes.

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[1] CNBC, Jonathan Vanian, "Meta's Louisiana data center investment to reach \$50 billion, aided by generous tax incentives," July. 13, 2026, available at <https://www.cnbc.com/2026/07/13/meta-louisiana-data-center-investment-reaches-50-billion-amid-ai-push.html>.

[2] Reuters, Jasper Ward, "New York becomes the first state to impose a data center moratorium," July 14, 2026, available at <https://www.reuters.com/world/new-york-becomes-first-state-impose-data-center-moratorium-2026-07-14/>.

[3] AGC, Dampened Expectations: The 2026 Construction Hiring and Business Outlook, Jan. 8, 2026, available at <https://news.agc.org/economics/2026-construction-industry-outlook/>.

[4] Federal Register, Accelerating Federal Permitting of Data Center Infrastructure, July 23, 2025, available at <https://www.federalregister.gov/documents/2025/07/28/2025-14212/accelerating-federal-permitting-of-data-center-infrastructure>. This executive order provides for streamlining permitting and assessments, federal financial support, and federal land access. Crowell & Moring, LLP, "White House AI Action Plan Seeks to Establish "Dominance," Boost Innovation, and Scrutinize Regulations," July 25, 2025, available at <https://www.crowell.com/en/insights/client-alerts/white-house-ai-action-plan-seeks-to-establish-dominance-boost-innovation-and-scrutinize-regulations>.

[5] Crowell & Moring, LLP, "Utilities and Data Centers Confront Congressional Scrutiny Over Rising Electricity Prices," Feb. 12, 2026, available at <https://www.crowell.com/en/insights/client-alerts/utilities-and-data-centers-confront-congressional-scrutiny-over-rising-electricity-prices>.

[6] "America's Data-Center Build-Out Is Falling Way Behind Schedule," Wall Street Journal, June 3, 2026, available at <https://www.wsj.com/tech/ai/americas-data-center-build-out-is-falling-way-behind-schedule-e408a9a8>.

[7] AFCOM, 2024 State of the Data Center Report, Feb. 2024, available at <https://itchronicles.com/wp-content/uploads/2024/02/Data-Ctr-Report.pdf>.

[8] Business Insider, "Amazon creates 'Project Houdini' to make data center delays disappear," April 10, 2026, available at <https://www.businessinsider.com/amazon-project-houdini-aws-modular-ai-data-centers-speed-2026-4>.

[9] Siemens Energy, Modular data center solutions with integrated onsite power generation, available at <https://www.siemens-energy.com/global/en/home/products-services/product/modular-onsite-power-generation-data-center.html>.

[10] ABC Carolinas, "Construction Industry Labor Shortage: Data, Drivers, and Strategic Responses," Feb. 10, 2026, available at <https://abccarolinas.org/construction-industry-labor-shortage-data-drivers-and-strategic-responses/>.

[11] Google, "The digital economy needs a skilled and diverse workforce," available at <https://datacenters.google/workforce-development-program/>.

[12] Amazon, "How Amazon helps data center communities thrive," May 7, 2025, available at <https://www.aboutamazon.com/news/aws/amazon-data-center-investment-community-impact>.

[13] Facilities Dive, "CBRE, Meta launch data center trade skills training program," April 20, 2026, available at <https://www.facilitiesdive.com/news/cbre-meta-launch-data-center-trade-skills-training-program/817950/>.