

THE ROLES OF THE SUPREME AUDIT BOARD IN THE INDONESIAN CONSTITUTIONAL SYSTEM

Ujang Bahar

Abstract

The Supreme Audit Board is the highest state institution which has the duty and responsibility to audit the financial affairs of the state in a discrete, free and independent manner as mandated by the 1945 Constitution. However, in the implementation of its duties, the discretion and independence expected from this institution have not been achieved. It is evidenced by the method used in selecting the members of the Board as specified by the House of Representative (DPR) which is politicized, i.e. selecting own friends. In other words, there is a hidden agenda at the DPR and/or political parties which conduct the selection. The strong influence that the political parties have over the Supreme Audit Board will compromise the primary objectives of the establishment of the Board. There is concern that such practice will breed corruption, collusion and nepotism in the state financial management in the future. In responding to such allegation, the members of the Supreme Audit Board shall be able to prove that they are free from political intervention and the conflict of interest with political parties. They shall be able to make the Board a respected government institution. The results of the audit shall be excellent so as to create a modern and civilized financial community. The Board shall be able to synergize and establish good cooperation with other law enforcing bodies such as the police, attorney office and corruption eradication commission. The Board shall be able to play its main role in creating good governance so as to avoid any conflict of interests among the state institutions which have occurred in the past. If this can be realized, then, the Supreme Audit Board will become a reliable and internationally-recognized board.

Keywords: Discretion And Independence, Political Party Intervention, Harmonious Relations, Public Expectation & International Recognized

Introduction

Most modern states in the world follow the *Trias Politica* principle, where state powers are divided into institutions with respective tasks, functions, and authorities which are regulated in the country's constitution. The Republic of Indonesia is no exception. This can be clearly seen in the 1945 Constitution, first applied after the Indonesian Independence, or in the New Order regime, and even in the current Reform Order regime. The same principle was applied before and after the amendment. It was also used in the enactment of the *Republik Indonesia Serikat* (RIS) Constitution

and the 1950 Temporary Constitution. With respect to this paper, the intended high state institution to be examined is the Supreme Audit Board.

In the pre-amendment 1945 Constitution, the Supreme Audit Board was only regulated in one clause, Article 23 of clause 5, which read as follows: “to examine responsibility about state’s financial affair, it is established a body called as the Supreme Audit Board in which its regulations were determined by laws. Such auditing outcomes would be informed to the House of Representative”. The Supreme Audit Board serves to examine the ways government uses money from the state budget. Consequently, the Supreme Audit Board must be insulated from governmental influences because a board that is subject to governmental authority will not be able to effectively discharge this duty. Therefore, this board is also not a board standing above the government but its powers and obligations must be governed by laws.¹

In the after-amendment 1945 Constitution (the Fourth Amendment), the Supreme Audit Board is in Chapter VIIIA of Article 23E to Article 23G. The role of the Board to examine the state’s financial management and its responsibility to be free and self-sufficient can be found in Article 23E. The Board is supposed to deliver its auditing output to the House of Representative, the Regional Representative Council (DPD), and the Regional House of Representative in accordance with its authority and responsibility, and it must be followed up by representative and other bodies with respect to the order of laws. In fact, the Supreme Audit Board has not been free and self-sufficient, especially in terms of budget.

When the 1945 Constitution was first introduced on 18 August 1945, the Supreme Audit Board had not been in existence. This is possibly because past political situation has not permitted it. On 10 December 1946, the Minister of Financial Affairs sent a letter to all existing ministry and offices informing them that the government would soon establish the Supreme Audit Board as it is addressed in the 1945 Constitution. The Supreme Audit Board was established on 1 January 1947 through Number 11/OEM Governmental Decree of 28 December 1946 with temporary office in Magelang town.

Because the work of the Supreme Audit Board was broadly similar with the former “*Algemene Rekenkamer*” area of work, before new regulations were introduced, old existing rules for *algemene rekenkmar* were temporarily used and assumed as guidance using the concordance principle.² With No. 6/1948 Governmental Decree of 6 November 1948, the Supreme Audit Board office site was moved from Magelang to Yogyakarta, because the capital of the Republic of Indonesia at that time was Yogyakarta. Accordingly, the Supreme Audit Board was established in accordance with Particle 23, Clause (5) of the 1945 Constitution.

With the formation of the State of Indonesian Union (RIS), subject to the RIS Constitutional Deed on 14 December 1949, the DPK was established with office in Bogor. Its chairman was R. Soerasno, and starting from 31 December 1949, the RIS’s DPK had headquarters in the former *Algemene Rekenkamer* office in the *Nederland Indie Civil Administratie* (NICA) administration period. With the formation of the Unitary State of the Republic of Indonesia on 17 August 1950, the RIS’s DPK situated in Bogor, was joined with the Supreme Audit Board from 1 October 1950 based on the 1950 Temporary Constitution. Its office remains in Bogor occupying the former RIS’s DPK office. However, Presidential Decree of 5 July 1959 stated that the 1945

Constitution was made effective again, thus DPK's position with respect to the 1950 Temporary Constitution was modified to become the Supreme Audit Board in accordance with Article 23 clause (5).

In the President's messages, namely, Economic Declaration and *Ambeg Parama Arta*, and with No. II/MPRS/1960 Provisional People's Consultative Council Decision and No. 1/Res/MPRS/1963 Provisional People's Consultative Council Resolution had been proposed to make the Supreme Audit Board a more effective controlling state instrument. In order to achieve this purpose, on 12 October 1963, the Government had issued the Governmental Regulation for Substitute of the 7 Act of 1963 (The 195 government official gazette in 1963) and then it was changed by the 6 Act of 1964 (PERPU) about New Style Financial Auditing Body. Furthermore, this PERPU was changed with No. 17 Act of 1965 in which, among others decided that the President, as the Supreme Revolutionary Leader is the holder of audit powers and the highest person on state financial administration. The chairman and vice chairman of the Supreme Audit Board of Republic of Indonesia were given the respective positions as Coordinating Minister and Minister. As a consequence, this created a bias in the Republic of Indonesia's constitutional system based on the 1945 Constitution. Actually, this bias not only appeared in the Supreme Audit Board with its status parallel with ministry, but it also took place in other state high institutions such as the Supreme Court. Being aware of this bias after the fall of Old Order, the Provisional People's Consultative Council by its No. X/MPRS/1966 Decision finally restored Republic of Indonesia's Supreme Audit Board position and function as a High State Institution. Consequently, the Act which would become the basis for Supreme Audit Board duty must also be modified and it was finally realized in 1973 with the 5 Act of 1973. This body existed until the collapse of the New Order regime in 1998. Until the collapse of the New Order and even during the early reform era, the Supreme Audit Board has not been a free and self-sufficient board. The Board as the Supreme Financial Auditing Body led by a Minister or include the government cabinet. Meanwhile, during the Soeharto leadership, this body was always led by individual or former officials who were not considered acceptable in government.

It is just from the Fourth Amendment of the 1945 Constitution that the Supreme Audit Board is declared as a free and self-sufficient body.

Definition of Financial Managing Officials

In accordance with 17 Act 2003, state financial managing powers reside in the President's hand. This state financial management is divided into two fields, fiscal and monetary fields. In the fiscal field, this state financial managing power is authorized to the Minister of Financial Affairs as Common State Treasurer, Fiscal Manager, and Governmental Representative in separated state property possession [Article 6, clause (2a)]. It is also authorized to the Minister/Institution Leadership as Budgetary/Goods Users in Article 6 clause (2b). Furthermore, this authorization is transferred to the Governor/Regent/Mayor as the Local Financial Manager, Representative of the local government in separated local property possession [Article 6 clause (2c)]. However, this does not include monetary authority managed by the

Central Bank. All powers on this state financial management would be handled by the Head of Office/central and local Task Forces as the Authorizing Holder of Budgetary User, and the Head of State Treasury Service Office (KPPN) as the Authorizing Holder of Common State Treasurer/the Head of Local Financial Managing Task Force as the APBD (local budget) Managing Official. Therefore, financial view of point and definition is emphasized to President as governmental head and state budgetary (APBN) implementation. The state budgetary management is actually not only for its implementation.

In my opinion, as a consequence, the definition of financial management as it is intended in Article 6 of the 17 Act of 2003 has not been given a true financial definition. If it is examined in detail, the phrase "State Financial Manager" contains two subject definitions, firstly "State Financial" and second "Manager".

The manager comes from the term "manage" or "to manage" meaning that, firstly, to control, to perform (government and others); and, secondly, to administer (firms, project, etc), to run. A manager is someone who manages something.³ The definition of someone here is a single person, but it can also be meant as a body or an institution. A manager can also be defined as a person whose task is to manage something to be more useful or beneficial in accordance with its predetermined objective. The 15 Act of 2004 declares that state financial management activities of financial managing officials in accordance with its position and authority, consist of planning, implementing, supervising and responsibility.⁴ Meanwhile, the definition of state finance refers to all the state's rights and liabilities that can be valued in monetary terms and, all things in money or good forms that could be made as state possession with respect to such rights and liability implementation (the 17 Act of 2003, Article 1, point 1).

The state financial affairs, according to the 17 Act of 2003, are also called as the National Budget. A national budget has distinct cycles, namely, arranging or planning (n-1 year January to July), determining (n-1 year 16 August to October), implementing (n year January to December), Supervising (Current year), and Responsibility (n+1 year July). Accordingly, all institutions that serve in these respective national budget cycles are called as institutions of state financial management.

Thus, a state financial manager is, in my opinion, a person or a body or an agency which performs tasks of state financial management, or makes state financial affairs more beneficial, useful with respect to its objectives. It does not only pertain at the budgetary implementation level (government), but also at the budgetary planning level (government and House of Representative). Meanwhile Article 96 of Act 27 of 2009 on the People Consultative Council, House of Representative, Local Representative Council, and Local House of Representative, states that the tasks in the budgetary field of the Commission are as follows:

- a. to perform a preliminary discussion about compilation of state revenue and expenditure budgetary design that is included within its tasks together with Government;
- b. to perform discussion and propose improvement for state revenue and expenditure budgetary design that is included within its tasks together with Government; and

- c. to discuss and determine budgetary allocation for ministerial and institutional function, programs, and activities that would become the work commission partners.

and budgetary supervision and auditing (Supreme Audit Board).⁵ In other words, activities for state financial management is a management functional implementation, and it is state financial management in this instance. According to George R. Terry, a management expert, management functions are:

- 1) Planning;
- 2) Organizing;
- 3) Actuating; and
- 4) Controlling.⁶

These four management elements are called as office management. "The planning, organizing, actuating, and controlling of office work and those performing it so as to achieve predetermined objectives."⁷

Newman, said that management functions are :

- 1) Planning,
- 2) Organizing,
- 3) Asembling resources,
- 4) Directing, and
- 5) Controlling.⁸

Its objective is to allow all policies taken to be implemented in accordance with predetermined plans and assure no corruption occurs in its operation in order to achieve organizational aims. In relation to this, good governance performance is expected in the conduct of state financial management.

National Budget

As a sovereign country with a legal foundation, and performing state governmental affairs based on a constitution, its financial management, especially the national budget, is yearly established by law. The term national budget itself is used in the 1945 Constitution (Article 23).

Before the National Budget is discussed in depth, it is necessary to first propose a definition of state finance itself. There are a number of experts who provide their definition of state finance. Among them is a definition from Geodart and John F. Due. Geodart defines state finance as the "overall periodically determined Acts which give governmental powers to administer expenditures in a given period and shows some required financing instruments to cover such expenditure".⁹ Meanwhile, according to John F. Due, in Soewarno Handyaningrat, "A budget in general sense of term, is a financial plan for specific period time ... a government budget, therefore, is a statement of proposed expenditures and expected revenue for the coming period together with data of actual expenditure and revenue for current and past period." From this definition, John F. Due equates the definitions of state finance and budget.

This instance could be understood because a state or national budget is actually a driving force for state finance. This argument can be seen from the definition of state finance in accordance with the 17 Act of 2003 on State Finance in relation with the State Treasury definition pursuant to the 1 Act of 2004 on State Treasury.

The Article 2 of the 17 Act of 2003 reads that a state finance includes:

1. Right of state to collect tax, to circulate currency, and make agreements;
2. State liabilities include performance of public services, to pay third party receivables;
3. State revenues;
4. State expenditures;
5. Local revenues;
6. Local expenditures;
7. State property is managed by itself or through a third party, such as money, security, receivables, goods, and other rights that have monetary value, including separated properties in State-owned and local-owned corporations;
8. Other parties' property under government guidance in attempt for governmental duty performance and/or public interest;
9. Other parties' property obtained by using state or public facilities.

These all are included in the state treasury. Therefore, as it is stated in the 1 Act of 2004 in Particle 1, clause 1, that, State Treasury is a state financial management and responsibility. And this state treasury definition is extended by inclusion of investment and separated properties as stated in National/Local Budget. Accordingly, I argue that the substance of state finance is state or national budget.¹⁰ The phrase state budget is a translation of the term "budget".¹¹ The term budget was first used in relation with the state during the eighteenth century in the United Kingdom Lower Council as an outcome of the Glorious Revolution (1688).

The state budgetary definition can be seen from the following three perspectives: administrative, constitutional, and implementative. From an administrative perspective, a state or national budget means state revenues and expenditure administration by considering reasonable balances between them. From a constitutional approach, a state or national budget is a right to determine a state budget from the House of Representatives (*volksvertegenwoordiging*) which is commonly included in a country's constitution. This instance is a consequence of the application of Montesque's *Trias Politica* doctrine although the application of this doctrine is not in a pure sense anymore. Meanwhile, if the national budget is examined from periodically established regulations and implementing rules, a state budget provides executive powers to handle expenditures within a specific period and shows some required financing instruments to cover those expenditures. Meanwhile, if it is reviewed from the Law of State Structure, a national budget focuses on authorization aspect.¹² The 1 Act of 2004 about State Treasury provides for

limitation of State Expenditure and Revenue Budget and furthermore defined the State Budget as a state's annual financial budget approved by the House of Representatives.

Furthermore, in order to understand what a budget is and its functions, it would be helpful to examine the the definition suggested by Arifin P. Soeria Atmadja, who defined is as follows: "A state budget is an pproximation and calculation of total expenditures or budget to be expended by state".¹³ Meanwhile, budgetary definition according to M. Subagio is "A plan demanded to finance all activities, and costs and expenses needed to run governmental operation and accompanied with total revenue expectation that is obtained and used to finance such expenditures."¹⁴ In addition, if such National Budget is seen from its functional aspect, thus we will face with a definition that such National Budget always reflects a *Staatsrechtelijke* function. What is meant by *Staatsrechtelijke functie* is concluded by review committee for the Dutch Treasury Acts led by Prof. Dr. D. Simons as follows:

*Elk begrotingshoofdstuk wordt bij afzonderlijke wet vastgesteld. De wetsontwerpen zijn voor de regeering middel tot de verkrijging van de autorisatie van de volksvertegen woordiging om uit gaven tot bepaalde maxima te doen, daardoor soms ook om maatregelen te treffen welke uitgaveneisen. De keuzefunctie het door de regering verricht bij het indiene van dewetsontwerpen. De saten Generaal verrichten de keuze functie door amending en aanvaarding of verwerping van deze ontwerpen. Het varlenen van autortiatie (eb de daarin besloten keuze) is het primaire doel van de begrooting.*¹⁵

Furthermore, Arifin P. Soeria Atmadja states that:

"The functional description of Law of State Structure from National/ State Budget as it is declared by *commissie tot voorbreiding van herziening comptabiliteitswets* above is a description standing upon judicial view of point, where its objective focus or "*primaire doel*" of the state budget is concerned on *autorisatie* from *volksvertegenwoordiging*" to the government for handling of maximal given expenditures and revenues from budget."¹⁶

In the New Order period, the national budget applied by government is well known as balanced and dynamic. This budget has the same expenditure and revenue and continuously increases from year to year in amount. However, this applied budget is a continuous deficit budget, because its expenditure side is larger than its revenue. And this deficit is covered by foreign loan. During the reform era in the Megawati administration period, our budgetary system was a deficit budgetary one. And this deficit will usually be covered by privatization of state-owned corporations, bonds issued by the state, and through foreign loans. Accordingly, it is clear that a loan constitutes one of deficit financing sources for covering of developmental finance.

The state budget truly performs an important role and function for state survival. Consequently, it must be justified with laws. Even such laws have a special character since it is only applied for a one year period. As it is intended in Article

23, clause (1) of the 1945 Constitution, such State's Expenditure and Revenue Budget is an expression of yearly determined state financial management by laws and openly implemented and has responsibility to bring the highest prosperity for the people. Specification of this article 23 clause (1) contains House of Representative's *begrooting* rights.

In an attempt to assure that state budgetary management or state financial management run as expected, requires a state body or institution that will serve to examine its financial responsibility conducted by the Central Government, the Local Government, other state institutions and another institutions and bodies which manage such state finance. Those roles are based on the 1945 Constitution and the 15 Act of 2006 which are placed on the hand of the Supreme Audit Board.

The Role of the Financial Auditing Body

This nation's founders are aware that the audit of state financial affairs is a serious task, which requires an independent Supreme Audit Board free from governmental influences and powers, so as not to compromise and its auditing function. The term "free" is meant that it can carry out all actions related with state financial management and responsibility without violation of existing legal specifications. Meanwhile, the term "self-sufficient" is meant that in doing examination on state financial management and responsibility it may not be allowed by other individuals, including executive, legislative, and judicial parties, and even from the Supreme Audit Board itself.

The Supreme Audit Board is a high state institution that carries out people's sovereignty in auditing state financial management. In order for state governance performance to be considered successful, state finance must be orderly managed, obey legal rules, efficient, economic, transparent and responsible as well as considers sense of justice. The purpose of conducting audit is to create a clean government free from corruption, collusion, and nepotism.

In this current reform era, the Supreme Audit Board has obtained constitutional support from the Republic of Indonesia's People Consultative Council in its 2002 annual meeting that strengthens the Supreme Audit Board as the only external auditing institution in the state financial field. The issuance of the VI/MPR/2002 People's Consultative Council Decree, which, among others, emphasized again the Supreme Audit Board position as the only external auditing institution for state financial affairs and its role must be made more established as an independent and professional institution. It can clearly said that the Supreme Audit Board is a high state institution that must be free from political influence, powers and interests.

Accordingly, in an effort to assist the Supreme Audit Board in the implementation of its tasks, the 1945 Constitution has been amended. Before amendment, the Republic of Indonesia's Supreme Audit Board is only mentioned in one clause (Article 23, clause 5), which was then developed in Third Amendment of the 1945 Constitution to be a separate chapter (Chapter VIIIA) with three articles (23E, 23F, and 23G) and seven clauses.

Based on the 15 Act of 2004 about State Financial Management and Responsibility Auditing, the Financial Auditing Body's primary tasks include all state financial elements as it is intended in Article 2 of the 17 Act of 2003. The 15 Act of 2006 about the Supreme Audit Board states that its primary task is to audit state financial management and responsibility performed by Central Government, Local Government, other State Institutions, Bank of Indonesia, State-owned Corporations, Local-owned Corporations, and institutions or other institutions which manage state finances.¹⁷

Accordingly, the Supreme Audit Board is provided with the authority to perform three kinds of auditing, namely, financial auditing, performance auditing, and auditing with specific purposes. A financial auditing is an auditing on central and local governmental financial reports in order to provide for opinion about information fairness level presented within government financial report. A performance auditing is an auditing on economic and efficiency aspects, and auditing for effectiveness aspect that is usually carried out for management reasons by a governmental supervising official. This auditing is intended to ensure that activities financed by central/local government are economically and efficiently carried out and effectively meet their goals. Meanwhile, auditing with specific purposes is an auditing conducted for specific goals, outside from financial and performance auditing aspects. This category includes investigative auditing.

To assure its auditing quality, it is necessary that a standard for state financial auditing be in place. The Supreme Audit Board's quality controlling system is consulted with government, examined by other country's Supreme Audit Board as members of the world Supreme Audit Board Society appointed by the Supreme Audit Board on the recommendation of the House of Representative. Results of the Supreme Audit Board's findings would be provided to the House of Representative, Regional Representative Council (DPD), Local House of Representative accord with their respective authority. For the follow-up actions, similar findings are also provided to the President, Governor, and Regent/Mayor in accordance with their respective authority, too. In addition, to support the success of its task implementation to perform such auditing, thus the Supreme Audit Board is also provided the power to:

- a. determine auditing objects, plan and implement auditing, determine auditing time and method, and to compile and represent auditing report;
- b. ask for information and/or documents that are obliged to be given by each individual, organizational units of Central Government, Local Government, Other State Institutions, Bank of Indonesia, State-owned Corporations, Public Services Agency, Local-owned Corporations, and institutions or other bodies that manage such state finance;
- c. perform investigation in state-owned money and goods storages, in activity implementation site, bookkeeping and state financial administration, and examination on calculations, letters, proofs, current accounts, responsibilities, and other lists in relation with state finance;

- d. specify documentary, data, and information types concerning on state financial management and responsibility that must be transferred to the Supreme Audit Board;
- e. establish standard for state financial auditing after consulting with Central/Local Governments that is obliged to be used in auditing of state financial management and responsibility;
- f. determine auditing ethical code in state financial management and responsibility;
- g. utilize experts and/or auditors out of the Supreme Audit Board that would work on and behalf of the Supreme Audit Board itself;
- h. build auditor functional position;
- i. provide recommendations on the Governmental Accounting Standard; and
- j. provide recommendations on internal controlling system design for Central/Local Governments before it is determined by Central/Local Governments.¹⁸

In addition, to assure accurate financial management, both effectively and efficiently, the Supreme Audit Board must be provided with the authority to:

- a. evaluate and/or determine total loss suffered by government as consequence of unlawful actions, both intentionally or negligence conducted by Treasurer, Managing Director of State- and Local-owned Corporations, and institutions or other bodies that perform state financial management;
- b. determine obligatory parties to pay indemnity suffered by state with their decisions; and
- c. can also provide for opinion in front of the House of Representative, Local Representative Council, Local House of Representative, Central and Local Governments, other state institutions, Bank of Indonesia, State-owned Corporations, Local-owned Corporations, Foundations, and Institutions or other bodies as demanded from their duty characters.¹⁹

These powers still need implementing procedures in order to avoid constraints as regulated with one of the Supreme Audit Board rules rather than governmental rules. It is certainly intended to obtain a legal certainty, not only for auditors but also related auditee in connection with state financial management and responsibility. Regulating of auditing implementation procedures for the Supreme Audit Board is transferred to the Chairman of the Supreme Audit Board. Thus, the chairman of the Supreme Audit Board obtains a delegation to make rules on the Supreme Audit Board procedures for state financial management and responsibility. Nevertheless, the chairman of the Supreme Audit Board is not allowed to enact unlawful rules with the 15 Act of 2004 about State Financial

Management and Responsibility and the 15 Act of 2006 about the Supreme Audit Board.

In practice, with supplies of regulation instruments owned by the Supreme Audit Board, thus it has successfully performed a variety of financial audit on the Central Government Financial Report (LKPP) in the last five successive years with disclaimer opinion, starting from 2004 to 2008. For the 2004, 2005, and 2006, Central Government Financial Reports, the government responds with fair words because its regulation is still a new one (the 1 Act of 2004) and indeed apparatus of governmental financial managers have not been ready and habitually make a financial statement in accordance with the Governmental Accounting Standard (the 24 Executive Regulation of 2004). The Government promises to make corrective acts in the future. However, it is in fact that 2007 Central Government Financial Report is the same. But, the government itself also promises to take corrective acts in the future. For the 2008 Central Government Financial Report, the Supreme Audit Board provides again a disclaimer opinion. There are at least 12 cases without clean responsibility, among others, include tax receivables, aids, fund in strange account, fund of the BUN prepaid account, special allocation fund, debentures, ex-BPPN asset management, and SILPA, are good examples.

For the 2008 Local Government Financial Report (LKPD), eight regions get Fair Without Exception (WTP) assessment (23 regions in 2004). 137 regions get Fair With Exception (WDP) assessment (249 regions in 2004). 120 regions are declared not to provide disclaimer opinion (only 7 regions in 2004).

According to the Financial Minister, Sri Mulyani, referring to such LKPD showed that a deeper reduction of local financial management accountability, therefore she will perform immediately a financial management training in cooperation with 17 universities in Indonesia.

Meanwhile, according to Bambang Widjoyanto, a legal expert from Trisakti University and Advisor Partnership for Governance Reform, from this report can be understood some issues. Firstly, there is tendency for reducing local governmental performance in financial management. Second, there are 137 regions having a disastrous risk financial management, and 249 potential dangerous risk regions because they can make losses for state finance. Third, the lack of capability in terms of financial management will open opportunity for fraud and authority abuse that could be classified as a corruption. Fourth, state potential losses tend to increase in parallel with reduction in state financial management quality.²⁰

In my opinion, although there is a dark area in state financial management, and our guess is that it occurred as a result of reduced accountability of local financial management as it is said above, it is not certainly a state financial loss. Even if there is a loss in state finance, it could not be certainly caused by corruption, since such a case have not been brought to the court as a criminal conduct.

It may be caused that Government has not had a similar asset (goods) valuation standard with Local Government. Or, there is possible mistakes made by Supreme Audit Board itself, Central/Local Governmental's Financial Auditing Standard determined by Supreme Audit Board has not been understood by all regions, especially new formed regions (from 2004 to 2008, has been occurred a blossing areas in nearly 50% of 300 regencies/municipals to become 497 regions, it is not included added provincial areas). Or, they are caused by Officials and/or

State Financial Auditor negligence, carelessness and delinquency. Another possibility may also be due to different perceptions between government and Supreme Audit Board on applied Accounting System for State Financial Management. All these things relate with non-familiar state financial accounting system for apart of state financial managing officials and auditors. Consequently, accountability system of state budget must continuously be improved in order for it to be easily understood by all field workers.

In addition, there are in fact some constraints and weaknesses faced by the Supreme Audit Board in performing its task for long time. These weakness may be listed as follows:

1. Weakness in regulation aspect

There is a regulation disharmony (disharmony in legal specifications) as the basis of authority for Supreme Audit Board operation, both among legal specification in the field of financial management and legal specifications in other fields that have impact on financial affairs, or among legal specifications in financial management field itself. Consequently, the Supreme Audit Board has not been fully capable to perform its tasks. Exp:

- a. The 17 Act of 2003 provides the Supreme Audit Board authority to examine all state financial management as it is intended in Article 2 of the 17 Act 2003. However, the 17 Act of 2003 itself does not say that all others related Acts do not apply with respect to financial management. For example, HIR (Herziene Inlandsch Reglement or Criminal Code) justifying that judicial institution may collect conflicting parties a fee for their cases. Meanwhile, if it is referred to the 17 Act of 2003, such collection by every Department/ Institution is a state revenue, entering into state account, and it can be audited by Supreme Audit Board. Meanwhile, the Supreme Court argues otherwise. Consequently, Supreme Audit Board can not audit fee for case collected by the Supreme Court and its subordinate bodies in according to such HIR itself. The authority disputes which occurred between the Supreme Audit Board and the Supreme Court concerning on whether such fee for a case is or is not included in state account. The current resolution for this instance is an apparent resolution.
- b. The 15 Act of 2004 in Article 3, clause 1 only declares the scope of Supreme Audit Board investigation includes all state financial elements as it is intended in Article 2 of the 17 Act of 2003. If it is related with the 1 Act of 2004 in Article 1 and 2, such state financial management and responsibility is separated each other as it is specified in National and Local Budgets, and management of the Public Service Agency (BLU). As consequence, Supreme Audit Board has no a strong legal basis to investigate such separated investment and property, although it is stated in the 15 Act of 2006.
- c. According to the 15 Act of 2004 that, Supreme Audit Board is also provided authority to examine state financial management and responsibility. If it is correlated with the 17 Act of 2003, authority for state financial management and responsibility stay above presidential powers. However, it is authorized

to Financial Minister as Fiscal Manager and State Public Treasurer, to Minister/Institution Leadership as Budgetary User, and transferred to Governor/Regent/Mayor as Local Financial Managers (Article 6, clause 2a, 2b, and 2c). It is not included authority in monetary field (Article 6 clause 2d). Its logical reason is that Supreme Audit Board will only examine or make audit on such authority and it will not investigate authority in monetary aspect. However, this in practical aspect is performed on the 15 Act of 2006 basis. The Supreme Audit Board legitimation on this issue may be questioned its validity.

2. The Supreme Audit Board has not been a respected body, because officials or institutions which receive its recommendations based on auditing reports have not yet provided description and responses and take follow-up action as it is intended in Article 20 of the 15 Act of 2004.
3. The Supreme Audit Board has not truly become a free and self-sufficient body as it is addressed in Laws, because its membership recruitment is full with various interests in the past.

Politicization of the Supreme Audit Board Membership

In view of the fact that the Supreme Audit Board has a very central role in our constitutional system and urgently determines Indonesian credibility in the world as a state managed by a system of good governance,²¹ its membership recruitment must truly follow existing legal rules. It can not be neglected that for a long time the Supreme Audit Board membership recruitment is filled by former political leaders. The selection process is heavily politicized. Indeed, membership to the Supreme Audit must be by professional and independent individuals.

Indeed, the 15 Act of 2006 does not prohibit members of the Supreme Audit Board come from political or former political circles, but related persons must be an Indonesian, minimally 35 years old; a believer and true follower of God; domicile in Indonesia territory; have high moral integrity and honesty; loyal to the Unitary State of Republic of Indonesia based on Philosophy of *Pancasila* and the 1945 Constitution; minimum S-1 and equivalent education levels; has not ever been sanctioned with punishment in jail in accordance with the court rulings that has obtained fixed legal forces because related persons made unlawful actions that can be claimed with 5 (five) years or more punishment in jail; has a good physical and mental health; is not being declared bankrupt based on court rulings with fixed legal forces; and the most important one is that related persons has minimally left 2 years from his or her previous positions as officials within state financial management environment.²² The Supreme Audit Board membership is only banned with double status (dual positions) as a member of political party; become official/manager/employee/officer within another state institutional environment and other bodies that manage state financial affairs; national/foreign organizations; and/or owner, totally or partly as legal entity guarantor that run a business with aims to raise profit on state financial expenses.

The regulatory specifications state that recruitment to the Supreme Audit Board membership must be handled by the House of Representatives in consideration of suggestions from the Local Representative Council's (DPD's).²³ Its selection procedures must be established by the House of Representatives via its Procedural Rules. In procedures, there is no obligation to select candidates recommended by DPD itself. As consequence, recommended candidates by DPD are not paid attention and have no beneficial value anymore.

Because the selecting party is the House of Representatives using mechanisms and requirements it has set as mentioned above, thus, it is fair to assume that this legal gap is maximally utilized by House of Representative members in selecting of potential Supreme Audit Board members from their respective environment. Consequently, the selected candidates certainly come from their colleague circles and not from candidates with professional and self-sufficient qualifications. The House of Representatives may easily violate predetermined by-Laws, especially the requirement that the candidate must have left from his position in state financial management environment for at least two years. I must be remembered that the House of Representatives is also a State Financial Manager.

All selected members of Supreme Audit Board with political party background, or at least with support from political parties show an increasing political party hegemony on state institutions. Absence of Supreme Audit Board memberships with true professional and self-sufficient capabilities as stated in regulations will make the state financial management susceptible to abuse and will compromise its accountability, and it will turn to breed corruptive criminal action.

Conclusion

Firstly, the political party hegemony on the Supreme Audit Board will diminish its original purposes as the Auditing Institution for State Financial Management and Responsibility. The Supreme Audit Board roles have changed and have been transformed to be an institution protecting political party interests and/or specific political party members from corruption criminal claims that create loss of state finance. This condition is clearly not profitable for efforts to create a clear and respected administration and government after the reform era. Consequently, there is public dissatisfaction on the politicization of the Supreme Audit Board membership selection. The Supreme Audit Board must be made into an excellent auditing institution which could create a modern and cultural financial society, and can fulfill stakeholder's expectation on state financial management.

Second, regulations on the requirements for becoming a member of the Supreme Audit Board and its selection procedures as it is intended in the 15 Act of 2006 in Article 13 and 14 must be revised. The following definition of a state financial manager must be added: "anyone or legal entity which performs the work to manage state financial affairs, or make such state financial affair more important one, more useful with its original objective, and can be categorized as state financial manager. It is not only true for budgetary implementation level by the Government, but it is also applied in budgetary planning level between Government and House of

Representatives and budgetary supervision and auditing by the Supreme Audit Board”.

Thirdly, The search methodology must be modified by following the KPK leadership selection and recruitment method or selection for the Supreme Judge candidates by Judicial Committee,²⁴ namely, via a selection committee or through an independent institution. For long time, there is no direct registration throughout the House of Representatives.

Endnotes

¹ Republic of Indonesia, *The Constitution of The Republic of Indonesia*. The 1945 Constitution, Explanatory text, of Article 23, clause (5) of the 1945 Constitution.

² *Ibid.*, Article II of The Transferring rules of the 1945 Constitution.

³ Balai Putaka, *The Grand Indonesian Dictionary, Second edition*, (Jakarta: Balai Pustaka, 1994), p. 470.

⁴ Republic of Indonesia, *The Act 4 of 2004 about Management, Audit, and Responsibility of State Finance*, Act No. 4, Year 2004, Article 1, point 6.

⁵ Republic of Indonesia, *The Act 27 of 2009 about People Consultative Council, House of Representative, Local Representative Council, and Local House of Representative*, Act No. 27, Year 2009, Article 96, clauses 2a, 2b, and 2c.

⁶ George R. Terry, *Principle of Management*, (Illionis: homewood, Illionis, Richard D. Irvin, Inc., 1954), p. 10.

⁷ Georger R. Terry, “Office Management and Control,” in The Liang Gie (ed.), *Modern Office Administration*, (Jogyakarta: Nur Cahaya, 1979), p. 56.

⁸ William H. Newman, *Administrative Action*, (New York: New York Prentice Ball, Inc, Anglewood, Cliffs, 1957), p. 4.

⁹ W. Rawan Tjandra, *State Financial Law*, (Jakarta: Grasindo Jakarta, 2006), p. 3.

¹⁰ Ujang Bahar, “The Local Governmental Authority toward Foreign Loan as financing alternative for the Local Budget” (Ph.D. diss., University of Padjadjaran, at Bandung 2009), p. 110.

¹¹ Bohari, *The State Budgetary Law*, (Jakarta: Rajagrafindo, Persada, 1995), p. 13.

¹² Republic of Indonesia, *The Act 1 of 2004 about State Treasury*, Act No. 1, Year 2004, Article 1 point 7.

¹³ Arifin P. Soeria Atmadja, *The State Financial Responsibility Mechanism: A Judicial Review* (Jakarta: Gramedia, 1996), p. 9.

¹⁴ M. Subagio, *State Financial Law, Financial Education and Training Agency, Ministry of Finance*, quoted from W. Riawan Tjandra, *State Financial Law* (Jakarta: Gramedia Widiasarana, 2006), 7.

¹⁵ D. Simons, "Rapport Van de Commissie tot voor breiding van herziening comptabiliteits wets, Gravanhage, Elk begrotingshoofdstukrorst bij afzonderlijke wet vastgesteld," quoted from Arifin P. Soeria Atmadja, *Legal and Development Journal*, The VIIIth year, No. 3 (June 1978), p. 2.

¹⁶ *Ibid.*, p. 23.

¹⁷ Republic of Indonesia, *The Act 15 Act of 2006, about The Supreme Audit Board*, Act No. 15, Year 2006, Article 6, clause (1).

¹⁸ *Ibid.*, article 9, clause (1).

¹⁹ *Ibid.*, article 10, clause (1).

²⁰ "The State Financial Management tendency to corrupt" *Kompas*, 20 August 2009, p. 5.

²¹ Republic of Indonesia, *The Act 28 Act of 1999, about good governance system*, Act No. 28, Year 1999, Article 3.

²² Republic of Indonesia, *The Act No. 15 Year 2006*, Article 13.

²³ *Ibid.*, article 14, clause (1).