

# Data centres a new real estate class

**A** multitude of factors, including increased digitisation and data localisation norms, have fuelled the current boom of the data centre market. Data centres have emerged as a separate real estate asset class with potential. This article discusses land acquisition for data centres, and the realities of acquiring sites for setting them up in states like Telangana, Maharashtra, Uttar Pradesh, including the NCR region, and Tamil Nadu.



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The first step of the land acquisition process for data centres includes a careful evaluation of the policy incentives offered by the state in which the data centre is to be built. This is the foundation of the entire acquisition process and is therefore the research that investors looking for significant reduction in the land acquisition cost of the project must carry out. Prior to narrowing down the site location, investors must evaluate with their tax and legal advisers the details of the fiscal and non-fiscal incentives being offered under the information technology and data centre schemes and policies of the state governments. Typically, the standard fiscal incentives offered under most state policies include subsidies on power tariffs and access to dual power grids, capital subsidies, land cost rebates on the purchase or lease of land and concessions on stamp duty. Many states also offer customised or packaged schemes of incentives to high-value investors whose developments fulfil the eligibility criteria of mega projects or ultra mega projects. Customised incentives are offered on a case-by-case basis depending on various factors, the key one being the proposed fixed capital investment. The investment period should fall within the scheme or policy period under which incentives are being claimed.



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Usually, incentives are offered either as a reimbursement or as an upfront exemption that can be claimed prior to the execution of the transaction document. Therefore, an assessment of the timeline of the project is required to ensure that it falls within the duration of the incentives framework granted or extended by the particular state. The typical time frame for issuing the various grants and approvals varies between 45 and 180 days. Therefore, for a timely closure of the transaction investors who are looking to take advantage of incentive benefits must be mindful of the timelines prior to the closing of the transactional documents.

Data centre companies appear to be comfortable in acquiring land from both private players and through public channels such as the state industrial development corporations that allot land for industrial and institutional purposes in any particular state.

Irrespective of whether land acquisition is from public or private sources, in addition to ascertaining the title, usage and encumbrances, data centre due diligence has unique aspects that require skillful navigation. These include issues such as state policy and the related viability of laying fibre optic cables and telecommunication equipment through private and public land; the timely issue of licenses, permits and clearances relating to the felling of trees and other environmental clearances, and construction-related issues.

Acquiring land through industrial corporations, although considered a safer option as it overcomes the uncertainty of ownership, brings its own complications. These include procuring title documents, which is a time-consuming process as public departments are generally slow in facilitating access to public documents, and confidentiality arrangements to protect sensitive project information and commercially sensitive investment data. Government and government owned entities are usually reluctant to enter into confidentiality arrangements. However, to provide comfort to investors some states are now open to entering into such agreements, a step which should be explored before starting due diligence.

The acquisition of land for constructing data centres goes beyond traditional lease or sale agreements and involves complex transactions. These require the expertise of a team of advisers with individual skill sets that can together provide guidance on acquisition, construction, the environment, telecommunications and other real estate issues unique to each state.

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