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TERAJU: Jurnal Syariah dan Hukum merupakan Jurnal Ilmiah yang memiliki **focus** pada kajian **Syariah dan Hukum**. Sedangkan **scope** dalam Jurnal ini meliputi:

- **Syariah:** Usul Fikih, Fikih, Hukum Ekonomi Syariah, Hukum Keluarga Islam, Perbandingan Mazhab, dan Ilmu Falaq.
- **Hukum:** Filsafat Hukum, Hukum Bisnis, Hukum Pidana, Hukum Perdata, Hukum Tata Negara, Hukum Adat, Hukum Internasional dan Studi Perbandingan Hukum.

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Investigative Audit of Financial Losses to the State by the State Audit Agency in Corruption Cases

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Abstrak

Korupsi merupakan penyebab utama atas kerugian negara dalam pengelolaan keuangan negara. ICW mencatat 791 kasus korupsi terjadi selama tahun 2023, yang meningkat sebesar 26,8 % dibandingkan tahun 2022. Tidak dipungkiri pengungkapan kasus korupsi tidak lepas dari upaya penegakan hukum yang dilakukan bersama oleh APH dan BPK dalam audit investigasi. Dalam pelaksanaannya, waktu pelaksanaan audit investigasi sangat beragam, sehingga APH sering kali memilih untuk berkoordinasi dengan BPKP dan Inspektorat dalam audit investigasi untuk menghitung kerugian negara. Penelitian dilakukan dengan tipe penelitian yuridis normatif dan tujuan penelitian ini yaitu menjelaskan prosedur audit investigasi yang dilakukan oleh BPK dan kendala yang ada dalam pelaksanaan audit investigasi. Hasil penelitian menunjukkan dalam audit investigasi BPK mengacu pada Peraturan BPK Nomor 1 Tahun 2020 dan Keputusan BPK RI Nomor 2/K/I-XIII.2/4/2020. Namun demikian, untuk mengatasi kendala dalam memperoleh bukti yang cukup dan andal untuk membuktikan kerugian negara/daerah, dikembangkan prosedur alternatif dalam pelaksanaannya, juga menggunakan sistem Big Data Analysis dan Laboratorium Forensik Digital. Untuk dapat lebih mengembangkan pencapaian audit investigasi, BPK diharapkan dapat membakukan prosedur audit terutama prosedur alternatif kedalam suatu petunjuk teknis dan petunjuk pelaksanaan serta memberikan dukungan penuh terhadap sumber daya terkait audit investigasi sehingga mutu dan keandalan hasil pemeriksaan dapat tetap terjamin.

Kata Kunci: Audit Investigasi, Korupsi, Kerugian Negara, Pembuktian, Keuangan Negara

Abstract

Corruption is the primary cause of state losses in managing state finances. According to ICW, there were 791 corruption cases in 2023, a 26.8% increase over 2022. There is no denying that the law enforcement activities conducted in investigative audits by APH and BPK together are inextricably linked to the disclosure of corruption cases. Since the duration of investigative audits varies widely, APH frequently decides to work with BPKP and the Inspectorate to coordinate investigative audits in order to determine state losses. The research was conducted using the normative legal research type, and the aim was to explain the investigative audit procedures carried out by BPK and the obstacles that exist in performing investigative audits. The research results show that BPK investigative audit refers to BPK Regulation Number 1 of 2020 and BPK RI Decree Number 2/K/I-XIII.2/4/2020. However, to overcome obstacles in obtaining sufficient and reliable evidence to prove state/regional losses, alternative procedures were developed for implementation, also using the Big Data Analysis system and the Digital Forensic Laboratory. BPK is expected to be able to standardise audit procedures, particularly alternative procedures, into technical guidelines and implementation instructions in order to further develop the accomplishments of investigative audits. Additionally, BPK is expected to fully support investigative audit-related resources in order to ensure quality and dependability of audit results.

Keywords: *Investigative audits, Corruption, State losses, Evidence, State finances*



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Introduction

Corruption remains a major issue in the administration of government in Indonesia, as it can cause financial losses to the state (Riwukore et al., 2020). Weaknesses in oversight, integrity, and ethics among government officials, as well as the ineffectiveness of the legal system, underlie the increase in corruption cases each year. Corruption is a special criminal offence, therefore its handling must be comprehensive, from the disclosure process to punishment, including solutions to reduce corruption.

Indonesia Corruption Watch (ICW) recorded approximately 791 corruption cases throughout 2023, with 1,695 suspects. The number of corruption cases increased by 26.8% compared to 2022,

which recorded 579 cases with 1,396 suspects. However, despite this increase, ICW also reported a decreasing trend in potential state losses due to corruption in 2023. The potential state losses in 2023 stood at Rp28.4 trillion, a decrease of 33% compared to 2022, which amounted to Rp42.7 trillion. This figure is even lower when compared to the trend of potential state losses in 2021, which stood at Rp29.4 trillion (Anandya et al., 2024).

It cannot be denied that this decrease in potential state losses is not unrelated to law enforcement efforts carried out by law enforcement agencies and audits conducted by the Indonesian Audit Board (BPK) (Zulfikar, 2022). The BPK, as a state institution entrusted with the mandate of Articles 23E, 23F, and

23G of the 1945 Constitution, has the duty to conduct audits on the management and accountability of state finances (Boboy et al., 2021). The BPK conducts audits of financial statements, performance audits, and audits with specific objectives, which include investigative audits (Hidayat et al., 2023).

Investigative audits emerged alongside the rise in cases of alleged corruption committed by state officials, which indicated potential losses for the state. Simply put, investigation is an effort to prove the truth () (Arisendy & Ratnawati, 2024) . The primary objective of investigative audits is to prove whether there are elements of unlawful acts that indicate losses to the state and the extent of such losses (Arisendy & Ratnawati, 2024). The results of the investigative audit will be used by law enforcement agencies (LEAs) as evidence and one of the legal considerations in determining and establishing the extent of state losses. Therefore, investigative audits are closely related to legal aspects (Fadhli et al., 2021).

However, in practice, the duration of investigative audits conducted by the State Audit Agency (BPK) varies significantly and the calculation of state losses cannot be immediately determined (. Fahrudin, 2023;). For example, investigative audits in the cases of Bank Century, Hambalang, the Social Insurance Agency for the Armed Forces of the Republic of Indonesia (ASABRI), and Jiwaseraya took more than three months to one year and involved significant resources. Similarly, investigative audits on corruption cases related to the State Budget (APBN) and Regional Budget (APBD) typically take two to four months to complete.

The length of time and the lengthy procedures involved in conducting investigative audits will ultimately affect the time required for investigations and/or inquiries conducted by law

enforcement officials. This poses the risk of protracted corruption cases (Shofiati et al., 2021) , incurring significant costs and also affecting legal certainty in corruption cases themselves. As a result, law enforcement agencies often request investigations from the Financial and Development Supervisory Agency (BPKP) and the Inspectorate rather than the BPK. Moreover, investigations conducted by the BPKP and the Inspectorate tend to be faster than those conducted by the BPK (Lutfi et al., 2023) . For example, the investigative audit of state losses conducted by the BPKP in the case of alleged corruption at PT. TIMAH, Tbk in 2024 was completed in less than two months, while the investigative audit conducted by the Inspectorate on alleged corruption at the local government (Pemda) was completed in one month.

This has sparked public dissatisfaction, particularly among law enforcement officials, regarding the lengthy investigative audits conducted by the BPK. On the other hand, the authority to conduct investigative audits for the purpose of proving criminal cases is clearly and unequivocally vested in the BPK (Utirahman, 2020) .

Given these issues, the author is interested in conducting research on the investigative audit procedures conducted by the BPK. Previous studies related to the substance of the investigative audit procedures carried out by the BPK for the purpose of proving state losses in corruption cases are absent. A similar study was conducted on the Authority of the Financial and Development Supervisory Agency to Determine Elements of State Losses in Corruption Cases (Boboy et al., 2021).

This study is expected to provide insights into the extent of the role of investigative audits conducted by the BPK in handling corruption cases in Indonesia, particularly during the investigation stage.

Discussion

1. Audit Investigation Procedures by the BPK

Corruption is defined as an unlawful act that results in financial loss to the state and is one of the most serious crimes among other types of unlawful acts (Edbert et al., 2022). Through investigative audits, it is hoped that unlawful acts that can cause financial loss to the state can be uncovered. The definition of state loss according to various provisions and experts includes:

Law Number 1 of 2004 concerning State Treasury states that state losses are a condition that results in the loss of money or state property, directly or indirectly, due to irregularities committed by individuals or groups.

Law No. 15 of 2004 on the Audit of Financial Management and Accountability of the State defines state loss as a situation where there is a reduction in the value of state assets caused by unlawful acts or negligence in the management of state finances, whether committed by individuals or legal entities.

Law No. 15 of 2006 on the State Audit Agency defines state loss as a deficiency in cash, securities, and assets, which is tangible and has a definite amount, resulting from unlawful acts, whether intentional or negligent.

Such tangible and quantifiable state losses must be calculated and determined in order to be legally accountable. Under Article 10(1) and (1) of Law No. 15 of 2006 on the BPK, the BPK is authorised to assess and/or determine the amount of state losses caused by unlawful acts, and the results of such assessments are documented in the BPK's decision in the form of an Audit Report (LHP) (Kaldera et al., 2020).

In order to calculate the state losses, the BPK conducts an investigative audit

investigative audits. The basis for conducting investigative audits, in addition to the development of findings from financial statement audits, performance audits, and audits with specific objectives, may also be based on requests submitted by law enforcement agencies regarding cases of suspected corruption and reports/complaints from the public.

Most investigative audits are conducted based on requests from law enforcement agencies, as the cases requested for examination already have indications of illegal acts. Requests from law enforcement agencies are submitted in writing to the Chairman of the BPK, who then forwards them (disposition) to the unit responsible for conducting investigative audits, namely the Main Investigative Audit Unit (AUI). Based on this disposition, an investigative audit team is formed and documented in a letter of assignment (BPK Education Room, 2020).

BPK investigative audits consist of three types of examinations, namely investigative examinations, investigative examinations in the context of calculating State/Regional Losses, which are then referred to as State/Regional Loss Calculations (PKN/D), and the provision of expert opinions, each of which has different procedures but are essentially part of the investigative audit process itself. The definitions of the three types of investigative audits are as follows (Veronika & Simanjuntak, 2022).

Investigative Examination

Investigative examination is conducted to uncover the existence or absence of indications of state/regional losses and/or criminal elements in the management and financial responsibility of the state. The results of this examination are presented in an Investigative Examination Report.

Investigative audit with calculation of state/regional losses

This examination is conducted to determine the existence or absence of state/regional losses, including the calculation of the value of state/regional losses resulting from deviations in the management of state/regional finances. The results of this examination are presented in the Report on the Results of the Examination of State/Regional Losses.

Providing Expert Opinions

Specifically for the provision of expert testimony, the BPK carries out this task upon request from the authorised agency and is conducted during the investigation and judicial stages (Regulation of the State Audit Agency of the Republic of Indonesia No. 1 of 2020 on Investigative Audits, Calculation of State/Regional Losses, and Provision of Expert Testimony, 2020).

Investigative Examination and Investigative Examination for the Calculation of State Losses (PKN) are the core of investigative audits. Meanwhile, the provision of expert testimony is the result and final step in investigative audits conducted by the BPK. In practice, law enforcement officials may request Investigative Examination and/or Investigative Examination for the Calculation of State Losses (PKN).

There are differences between Investigative Audits and Investigative Audits for PKN, as follows.

Table 1. Differences between Investigative Audits and Investigative Audits for PKN

Description	Investigative Examination	Investigative Examination for PKN
Focus of the Examination	To determine whether there are elements of corruption-related criminal	Can be conducted if an investigative examination and/or preliminary

Description	Investigative Examination	Investigative Examination for PKN
	offences	information gathering is carried out
	Determining whether there are indications of state losses	Determining the value of state losses
Implementation Audit	Analysing the sufficiency of evidence obtained by investigators	Conducting confirmation with the relevant parties
	Conducting an examination at the entity suspected of corruption	Coordinating with other relevant experts (e.g., civil engineers, legal experts, LKPP experts)
	Requesting documents can be made directly to the parties involved	Conducting inspections at the APH office
		Document requests are made through the APH (investigator)
Results of the inspection	a. Can be continued to Investigative Examination for PKN b. Cannot be continued to Investigative Examination for	Determination of State/Regional Losses by the State Audit Agency (BPK)

Description	Investigative Examination	Investigative Examination for PKN
	PKN	
Stages of case handling at the APH	Investigation and/or Inquiry	Prosecution
Follow-up by the APH	a. Collecting evidence in accordance with the BPK's instructions to prove the elements of PMH and/or b. Requesting an investigative examination from other authorised institutions. In this case, the request for an investigative examination must first be withdrawn from the BPK	After the LHP is submitted by the BPK to the APH, the APH requests expert testimony from the BPK

The procedures for each investigative examination are regulated in BPK RI Decision Number 2/K/I-XIII.2/4/2020 concerning Guidelines for the Management of Investigative Examinations, Calculation of State/Regional Losses and Provision of Expert Information by the BPK, which is a refinement of BPK RI Decree No. 9/K/I-XIII.2/12/2015 concerning

Guidelines for the Implementation of Investigative Audits and the Calculation of State Losses.

The audit procedures in investigative audits are aimed at obtaining evidence through two-sided proof (reverse proof), meaning that the auditor not only proves that the indicative acts of corruption (PITP) have occurred but also endeavours to prove that the PITP did not occur (, 2020) . By conducting two-sided proof, the investigator is required to obtain information that is both incriminating and exonerating for the perpetrator. This means that in conducting proof, an investigator must consider the possibility of denial from the other party (Nurdiatama & Hariani, 2020) .

Reverse proof is fundamentally consistent with the principle of reverse burden of proof in criminal law, known as "Omkering van het Bewijslat" or "Reversal Burden of Proof," which can be translated as "Reversal of the Burden of Proof." As a universal principle, the burden of proof lies with the Prosecutor. However, considering the highly urgent nature of the matter, the burden of proof is no longer placed on the Prosecutor but on the Defendant (Isdy et al., 2024).

Therefore, in the conduct of investigative audits, reverse proof is also applied to anticipate denials from parties suspected of being involved in corruption-related criminal acts, as they may also attempt to prove their non-involvement in such acts.

In practice, evidence is obtained through various examination techniques, including requesting information from parties involved in the alleged corruption case, confirming information, particularly from third parties, and conducting field observations to examine the results of the work.

Requests for information, confirmation, and observation in investigative examinations can be conducted without involving investigators

if the case is not yet under investigation and the purpose is still to reveal whether there are elements of unlawful acts. Meanwhile, during the investigative examination stage for calculating state losses, the process of requesting information and obtaining supporting documentary evidence is carried out through and accompanied by investigators. Observations are conducted by the examination team together with the parties suspected of being involved and/or authorised, law enforcement agencies, and other experts (construction experts, mechanical engineering experts, medical equipment experts, and others related to the activities).

This acquisition process often takes a long time due to the resistance of the parties suspected of involvement, not to mention documents that no longer exist (deliberately destroyed or lost), while on the other hand, the inspection team is required to collect sufficient and reliable evidence to reveal that an unlawful act has occurred that resulted in state/regional losses.

The results of the investigation are then documented in a report and undergo a hierarchical review by superiors before being signed by the Chairman of the BPK, a process that also requires time. The purpose of the hierarchical review is to ensure quality assurance and quality control of the LHP.

The Investigative Audit Report will be submitted to the APH, which will then serve as the basis for the APH to continue handling the alleged corruption case (Maryani & Sastradipraja, 2020). If the investigative audit concludes that there are elements of criminal corruption, the APH will continue the investigation and, through the BPK, will calculate the state losses.

Meanwhile, the Investigative Examination Report for the Calculation of State Losses will be used by the APH (investigators) as one of the pieces of

evidence in the corruption case. In addition, the APH (investigators) will request expert testimony from the BPK to provide financial expert testimony in relation to the calculation of state losses in court.

2. Challenges in Conducting Investigative Audits

If we trace the development of investigative audits conducted by the BPK in corruption investigations from 2017 (when the BPK's investigative unit was officially established) to 2023, the BPK has submitted 28 investigative audit reports with an estimated state/regional loss of Rp32.53 trillion. This number increased compared to 2022, where 25 investigative audit reports were submitted with an estimated state/regional loss of Rp31.55 trillion. Out of the 28 reports, 11 BPK reports have been utilised in the investigation process, and 17 reports have been utilised in the prosecution process by law enforcement agencies (Badan Pemeriksa Keuangan Republik Indonesia, 2023).

On the other hand, the state loss calculations conducted by the BPK also revealed significant figures. A total of 409 reports on state/regional loss calculations, amounting to Rp60.91 trillion in state/regional losses, were submitted to the relevant authorities. This figure increased compared to 2022, which saw 342 reports with a total value of Rp58.38 trillion. Of the 409 PKN reports, 82 reports have been utilised in the investigation process, and 327 cases have been declared P-21 (investigation files are complete). Additionally, effective collaboration between the BPK and law enforcement agencies has been carried out in providing expert testimony (PKA) in cases that have entered the trial phase. From 2017 to 2023, the BPK has provided PKA for 368 cases, all of which were utilised by the Public Prosecutor's Office. This number has increased

compared to 2022, which only recorded 342 cases (Indonesian Audit Board, 2022, 2023).

However, despite this significant achievement, there are still challenges in the implementation of BPK investigative audits. First, limited resources have prevented the conduct of investigative audits, particularly those requested by authorised agencies. Based on interviews with staff from the AUI Secretariat, during 2023, there were 15 requests for investigative audits and 45 requests for investigative audits for PKN submitted by APH regarding cases of alleged corruption involving local governments. Of these, not all could be accommodated by the BPK. These limitations include a shortage of competent and experienced auditors and constraints on available funding.

Other challenges include the complexity of cases requiring extensive collection of supporting evidence and involving multiple parties. For example, in the investigative audit of the Bank Century case in 2009, the BPK conducted a comprehensive audit by collecting evidence and obtaining confirmation from various parties such as Bank Indonesia (BI), the Ministry of Finance, the Deposit Insurance Corporation (LPS), the Financial Transaction Reports and Analysis Centre (PPATK), PT Antaboga Deltasekuritas Indonesia (PT ADI), and banks that had been acquired by Bank Century (Veronika & Simanjuntak, 2022).

The final obstacle faced in the implementation of the investigative audit by the BPK was the large amount of unstructured data, which was difficult to analyse quickly. For example, in the cases of the Indonesian Armed Forces Insurance Company (ASABRI) and the Jiwasraya Insurance Company, the parties involved in corruption were interconnected and committed crimes in various ways involving third parties. The BPK audit team conducted data

reconstruction and cross-referenced supporting data related to illegal actions.

Given the challenges and obstacles mentioned above, efforts are needed to address various issues in the conduct of investigative audits, such as the need to strengthen resources through capacity building for auditors and adequate budget allocation. The BPK must increase the number of competent auditors through recruitment, education, and training. In terms of budget, the BPK, as a high-level state institution, should be able to meet its budgetary needs in fulfilling its duties and functions (, 2024). Article 35 of Law No. 15 of 2006 on the BPK states that the BPK, as an independent and autonomous state institution, is responsible for fulfilling its own budget.

Another effort that can be made by the BPK is to develop a database system that can facilitate data acquisition, including building a Big Data Analysis (BDA) system that contains a database of goods and services procurement throughout Indonesia as well as financial reports from all ministries/institutions/agencies and local governments that can be accessed by the audit team. Additionally, the BPK, through the AUI, has established a special unit called the Digital Forensic Laboratory (LDF) and has obtained accreditation certification from the National Standards Agency (BSN). The LDF plays a crucial role in investigative audits, particularly in the processing of digital data, ensuring the quality and reliability of the evidence obtained (BPK Public Relations, 2023).

Conclusion

The investigative audits conducted by the BPK have demonstrated their important role in proving corruption offences, particularly in uncovering unlawful acts and calculating losses to the state/local government. In conducting investigative audits, the BPK adheres to written and standardised procedures.

However, this does not preclude the development of alternative procedures in its implementation, such as simultaneous confirmation with all parties, data reconstruction and cross-referencing, as well as the use of digital forensics and big data analysis to obtain sufficient and reliable evidence. In the future, it is hoped that the BPK will continue to improve the quality of investigative audit procedures by standardising these alternative procedures into quality standards set out in a BPK decision. Additionally, adequate and quality resources are essential, particularly for the development of big data analysis and digital forensic systems. This will ensure that investigative audits are conducted reliably while upholding the principles of integrity, independence, and professionalism. Ultimately, it is hoped that this will contribute significantly to the eradication of corruption in Indonesia.

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