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# The Role Of The Lampung Provincial Financial Audit Agency In Determining State Losses

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## **Article's Information**

#### **Abstract**

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The Supreme Audit Agency is the institution that has the authority to calculate and determine state losses, but its implementation, there are still requests for calculating state financial losses that have not been implemented. This study uses a normative juridical approach. Then it is analyzed qualitatively so that the results are obtained: First, the BPK-RI Representatives of Lampung Province have been given the trust by law enforcement officials to calculate determine state losses, and the State Financial Loss Calculation Result Report submitted by BPK-RI is used as evidence in court as evidence regarding there is a state loss. Second, the methods used by BPK-RI in calculating state financial losses are by using several methods, namely the apple to apple comparison method, the production cost method, the comparison method between the contract value and the market price, the total loss, and the real cost method. The method used by BPK-RI Representatives of Lampung Province in calculating state losses is by using the simple cost method. This method is used by



calculating the difference between the funds spent by the state to obtain goods/services from third parties, compared to the value of real expenditures incurred by the implementing party to provide goods/services to the state according to the agreed contractual agreement.

#### A. Introduction

Corruption crime activities occur in the bureaucratic climate in Indonesia. The nominal of state losses is massively evolved. The value of losses from year to year increases rapidly. Under its nature, corruption crime is always committed in a systematic, measured, and structured manner. Various aspects influence the existence of law enforcement on corruption. Starting from the aspect of legislation, law enforcers, and the climate of enforcement. The classical theory describes three indicators that become benchmarks for law enforcement, namely the substance of the law, legal culture, and the quality of the enforcing actors. Lawrance M. Friedman expressed this classic theory. Moreover, a crime regarding state losses must meet the elements contained in the provisions of Article 18 and detailed in paragraph (1) of the Corruption Act as amended by Law No. 20 of 2001.

In determining state losses, it is necessary to acknowledge the definition of state finance and state losses based on statutory regulations. The State Finance Law provides a limitation that what is meant by State Finance covers all the rights and obligations of the state which can be measured in material terms, in this case 'funding,' as well as everything in the form of funds or in the form of goods that can be used as state property in connection with the implementation of these rights and obligations. <sup>3</sup> Meanwhile, state loss in the State Treasury Law is defined as State/regional loss where the state experiences a condition of fund-lacking, something that is made of securities or in the form of goods. Moreover, the act must have an unlawful act as its element and be carried out intentionally until there is an element of negligence.<sup>4</sup>

Talking about the context of calculating state losses, the Financial Supervisory Agency of Indonesia or known as *Badan Pengawas Keuangan Republik Indonesia* (BPK RI), has the authority to assess and or determine state losses incurred by institutions in Indonesia. <sup>5</sup> BPK-RI has been trusted and mandated by the state through the 1945 Constitution of the Republic of Indonesia (UUD 1945) as a supervisor and examiner to ensure that there is no mismanagement of state finances by state institutions. <sup>6</sup> Referring to the 1945 Constitution,

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<sup>&</sup>lt;sup>1</sup> Eddy Rifai, Penegakan Hukum Tindak Pidana Korupsi, Justice Publisher, Bandar Lampung, pg. 13.

<sup>&</sup>lt;sup>2</sup> Rahmy Putri Yulia, A Khunaefi, and Suryadi Agoes, "Peranan BPK Dan BPKP Menghitung Kerugian Keuangan Negara Dalam Rangka Penanganan Perkara Tindak Pidana Korupsi," *Jurnal Bina Adhyaksa* 6, no. 2 (2016): 135–52, https://www.academia.edu/search?utf8=√&q=Jurnal+Bina+Adhyaksa%2C+Volume+6+Nomor+2.

<sup>&</sup>lt;sup>3</sup> Karel Antonius Paeh, "Pengembalian Kerugian Keuangan Negara Berdasarkan Rekomendasi Badan Pemeriksa Keuangan (Bpk) Hubungan Dengan Unsur Kerugian Negara Dalam Tindak Pidana Korupsi," *Katalogis* 5, no. 2 (July 14, 2017), http://jurnal.untad.ac.id/jurnal/index.php/Katalogis/article/view/8490.

<sup>&</sup>lt;sup>4</sup> Agung Dinarjito, "Analisis Temuan Badan Pemeriksa Keuangan Atas Penerimaan Negara Bukan Pajak Kementerian/Lembaga," *Info Artha* 1, no. 1 (July 24, 2017): 1–16, https://doi.org/10.31092/jia.v1i1.5.

<sup>&</sup>lt;sup>5</sup> Venia Clarissa Afriany Taghupia, "Kewenangan Badan Pemeriksa Keuangan Dalam Memeriksa Pengelolaan Keuangan Pemerintah Daerah," *Lex Et Societatis*, vol. 7, July 30, 2019, https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/24726.

<sup>&</sup>lt;sup>6</sup> mieke Rayu Raba', "Peran Badan Pemeriksa Keuangan (BPK) Dalam Melakukan Pemeriksaan Terhadap Pengelolaan Keuangan Negara Untuk Mewujudkan Pemerintahan Yang Baik Menurut Uu No. 15 Tahun 2006," *Lex Crimen*, vol. 6, April 21, 2017, http://www.slideshare.net/DadangSolihin/buku-.

BPK has a strategic place and absolute power regarding state finances. This strategic role is still considered necessary even though Indonesia has made amendments to its constitution.<sup>7</sup> An examiner institution is a status attached to the BPK institution. Of course, the position is not inferior to institutions from the executive power and other legislative or judicial powers. The BPK will directly handle the answers in the financial sector as well as problems regarding management. This role has always been given to this institution since before the amendments to the Indonesian constitution. Understand the meaning of the results of calculating state losses that are valid and measurable so that the total state losses can be ascertained in real figures. To generate such data, auditors who have experience in auditing the management of state finances have been involved.<sup>9</sup>

The definition of state loss calculation activities is an investigative examination conducted by BPK RI. The purpose of this examination is to find out any state losses occurred. In addition, this activity seeks to find negligence and violations committed by the related institution using state funds. The BPK will carry out this activity if there is a competent agency's request to conduct the examination. Consequently, the findings obtained by the BPK will be used in the further investigation process by law enforcers. The losses incurred will be presented by BPK staff or related experts in providing testimony in court.<sup>10</sup>

The various stages carried out by the BPK RI, such as planning, implementation, and the audit report, are a form of the independence of the auditing agency applied by the BPK RI. <sup>11</sup> Of course, this institution's nature is standing independently from external interests in carrying out its duties and authorities. <sup>12</sup> The vital role that BPK possesses demands a high level of objectivity in performing its duties. BPK-RI has the authority to present its findings that contain elements of corruption crimes to the authorities. In this case, the police, prosecutors, and the Corruption Eradication Commission (KPK), or other law enforcers. <sup>13</sup>

BPK RI is not merely conducting subjective assessments and calculations of state losses. BPK RI conducts factual judgments by the examiner's expertise to ensure that the calculation is objective. At this time, the presence of the BPK is very much needed to assist law enforcers and meet the demands of the community regarding financial transparency that is managed by the government. BPK-RI's efforts in proving the existence of state financial losses have proved significant; in this case, many BPK-RI audit reports have led to several bureaucratic agencies as well as the many arrests of the KPK due to the assistance of BPK-RI,

<sup>&</sup>lt;sup>7</sup> Aftar Lamba, "Aspek Yuridis Peran Bpk Terhadap Pencegahan Korupsi Menurut Undang-Undang Nomor 15 Tahun 2006," *Lex Crimen*, vol. 7, July 26, 2018, https://antoniusketut.fileswprdpress.com/2015/04/peran.

<sup>&</sup>lt;sup>8</sup> Yudha Koswara et al., "Kebijakan Hukum Pidana Terhadap Perhitungan Potensi Kerugian Keuangan Negara," *Jurnal Ilmiah Hukum De'jure: Kajian Ilmiah Hukum*, vol. 4, May 17, 2019, https://doi.org/10.35706/DEJURE.V4I1.1862.

<sup>9</sup> *Ibid*, pg.2.

<sup>&</sup>lt;sup>10</sup> Gunawan Bayu Kumoro, Untung Sri Hardjanto, and Budi Ispriyarso, "Pelaksanaan Tugas Badan Pemeriksa Keuangan Republik Indonesia dalam Memeriksa Pengelolaan dan Tanggung Jawab Keuangan Negara Menurut Undang-Undang Nomor 15 Tahun 2006 Tentang Badan Pemeriksa Keuangan," *Diponegoro Law Journal*, vol. 8 (Program Studi S1 Ilmu Hukum, Fakultas Hukum, Universitas Diponegoro, January 11, 2019), https://ejournal3.undip.ac.id/index.php/dlr/article/view/25339.

<sup>&</sup>lt;sup>11</sup> Gilang Prama Jasa and Ratna Herawati, "Dinamika Relasi Antara Badan Pemeriksa Keuangan dan Dewan Perwakilan Rakyat dalam Sistem Audit Keuangan Negara," *Law Reform* 13, no. 2 (September 28, 2017): 189, https://doi.org/10.14710/lr.v13i2.16155.

<sup>&</sup>lt;sup>12</sup> Muhammad Imron Rosyadi, "Wewenang Badan Pemeriksa Keuangan Dan Badan Pengawasan Keuangan Dan Pembangunan Dalam Menilai Kerugian Keuangan Negara," *Mimbar Keadilan* 0, no. 0 (January 1, 2016): 26, https://doi.org/10.30996/mk.v0i0.2206.

<sup>&</sup>lt;sup>13</sup> Chandra Ayu Astuti and Anis Chariri, "Penentuan Kerugian Keuangan Negara Yang Dilakukan Oleh BPK Dalam Tindak Pidana Korupsi," *Diponegoro Journal of Accounting* 4, no. 4 (2015): 11–22, https://ejournal3.undip.ac.id/index.php/accounting/article/view/9505/9227.

<sup>&</sup>lt;sup>14</sup> Nur Wahyu Safitri, Muh. Sabaruddin Sinapoy, and Kamaruddin Jafar, "Penetapan Kerugian Keuangan Negara Merupakan Kewenangan BPK Atau BPKP," *Halu Oleo Legal Research* 1, no. 2 (July 29, 2019): 219–31, https://doi.org/10.33772/HOLRESCH.V1I2.6179.

<sup>&</sup>lt;sup>15</sup> Muhammad Djafar Saidi, Hukum Keuangan Negara Edisi Revisi, PT. Grafindo Persada, Jakarta, 2011

which has been successful in revealing diversion in state finances as evidence at the investigative level as well as at the court hearing.<sup>16</sup>

BPK-RI has its methods for calculating state losses. The calculation of state losses by the BPK-RI is used to serve as evidence in criminal cases of corruption regarding state losses. <sup>17</sup> In calculating state losses, it is necessary to understand the examiner to properly interpret the meaning of state losses and the methods used in calculating state losses, and the ability to analyze the most appropriate methods.

Based on the BPK 2018 first phase audit (IHPS), several diversion of provisions of the laws and regulations could potentially result in 106 regional losses in Lampung Province with a value of approximately 50,464,140,000.00 Rupiahs. Meanwhile, based on the IHPS BPK 2019, it is known that there was the negligence of institutions in managing state finances, which could potentially result in regional financial losses in Lampung Province as many as 77 audit findings with a value of approximately 37,069,200,000.00 Rupiahs. From 2015 to 2019, the BPK RI Representative of Lampung Province received a request for calculating state losses from law enforcement officials. The request for calculating state losses has not been followed entirely by investigative examination and calculation of state losses.

One of the cases where the request for calculating state losses that had not been followed up by investigative examination / calculation of state losses was Tanjung Raja Market Service Retribution, North Lampung Regency, which was requested by the North Lampung Police. In this case, there are indications of diversion in the collection of retribution for Tanjung Raja Market, North Lampung Regency, but the state losses cannot yet be calculated due to limited evidence that can be used to calculate the value of state losses. BPK-RI asks investigators to carry out further studies related to supporting evidence that can carry out calculations and return to coordinate with BPK-RI regarding developments in problems.

From the example above, it can be seen that the clarity of facts regarding state losses and the evidence that BPK-RI has requested for the calculation of state losses is essential in the process of calculating state losses, the results of which are used as evidence in court. In addition, the calculation of state losses will also be inseparable from the methods used in determining the value to ensure state losses can be stated as real and definite.

Based on the description above, the author will examine matters related to the Lampung Provincial Audit Board's role in the Determination of State Losses. This study will focus on two legal issues, namely examining the role of BPK-RI in determining state losses and related to the regulations and mechanisms/methods used by BPK-RI in calculating state financial losses?

## B. Discussion

# 1) The Role of the Lampung Provincial Audit Board in Determining State Losses

One type of investigation carried out by the BPK agency is investigative activities with a specific purpose, while one form of investigation with a specific purpose is investigative examination/calculation of state losses. Calculation of losses at the central or regional levels is an investigative examination implemented to calculate the values and forms of state/regional losses that have occurred due to violations in the management of state/regional finances. The

<sup>&</sup>lt;sup>16</sup> T.M. Tuanakotta, Akuntansi Forensik dan Audit Investigatif, Salemba Empat, Jakarta, 2010, pg 165.

<sup>&</sup>lt;sup>17</sup> Ricky Arsel Temo, "Penentuan Unsur Kerugian Negara Terhadap Tindak Pidana Korupsi 1 Oleh: Ricky Arsel Temo 2," *Lex Crimen*, vol. 6, November 6, 2017, https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/17922.

<sup>&</sup>lt;sup>18</sup> Badan Pemeriksa Keuangan, Ikhtisar Hasil Pemeriksaan Semester I Tahun 2018, 2018

<sup>&</sup>lt;sup>19</sup> Badan Pemeriksa Keuangan, Ikhtisar Hasil Pemeriksaan Semester I Tahun 2019, 2019

goals and outcomes that this institution must obtain are detailed and definite reports on the magnitude of losses suffered by the state.

The difference between the activities carried out by BPK, and other calculations are in activities. Standard calculations will be carried out in ordinary mathematics. Meanwhile, the calculation carried out by the BPK was accompanied by an examination. In this case, an examination is a form of adjustment between existing data, evidence, and facts with various criteria owned by the BPK. Besides, various indicators determine state losses, one of which is the true aspect, the credibility aspect, and the reliability aspect of the information presented. In implementing the duties and powers of the BPK-RI in calculating state losses, the BPK-RI Representatives of Lampung Province have been given the trust of law enforcement officials to calculate state losses. From 2015 to 2019, the BPK-RI Representative of Lampung Province received requests for calculating state losses from law enforcement officials, including the calculation of state losses in the procurement of goods and services, management of village funds and unpaid regional income, and management of social assistance funds.

At the request for the calculation of state losses, there were four calculations of state losses carried out by the BPK-RI Representatives of Lampung Province, which had been used as evidence in court and had permanent decisions, namely:

- a. Calculation of state losses for cases of procurement of medical devices, health, family planning at RSD Mayjend H.M. Ryacudu Kotabumi, North Lampung Regency, FY 2009 carried out by the BPK Representative of the Province of Lampung based on the Assignment Letter Number 78 / ST / VII-XVIII / 09/2015 dated 29 September 2015 and LHP Number 17 / LHP / XVIII.BLP / 03/2016 dated 31 March 2017 with an Indication value of state losses of IDR 1,694,657,316.36;
- b. Calculation of state losses for the case of Green Open Space Development (RTH) at the Environmental Management Agency of Kab. Pringsewu TA. 2014 conducted by the BPK Lampung Province Representative based on assignment letter number 75 / ST / V / 03/2017 dated 30 March 2017 and LHP Number 4 / LHP / XXI / 07/2017 dated 20 July 2017 with an Indication value of state losses of IDR 54,733,902, 19;
- c. Calculation of state losses on the Procurement of Passenger Vessels at the District Transportation Office. The offer with a budget of Rp. 403,500,000.00 comes from the district budget. FY 2016 offers carried out by BPK Lampung Province Representatives based on Assignment Letter Number 226 / ST / IX-XXI / 09/2017 dated 20 September 2017 with LHP Number 10 / LHP / XXI / 02/2018 2 February 2018 with an Indication value of state losses in the amount of Rp151,577,900.00;
- d. Calculation of state losses on the Village Fund (DD) Rejo Mulyo Kec. Way Serdang Kab. Mesuji whose budget is sourced from the 2016 FY State Budget carried out by the Lampung Province Representative BPK based on the Assignment Letter Number 222 / ST / IX-XXI / 09/2017 dated 15 September 2017 with LHP Number 46 / LHP / XXI / 12/2017 dated 4 December 2017 with an Indication value of state losses of IDR 121,249,000.00;

The request for investigative examination in the framework of calculating state losses has not yet been completed due to several things such as still in the process of investigations carried out by law enforcement officials, in the process of calculating state losses, in the judicial process and the case is dismissed because there are no unlawful acts (PMH). Requests for calculating state losses are not always directly accepted for investigative examinations in the framework of calculating state losses because BPK-RI still requires complete evidence to

calculate state losses. The obstacles faced by BPK-RI Representatives of Lampung Province in the implementation of the examination of calculating state losses are:

- a. The difference in views between the BPK-RI and investigators regarding the unlawful nature of the case for which state financial losses are requested is the investigator's view that PMH has occurred, which can be indicated as a criminal act of corruption. However, BPK-RI has not considered PMH, which can be indicated as a criminal act of corruption.
- b. Law enforcement officials do not yet have complete evidence of a criminal case of corruption, even though supporting evidence must be complete so that the calculation of state financial losses can be presented accurately because it will be used in court so that BPK-RI asks law enforcement officials to conduct a more thorough examination. Further related to supporting evidence that can be used to make calculations.

Based on the explanation above, it can be explained that the BPK-RI Representative of Lampung Province has carried out its duties in determining state losses under the duties and authorities that have been regulated both in law, technical instructions, and implementation instructions for calculating state losses and providing expert information as a follow-up to implementation in calculating of state losses. However, there are still obstacles, namely dissent between BPK-RI and investigators regarding the unlawful nature of the case for which state losses are calculated and the absence of evidence for calculating state losses that caused BPK-RI not to be able to calculate state financial losses.

# 2. Regulations and Mechanisms Used by BPK in the Calculation of State Financial Losses

Determination of state losses must be based on proper and accurate identification in the investigation. If there is sufficient preliminary evidence, the case can be determined as a criminal act of corruption.<sup>20</sup> Based on proper and accurate identification, the investigation results can be continued to the level of investigation.<sup>21</sup>

Based on the study conducted, the researchers discussed the context of regulations and mechanisms used by BPK-RI in the implementation of calculating state financial losses described in the BPK RI regulations regarding procedures and methods for calculating state losses precise, accurate, and systematic. This regulation covers the methods and steps for implementing the presence or absence of state losses by the calculations made.

Concerning the calculation of the presence or absence of an impact of state losses, basically cannot be standardized or uninformed even though the cases or problems are similar. There are many factors and differences in the case's mode in a corruption case, including a series of illegal acts and the modus operandi. In determining the method of calculating state losses, the examiner must consider aspects that may be debated in the trial to understand and prepare when choosing to use a particular method. The methods used by the BPK-RI in calculating state losses include the following: <sup>22</sup>

a. Proportional Comparison Method (Apple To Apple Comparison)

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<sup>&</sup>lt;sup>20</sup> Kadek Dwi Febriana and I Nyoman Gede Remaja, "Peranan dan Pengaruh Inspektorat Kabupaten Buleleng dalam Pemeriksaan Terhadap Temuan yang Tidak Ditindaklanjuti Pada Pemerintah Kabupaten Buleleng," *Kertha Widya* 5, no. 2 (2017): 126–40, https://ejournal.unipas.ac.id/index.php/KW/article/view/489/414.

<sup>&</sup>lt;sup>21</sup> R. Bayu Ferdian, Mohd. Din, and M. Gaussyah, "Penetapan Kerugian Negara Dalam Perkara Tindak Pidana Korupsi," *Syiah Kuala Law Journal* 2, no. 3 (November 30, 2018): 320–37, https://doi.org/10.24815/sklj.v2i3.11648.

<sup>22</sup> Berdasarkan wawancara dengan Eka Putra Jaya selaku Pemeriksa investigatif pada Badan Pemeriksa Keuangan Perwakilan Provinsi Lampung, Pada Tanggal 20 Februari 2020

The proportional comparison method is a method of comparison between two items. In this comparative method, the inspection is carried out based on the similarity of the types of goods and the basis of the elements that form the price of the goods. The proportional comparison method is usually used to check a fair value for the procurement of goods and services, usually for the procurement of goods and services for movable goods.

- b. Production Cost Method / Cost of Production
  - The Production Cost method is usually used to procure unique goods where it is complicated to find similar goods as a comparison. In using this production cost method, the inspection that is carried out must know in advance the elements that form the basis of the price of goods.
- c. Method of Comparison between Contract Value and Certain Market Price or Comparative Value

The land acquisition value is usually assessed by comparing the contract value and the market value price. This method is commonly called the contract value comparison method. There are similarities between this method and the proportional comparison method, but there are differences between the two, namely the different factors of providing compensation regarding the existing land.

- d. Total Loss Method
  - The explanation regarding this method is, of course, different. This method's focal point is on the value that the parties have not paid to the state. Later, findings will be found regarding fictitious expenditures that should not have been issued according to applicable regulations and the existence of goods and service procurement activities that are not appropriate in their portion and location. also do not have the power of use and efficiency.
- e. Real Cost Method
- f. The real cost method is a method of calculating state losses by calculating the difference between the funds spent by the state to obtain goods/services from third parties after deducting taxes compared to the value of real expenditures incurred by the implementing party for providing goods/services to the state according to the contractual agreement agreed upon.

Based on the research results that have been carried out, following the description above regarding the method of calculating state losses, the method that is mostly used in calculating state losses at the BPK Representatives of Lampung Province is more the real cost method. In the calculation of state losses, there are still problems in its implementation, including inadequate audit evidence, limited audit time, and the parties being examined were not cooperative. To overcome these problems, the BPK-RI inspectors from the Lampung Province Representatives can improve the role and quality in calculating state losses using audit procedures related standards to improve audit effectiveness.

#### C. Conclusion

The results showed that the BPK-RI Representatives of Lampung Province have carried out their roles under statutory regulations. BPK-RI has been given the trust of law enforcement officials to calculate state losses, and the Report on the Calculation of State Financial Losses submitted by BPK-RI is used as evidence in court as evidence of state losses. However, there are still obstacles, namely dissent between BPK-RI and investigators regarding the unlawful nature of the case for which state losses are calculated and the absence of evidence for calculating state losses that caused BPK-RI not to be able to calculate state financial losses. The method used by the BPK-RI Representative of Lampung Province in

calculating state losses is by using the Real Cost method. This method is used by calculating the difference between funds spent by the state compared to the value of real expenditures incurred by executors/third parties.

The suggestion that can be given is that the BPK-RI and Law Enforcement Officials request the calculation so that they can coordinate better so that they can get a common ground according to the expectations of each party and the BPK-RI Inspector of the Lampung Province Representative is expected to increase the role and quality. in calculating state losses.

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