

Chapter 8

Islamabad Real Estate Regulatory Authority: An Evaluation

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The National Assembly of Pakistan passed the bill of Islamabad Real Estate (Regulation and Development) Act, 2020. The goal of the Act is to establish the Real Estate Regulatory Authority (RERA) that will regulate and promote the real estate sector of Islamabad. The announced goals are:

- (1) To ensure the protection of buyers' interests,
- (2) Bringing efficiency and transparency in transactions
- (3) Regulating mega projects, and
- (4) Resolving disputes swiftly.

Question: Would the proposed RERA be able to regulate and promote the real estate sector or not?

Experiences from other sectors indicate that the real estate sector promotion through the establishment of a regulatory body would perhaps not achieve the desired objectives.

Thus, prior registration of the real estate projects, developers, and real estate agents with the RERA and digital public access to the RERA database along with the establishment of the Real Estate Appellate Tribunal are marked as the needed approaches for the realisation of objectives.

Current Performance of the Real Estate Market:

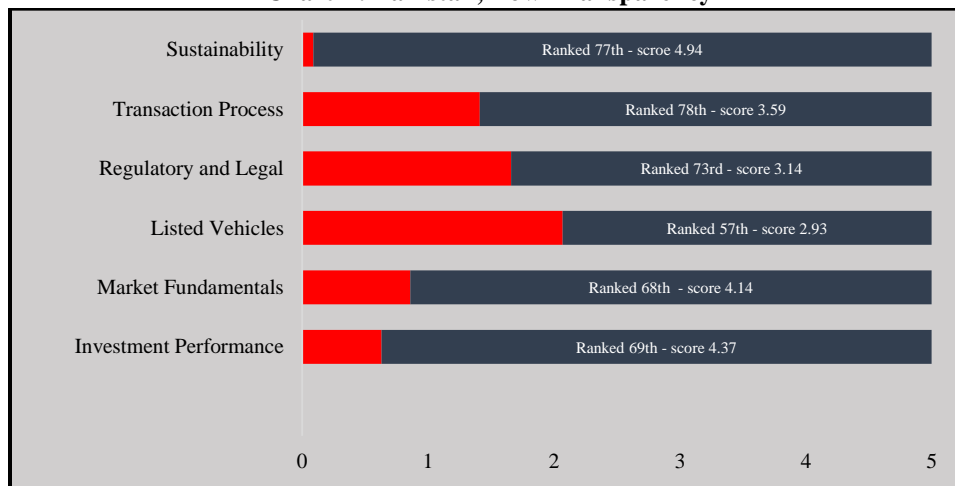
The real estate market of Pakistan exhibits different inefficiencies due to the lack of essential characteristics of a well-functioning market.¹³⁶ The poor performance of Pakistan's real estate market on the "Global Real Estate Index" is a manifestation of these inefficiencies. Pakistan's real estate market is classified as a low transparent market with a score of 3.88 and ranked 73rd out of 90 countries. As chart 1 shows, the

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¹³⁶ For details about the inefficiencies that exist in the real estate market of Pakistan see "the PIDE reform agenda for accelerated and sustained growth", PIDE 2021.

worst-performing parameter is the transaction process (see Box 1 for a brief description of the parameters), while performance on the market fundamental parameter is also not encouraging.

Chart-1: Pakistan, Low Transparency



Evaluation Strategy:

Box-2: Evaluation Criteria

The evaluation of government intervention can be performed by either of the following criteria.

i) Relevance criteria:

Relevance assesses “the extent to which the objectives of a development intervention are consistent with beneficiaries’ requirements, country needs, global priorities, and partners’ and donor’ policies. The recently revised evaluation methodology also discourses specific features to “review whether appropriate interventions and financial allocations” have been put in place, “appropriate synergies were ensured across activities and services”, implementation arrangements... were suitable” and so on.

ii) Efficiency criteria:

Generally, the efficiency criteria are aimed at measuring how efficiently resources/inputs (funds, expertise, time, and so on) are converted to results. Efficiency is assessed based on the results, outputs, and outcomes.

iii) Effectiveness criteria:

It may be defined as the extent to which the development intervention’s objectives were achieved or are expected to be achieved, considering their relative importance.

*See Husian, Tariq (2010).
The role of ombudsman in improving
public service delivery in Pakistan.
Asian Development Bank.*

Box-1: Global Real Estate Index

Jones Lang LaSalle (JLL) produces the Global Real Estate Transparency Index (GRETI), which reveals the transparency of the real estate markets of 99 countries based on 163 city regions. The index is computed as a weighted average of 6 parameters. These parameters include:

- i) **Investment performance measure:** Evaluate the performance of investment through direct property indices, listed real estate security indices, and private real estate indices.
- ii) **Market fundamentals:** Measures the availability, quality, and depth of real estate market data.
- iii) **Governance of listed vehicles:** Assesses transparency in the financial disclosure and corporate governance requirements of listed real estate vehicles.
- iv) **Regulatory and legal:** Assesses legal and regulatory framework and enforcement relating to taxation, land-use planning, building codes, enforceability of contracts, land registration, beneficial ownership disclosure, and anti-money laundering regulations.
- v) **Transaction process:** Examines key elements of the transaction process for sale transactions including pre-sale information, bidding process, anti-money laundering regulations, and occupier services.
- vi) **Sustainability:** Measures transparency across 11 elements of sustainability.

Source: Global Real Estate Transparency Index, 2020

Although the bill to establish RERA has been passed, however, both the Real Estate Authority and Appellate Tribunal are not established yet. Therefore, evaluating the role of the RERA Act to promote the activities and transactions in the real estate market may be too early to pursue. Nevertheless, one can foresee the likelihood of the realisation of the objectives by juxtaposing the overall relevance of the objectives with the prevailing market fundamentals and requirements. We particularly focused on the “relevance criteria” to assess the prospect of the real estate promotion through the RERA Act. As pointed out by Husain (2010), the evaluation criteria that involves the assessment of the relevance of intervention primarily focus on the alignment of the objectives of the intervention along with stakeholders’ requirements, national and global priorities, and development partners’ policies. Therefore, the mechanism adopted for the evaluation is based on these considerations.

- (i) Whether the proposed RERA would be able to eliminate the real estate market inefficiencies and to promote basic market characteristics?
- (ii) What are the prospects that the RERA will address the prevailing problems in the real estate sector?
- (iii) How much extra regulatory burden will be imposed on the real estate market by the proposed RERA?
- (iv) Do we need to establish a new Authority given the basic infrastructure is already in place?

Box 3. Functions of the Real Estate Authority and Appellate Tribunal

1. The Real Estate Regulatory Authority

Functions

- To Facilitate and promote a healthy, transparent, efficient, and competitive real estate sector.
 - Ensuring protection of interests of allottees, developers, and real estate agents.
 - Creating time-bound project approval and clearance through one window system.
 - Creating a transparent grievance redressal mechanism.
 - Encouraging investment in the real estate sector.
 - Promoting standardised and affordable housing.
 - Facilitating digitisation of land records system that guarantees conclusive property titles.
- To register and regulate real estate projects and real estate agents.
- To maintain a public website of all real estate projects describing the registration status, information of defaulted developers, and registered real estate agents.
- To ensure compliance with the obligations and defined rules and regulations.

Powers

- To call upon any developer or allottee or real estate agent for information and to conduct inquiry and to make assessments.
- To impose a penalty on the breach of any obligations cast upon developers, allottees, and real estate agents.
- To regulate its procedure with judicial powers.
- To take suo moto notice of any issue that distorts competition and or anyone who abuses market power to hurt the interest of allottees.
- To issue interim orders to restrain any developer, allottee, or real estate agent from carrying out any action that violates the Act.

2. The Real Estate Appellate Tribunal

The Act has also proposed the establishment of a Federal Real Estate Appellate Tribunal with one or more benches for various jurisdictions. All cases regarding the real estate sector pending in the court of law shall be transferred to the Appellate Tribunal. The Appellate Tribunal will be bound by the procedure laid down by the Code of Civil procedure 1908, Qanoon-e-Shahadat 1984.

Powers

- Has the same power as are vested in a civil court in respect of the following matters:
 - Summoning and enforcing the attendance of any person and examining him on oath.
 - Requiring the discovery and production of documents.
 - Receiving evidence on affidavits.
 - Issuing commissions for the examinations of witnesses or documents.
 - Reviewing its decisions.
 - Dismissing an application for default or directing it ex parte
 - Any other matter which may be prescribed
- All proceedings before the Appellate Tribunal shall be deemed to be penal code.

(I) Real Estate Market Inefficiencies and the Role of RERA

As highlighted by the PIDE Reform Agenda for Accelerated and Sustained Growth (2021), the real estate market is marked with insufficient **information** regarding the price and characteristics of a property. To make an informed decision, transparent information about the inventory and historical transactions is essential, which is missing in the real estate market of Pakistan. On the other hand, real estate properties' price evaluations for tax purposes, such as FBR immovable property evaluation and DC rates, amplify the non-transparency issue further.

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Besides insufficient information, **land titles and rights** in the real estate sector are vague. The **enforcement of rights** is also unsatisfactory and **dispute settlement** processes are lengthy. The formal dispute settlement mechanism is complicated with huge compliance costs and the court does not respect the economic value of the time. Moreover, the **transaction process** is cumbersome and time-consuming due to a host of regulations and NOCs. These inefficiencies extend the opportunities to fraudulent transactions, deceitful dealing behaviour of the real estate developers and agents, prolonged litigations, and timeless deliverance of services by the developers. Therefore, many potential market participants, especially overseas Pakistanis, fearing getting an unfair deal, might refrain from trading in the real estate market.

Table 8.1

Characteristics of a well-functioning Market and the RERA

Characteristic	Status in The Real	Proposed Solution in the RERA	
	Estate Market	Act	Assessment
Information	Insufficient	The duties of developers and real estate agents are specified. Relevant clauses are 10b, 10c, 10e, 11.2, and 11.3.	Un-addressed The Act is silent about the price and information asymmetry.
Property Rights	Vague	The act bound developers to produce undisputed ownership rights before marketing a project. Digitisation of the land record has been also suggested. Particular clauses are 4a, 19.5, and 33h.	Partially Addressed The Act has not addressed the issue of extending boundaries of a real estate project on the name of extension with an assumption that permission will be granted later.
Transaction Mechanism	Vague	Single window operation along with enforced sale agreements have been tabled. Particular clauses are 3, 11.4a, 11.4b, 12, 13, 19.6, 33e, and 33b.	Un-addressed The transaction process and technology have not been covered in the Act.
Enforced Rights	Unsatisfactory	The Real Estate Appellate Tribunal along with ensuring guaranteed titles. Particular clauses are 33h and 50.	Addressed
Solvent Agents	Unsatisfactory	The developers will provide a detailed project briefing along with trust account conditions, particular clauses are 2d, 35a, and 35b.	Addressed
Conveyance Dispute Settlement	Unsatisfactory	The Real Estate Appellate Tribunal, Clause 50.	Un-addressed Partially Addressed Since the appeal to Islamabad High Court against the decision is also permissible.

Although the proposed RERA Act has addressed some inefficiencies, however, the approach is restricted with some inefficiencies left unaddressed. For instance, the Act remains silent on the key issue of price (mis)information. One potential way to address this issue could be the addition of a clause related to the provision of price information. Since the Act proposed that the RERA will host a webpage where

detailed information about the real estate agents and developers will be shared. The webpage can also be used

- To list the transaction prices by making it obligatory to put up the transaction price for a certain period before the registration of the transaction.
- When a property gets listed for sale, open bidding should also be allowed.
- To ensure the information about the prices is correct, the government would be allowed to purchase the said property within sixty days of the transaction at the quoted price.

The adoption of such innovative measures will also enable the authorities to abolish DC rates and FBR immovable evaluations.

Box 3. Real Estate Regulatory Agency, Dubai

The government of Dubai has established the Real Estate Regulatory Agency (RERA) in 2017 to regulate the real estate market of Dubai. This administrative independent body also sets policies and makes plans to promote investment and resolve disputes between tenants and landlords. The principal assignments of Dubai RERA include:

- Licensing real estate agents as well as activities.
- Oversee the trust account of developers.
- Registering lease agreements.
- Oversee the managing bodies of various real estate megaprojects.
- Manage marketing activities of developers and real estate agents.
- Facilitate real estate exhibitions to promote investment.
- Disseminating information related to buying and renting.

Vast similarities between the functions and responsibilities of the Real Estate Regulatory Agency, Dubai, and the proposed Islamabad Real Estate Regulatory Authority, Pakistan, raise the eyebrows of the readers. One may assert that the layout of the RERA Act is based on Dubai's model. In that event, any attempt to implement such kind of intervention without assessing the local conditions would definitely be a failed attempt.

Source: mybayut (2021) retrieved Nov. 03, 2021, from <https://www.bayut.com/mybayut/rera-guide/>

On the issue of defined rights, the Act has pointed out that RERA will facilitate the digitisation process of land records. However, having only digital land records may not be the ultimate solution to the problem, particularly, if we take into consideration the practice of digitisation performed in provincial jurisdictions. To ensure rights are clearly defined as well as enforced, the proposed RERA has to go beyond just digital recording of land titles.

The Act has also overlooked the importance of transaction technology as well. The use of technology will not only bring transparency in transactions but will also enhance the velocity of transactions. Starting with automation and moving towards blockchain technology would address vague and unenforced rights issues as well.

(II) Prevailing Problems in the Real Estate Market and the Role of RERA

To identify the major problem faced by different stakeholders, we surveyed the real estate market of Islamabad. The survey involved in-depth interviews with key stakeholders.¹³⁷

The leading concerns that emerged from this short survey are as follow in ascending order.

- (1) Transparency deficiencies in the market promote a corruption culture.
- (2) Dormant behaviour of concerned authorities towards the implementation of rules and regulations.
- (3) Transactions and procedures are time-consuming.
- (4) Non-professional behaviour of the real estate agents due to lack of formal training.
- (5) Existence of considerable illegal housing societies.
- (6) Fraudulent transactions due to file trading culture.
- (7) Prolonged trials in the court due to vague titles.
- (8) Price instability and the recent price hike in the construction industry due to inflation.
- (9) Complicated and inefficient tax mechanism.
- (10) Borrowing constraints.

During the interaction with the stakeholders, we have also asked about the market interventions that the participant perceives critical to address these issues. The leading recommendation was that the existing rules and regulations are sufficient but need substantial implementation. The need of the hour is to form a mechanism to implement as well as disseminate awareness regarding rules and regulations. On the other hand, the RERA Act has heavy assertions about the implementation of rules and regulations for the real estate project as well as dissemination of awareness. Therefore, one can optimistically hope that these suggestions will come into reality after the establishment of RERA.

¹³⁷These include developers, real estate marketing agencies, real estate agents, buyers, sellers, and real estate lawyers.

Table 8.2

Prevailing Problems and the RERA

Identified Problem	Proposed Solution in the RERA Act	Assessment
Transparency deficiencies in the market promote a corruption culture.	The RERA will protect the interest of the stakeholder by promoting transparency, particular clauses are 33a and 33c.	Un-addressed The Act is silent about the price and information asymmetry.
Dormant behaviour of concerned authorities	The RERA will ensure compliance. The particular clauses are 35f, 37.2i, 37.2iii, 38.1, 43.1, 43.2, 44, 45, and 47.	Addressed But keeping in view the performance of CDA, one can rightly be a pessimist about compliance.
Transactions and procedures are time-consuming.	Single window system to ensure timely clearance, clause 33b.	Un-addressed The transaction process and technology have not been covered in the Act.
Non-professional behaviour of the real estate agents.	-	Un-addressed
Illegal housing societies	The RERA will develop a database for public viewing about all real estate projects, particular clauses are 35b, 35c, and 35d.	Un-addressed
Fraudulent transactions due to file trading culture	-	Un-addressed
Prolonged trials in the court due to vague titles.	The Real Estate Appellate Tribunal along with the facilitation of land record digitisation. Particular clauses are 33h, 59.1, 59.2, 33g, 60, 69, 71, and 72.	Partially Addressed Since the appeal to Islamabad High Court against the decision is also permissible.
Price instability	-	Un-addressed
Complicated tax mechanism.	-	Un-addressed
Borrowing constraints.	-	Un-addressed

Among the problems identified, one particular problem that has been neglected by the Act is the formal training of real estate agents. The RERA must consider the necessity of formal training of the real estate agents to develop trust and bring transparency and efficiency to the sector. There are many examples around the world where formal training is required before getting the license for a real estate agent. For instance, Florida Real Estate Commission makes it compulsory for an individual to complete 63 classroom hours to be registered as a sales associate and 72 classroom hours from an accredited institution to be registered as a broker. The RERA can also adopt such models and gradually introduce minimum education and training criteria.

Similarly, the Act has also not addressed the unique practice of file trading in Pakistan, which is one of the primary sources for fraudulent transactions. File-trading refers to the act of buying a document of a plot without possession and allocation because the housing society has yet to be developed. People buy files due to perceived high returns. These files keep on changing hands even without ensuing any actual activity on the ground. Resultantly, the developers have no perseverance as well as incentives to develop the society within the promised timeline.

(III) The Regulatory Burden of the RERA

The establishment of the RERA and the Appellate tribunal through the Islamabad Real Estate Act, 2020, will surely increase the regulatory burden in the real estate market. The main source of burden is the increase in the compliance cost. Since the Act made it mandatory for developers and real estate agents to register their projects and themselves with the RERA, therefore, the real estate market will not observe the increase in compliance cost but a rise in administrative burden as well. On the other hand, web listing of all approved real estate projects, developers, and real estate agents will reduce learning costs for the buyers to a degree. Yet, the major source of learning cost, which is related to the characteristics and price of the property, will persist in the market.

Similarly, the objective of the Real Estate Appellate Tribunal is to provide swift dispute resolution. However, the decisions of the Tribunal would not be decisive in most of the cases due to the right of appeal. Therefore, one can expect the actual impact of the Tribunal on the reduction of the litigation processing time may be marginal. Thus, the real benefits to society due to the establishment of the RERA most likely be outweighed by the administrative burdens of the intervention.

Besides administrative burden, the Act will also create a financial burden as well in the real estate market. The Act identified that the Federal government would provide the seed money for the establishment of the Authority, while the Authority will generate its sources of funding for its function as well. These own sources include the fee levied by the Authority, penalties imposed by the Authority and by the Appellate Tribunal. To understand how much financial burden the RERA will impose on the market, we contemplate the expected budgetary requirement of the RERA. The table below contains our estimation of the budget, which we still believe is based on conservative estimates.¹³⁸

¹³⁸ For details about the calculations, see appendix

Table 8.3

Details of Expected Annual Budget

Title	Pay Scale	Numbers	Monetised Monthly Salary	Annual Salary bill (Rs. Mil.)
Chairperson	MP-I	2	1,054,767	25.31
Members	MP-II	7	979,594	82.28
Directors	BPS-20	4	729,511	35.01
Registrar	BPS-20	1	729,511	8.75
Treasurer	BPS-20	1	729,511	8.75
Additional Registrar	BPS-19	1	315,873	3.79
Developers	BPS-19	1	315,873	3.79
Deputy Director	BPS-18	2	230,750	5.53
Web-Developers	BPS-18	2	230,750	5.53
Networking	BPS-18	1	230,750	2.76
Web-designer	BPS-17	2	202,546	4.86
Superintendent	BPS-17	1	202,546	2.43
Account Officer	BPS-17	1	202,546	2.43
Transport Officer	BPS-17	1	202,546	2.43
Personal Secretary	BPS-17	2	202,546	4.86
Private Secretary	BPS-17	16	202,546	38.88
Assistant	BPS-16	26	171,150	53.39
Inspector	BPS-16	10	171,150	20.53
Stenographer	BPS-16	14	171,150	28.75
UDC	BPS-11	2	91,934	2.20
LDC	BPS-09	12	71,740	10.33
Driver	BPS-04	15	47,855	8.61
Naib Qasid	BPS-01	15	43,657	7.85
Janitor	BPS-01	5	43,657	2.61
Total Salary Related Expenditures				371.77
Overhead (@15%)				55.76
Total Budget				427.53

Therefore, the minimal financial burden carried by the RERA is around Rs. 427.53 million, which ultimately falls on the shoulders of the buyers.

(IV) Does the Real Estate Market Need an Authority?

The functions assigned to the proposed RERA currently fall under the jurisdiction of the Capital Development Authority (CDA) except dispute resolution.

Therefore, the establishment of RERA may also bring challenges over the division of functions among CDA and RERA, and the Act has disregarded this point. More surprisingly, the strategy adopted in the Act to achieve the objectives has already been embedded in the By-Laws of the CDA. For instance, the Act made the prior registration of the real estate projects, developers, and real estate agents with the RERA compulsory. While the Islamabad Real Estate Agents and Motor Vehicles Dealers Ordinance (1984) and ICT Zoning Regulation (1992) already deal with the prior registration with CDA before starting the business or project.

Besides the already existing rules and regulations within CDA, the necessary infrastructure and resources required for the implementation of these regulations have also been developed by the CDA. There are at least five directorates within different wings of the CDA performing the tasks that are assigned to the proposed RERA. These directorates include Building Control Directorate I and II, Enforcement Directorate, Directorate of One Window Operation, and Housing Society Directorate. Therefore, in the presence of a massive existing infrastructure establishing a new authority would probably place an extra burden on the market instead of facilitating the market.

Furthermore, the Act also claims that the RERA will maintain a website so that the public can have access to the information about the approved real estate projects, defaulted developers, and registered real estate agents. The CDA is again partially performing this task by disseminating the lists of legal and illegal housing societies and information about other real estate projects.

Concludingly, by having a critical review of the existing body of regulations and resources to regulate and promote the real estate sector, one can safely assert that the establishment of RERA will not be a turning point for the market. Instead, it will add more regulatory burden on the market. Therefore, the more efficient way to achieve the desired goal could be to focus on implementational issues by nudging CDA.

CONCLUDING REMARKS

If we evaluate the relevance of the mandate of the proposed RERA based on the characteristics of a well-functioning real estate market. The mandate assigned to the RERA, and the Appellate Tribunal appears to be incapable to address the inefficiencies of the real estate market. Some of the key areas that particularly need attention for efficiencies concerns have been overlooked by the Act such as availability of transparent information about prices, ensuring land titles and rights are well defined and enforced properly, introducing transaction technologies, and a fast mechanism for dispute resolution.

While the evaluation based on the relevance of objectives of the proposed RERA with the real estate market requirements also indicates that the realisation of the objectives of this intervention will be a daunting task. The Act disregarded some of the key issues of the real estate market such as the element of corruption, prolonged transaction processes, non-professional behaviour of the real estate agents and developers, the inactive approach of authorities. To bring efficiency and transparency in the real estate market, settling these issues on a priority basis is essential.

Furthermore, the RERA will cost heavily in the market in the form of a regulatory burden. Based on the experiences from other sectors, the promotion and regulation of the real estate market through the Authority seems challenging. Especially when the proposed new rules and regulations and strategies have already existed or been tried in the market. Our analysis indicates that the government should utilise the existing infrastructure and resources instead of focusing on the development of a new Authority.

APPENDIX

Calculations of the Budgetary requirements of the RERA

The Act indicates that the Authority shall be consisting of 6 members, while the Appellate Tribunal shall be consisting of one chairperson and two members. Besides these members, the administrative structure of the authority will be formalised by the steering committee. Based on the functions of the RERA, we believed the following departments are needed:

- Information and Communication Technology (ICT) Department
- Account Department
- Human Resources Department
- Registration Department
- Inspection and Monitoring Department
- Transport Department
- Registrar Office

While the composition of each department is as follow:

Expected Sizes of the RERA and Appellate Tribunal to be formed under the Act

Position	Expected Number of Positions	Pay Scale
<i>Information and Communication Technology (ICT) Department</i>		
Director	01	BPS-20
Team Lead (Developer)	01	BPS-19
Web-Developers	02	BPS-18
Networking	01	BPS-18
Web-Designer	02	BPS-17
Assistants	02	BPS-16
<i>Accounts Department</i>		
Treasurer	01	BPS-20
Deputy-Treasurer	01	BPS-18
Account Officer	01	BPS-17
Accountant	01	BPS-16
Assistant Accountant	02	BPS-16
Record Keeper	01	BPS-09
LDC	02	BPS-09
<i>Human Resources Department</i>		
Director	01	BPS-20
Deputy-Director	01	BPS-18
Superintendent	01	BPS-17
Assistant	01	BPS-16
UDC	01	BPS-11
LDC	04	BPS-09
<i>Registration Department</i>		
Director	01	BPS-20
Assistant	01	BPS-16
UDC	01	BPS-11
LDC	03	BPS-09
<i>Inspection and Monitoring Department</i>		
Director	01	BPS-20
Assistant	01	BPS-16
Inspectors	10	BPS-16
<i>Transport Department</i>		
Transport Officer	01	BPS-17
Assistant	01	BPS-16
LDC	01	BPS-09
Drivers	15	BPS-04
<i>Registrar Office</i>		
Registrar	01	BPS-20
Additional Registrar	01	BPS-19
Personal Secretary	02	BPS-17
Private Secretary	02	BPS-16
Assistant	02	BPS-16
LDC	02	BPS-09

To compute the expected financial burden of the above-mentioned staff, we utilised the information about the grade-wise monetised incentives from the PIDE report “Cash poor, perk rich.” The table-4 in the text contains the calculation of annual salary bills.

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