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Overlapping Authorities of the BPK and BPKP and Their Implications for Contractors

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Abstract
The construction services sector holds a strategic position in Indonesia's national development. Nevertheless, the practical execution of government construction projects often encounters legal issues, including ambiguous contracts, unilateral design changes without addenda, and delays in payment. In the sphere of state financial oversight, two key institutions perform crucial functions: Badan Pengawasan Keuangan dan Pembangunan (BPKP) and Badan Pemeriksa Keuangan (BPK) as the external auditor. Both bodies possess the legal authority to audit construction projects and assess potential state financial losses. However, overlapping authority in determining losses and issuing recommendations frequently occurs. This study employs normative legal and sociological approaches to analyze the respective roles and mandates of BPKP and BPK, as well as the implications of dual audit authority for contractors' legal certainty. Data were gathered through literature review, regulatory analysis, and examination of audit findings. The results demonstrate that dual authority contributes to legal uncertainty, particularly concerning the valuation of state losses and follow-up actions arising from audit reports. Furthermore, contractors are often confronted with conflicting findings that create inefficiency, confusion, and heightened legal risk. The study suggests the need for regulatory harmonization and improved coordination mechanisms between audit institutions to enhance transparency, accountability, and legal certainty in construction project implementation.
Keywords: BPK, BPKP, Construction Audit, Legal Certainty, Project Supervision

Introduction

Construction Contract Law in Indonesia plays a fundamental role as an instrument that provides legal certainty, justice, and protection for all parties involved. The construction services sector plays a vital role in supporting Indonesia's national infrastructure development. The implementation of construction projects is not only related to technical aspects but is also closely tied to legal and state financial matters (Slamet, 2016). In the Indonesian legal system, construction contracts are expected to serve as instruments that provide legal certainty, justice, and protection for all parties involved, both service users and service providers. In the ideal framework (*das sollen*), construction contracts should reflect the principle of *pacta sunt servanda*, meaning that agreements act as laws for the parties involved, so that every right and obligation can be consistently enforced in accordance with the terms of the contract (Cahyo & Kurnianingsih, 2023; Wiraantaka et al., 2025; Rahmawati, 2021).

In practice (*das sein*), the implementation of construction contracts in Indonesia frequently fails to proceed as intended. Various issues arise in the field, including unclear contract clauses, delayed payments by the project owner, design changes without following the official addendum mechanism, and weak coordination and supervision during the project execution. It is also common for the project owner to make unilateral interventions that result in changes to the scope of work or project schedules without a strong legal basis. As a consequence, contractors often find themselves in a weak position and vulnerable to sanctions or audit findings, even though the root causes of the problems are often beyond their control (Raditya et al., 2021).

Construction Services refer to consulting and/or construction work services. Construction work encompasses all or part of the activities involved in the development, operation, maintenance, demolition, and rebuilding of a structure (Republik Indonesia, 2020). The development of the construction services sector today is marked by increasing complexity, driven by heightened competition both nationally and internationally. The growth and dynamics of the construction services sector demand a strong, comprehensive legal foundation to ensure legal certainty and a secure business environment for all parties involved. The existence of clear, firm regulations is crucial to ensuring proportional legal protection for all parties: Service Users, Service Providers, and Construction Workers. This legal certainty not only serves as the foundation for carrying out construction activities but also functions as a normative instrument to create a healthy, transparent business climate with sustainable competitiveness (Nasirin et al., 2022).

From the perspective of state financial management, government construction projects involve significant public funds. Therefore, mechanisms for financial oversight and auditing of construction projects are crucial. Indonesia recognizes two main oversight institutions, which are BPKP and BPK.

BPKP is the internal supervisory apparatus of the government, tasked with overseeing the planning and implementation of programs and activities that may hinder the smooth progress of development. BPKP conducts audits on price adjustments, claims, investigative audits on cases of deviations that may harm the finances of the state or regions, audits of financial losses, provides expert opinions, and efforts to prevent corruption (Peraturan Presiden Republik Indonesia, 2014).

BPK is a state institution responsible for auditing the management and accountability of state finances as outlined in the Constitution of the Republic of Indonesia. BPK conducts independent, objective, and professional evaluations based on auditing standards to assess the accuracy, compliance, and reliability of financial data. The audit results provide an in-depth evaluation of the financial management practices, and the reports issued by BPK are essential for ensuring transparency and accountability. If needed, these reports serve as the basis for further legal investigations by authorized officials according to applicable regulations (Republik Indonesia, 2006).

Contractors or Service Providers play a strategic role in the implementation of government projects, which are specifically subject to oversight and auditing by the BPKP and BPK. In the context of audits, contractors serve as the subject of examination to ensure that all processes and the use of project funds are carried out in accordance with the applicable laws and regulations, and that they adhere to the principles of effectiveness, efficiency, and accountability (Istianah et al., 2024).

Through the audit process, BPKP and BPK conduct a comprehensive review of the role and performance of contractors to support transparent and accountable governance of government projects. The audits are not only aimed at identifying potential deviations but also at ensuring the quality of construction work and optimizing the use of government funds. Thus, the audit activities conducted by BPKP and BPK play a crucial role in creating healthy, transparent, and publicly accountable governance of government projects.

The dualism of institutions in determining state financial losses creates overlapping authority, which affects the credibility of these institutions. This inevitably impacts practical applications, one of which is the lack of legal certainty in enforcing the law against corruption. It is highly likely that each institution calculating the financial losses incurred by the state employs different calculation techniques, ultimately leading to discrepancies in the reports provided. This can affect the performance of law enforcement agencies in handling corruption allegations (Pradnyana & Parsa, 2021).

These discrepancies directly affect the legal certainty of contractors. In many cases, audit findings from BPKP have been followed up by contractors in accordance with internal recommendations. However, when BPK conducts an external audit, the results often differ, leading to additional obligations or even new findings that are not aligned with the findings of BPKP. As a result, contractors may face dual risks: administrative obligations to the service user agency and legal obligations based on the final findings of BPK. This can prolong the financial settlement process of the project, disrupt the contractor's cash flow, and even trigger potential legal disputes.

The phenomenon of audit dualism has been the focus of various academic studies. Pradnyana & Parsa (2021) examined the authority of BPK and BPKP in determining state financial losses in corruption cases, and found differences in calculation methods that impact the law enforcement process. Sipayung et al (2023), in their study on auditors' understanding in road construction audits, highlighted the complexity of fieldwork, which often becomes a source of differences in audit findings. Siregar and Setyaningrum (2015) analyzed the impact of BPKP's role on audit opinions and findings, discovering that BPKP's guidance function can improve the quality of financial reporting, but has not yet been fully integrated with BPK's audit process.

Although previous studies have examined methodological aspects of audit practices, institutional authority, and the calculation of state financial losses, they have not yet addressed how dual audit authority affects the legal certainty of contractors in government construction projects. This omission is important because the construction sector is characterized by large public expenditures, technical complexity, and strict contractual obligations; thus, discrepancies in audit findings from BPK and BPKP may produce substantial legal and financial uncertainty for project implementers. Consequently, dual audit authority not only reduces the efficiency of government oversight but also creates systemic risks for the business climate of Indonesia's construction services sector.

To address this gap, the present study analyzes the distribution of authority between BPK and BPKP in auditing government construction projects and assesses the implications of audit dualism for contractors' legal certainty. Conceptually, the research contributes to the literature on construction law and state financial oversight, while practically offering regulatory and institutional recommendations for harmonizing audit mechanisms. Accordingly, the study seeks to answer the following questions: (1) how are the respective roles and authorities of BPK and BPKP regulated in the context of government construction project audits; (2) what forms of audit dualism arise in practice and how do they affect contractors' legal certainty; and (3) what mechanisms are required to harmonize audit authority and strengthen accountability in the construction services sector.

Methods

This research employs a combination of normative juridical and sociological juridical approaches (Nurjana dkk., 2025; Sembodo dkk., 2025), which complement each other to understand the phenomenon of audit dualism between BPK and BPKP in government construction projects, both from a normative (regulations and authority) and implementation (audit practices and their impact on contractors) perspective. The normative juridical approach is used to examine the legal framework and regulations governing the roles, authorities, and audit mechanisms of BPK and BPKP in the management of state finances for construction projects. This includes a review of several legislative documents, such as the 1945 Constitution of the Republic of Indonesia, Law No. 15 of 2004 concerning the Audit of State Finance Management and Accountability, Law No. 15 of 2006 concerning the Supreme Audit Agency, Government Regulation No. 60 of 2008 on Government Internal Control Systems, Presidential Regulation No. 192 of 2014 on the Financial and Development Supervisory Agency, and Law No. 2 of 2017 concerning Construction Services, along with its implementing regulations.

The sociological juridical approach is used to understand the application and execution of BPK and BPKP audits in practice, as well as the perceptions of the parties involved. This approach focuses on identifying the gap between the laws in books (formal legal provisions) and the laws in action (actual practices on the ground) (Gozali, 2020; Maulidin dkk., 2025). Through this approach, the research analyzes several cases of audit findings in construction projects that show discrepancies between the results of BPKP and BPK audits.

The study explores how BPKP's recommendations are followed up by the relevant agencies or contractors, and how BPK conducts subsequent audits on the same subject, leading to different findings. Additionally, this approach includes data collection from BPK and BPKP audit reports, government construction project reports, and insights from previous research on contractors' and auditors' perceptions of the audit process.

The empirical data are analyzed descriptively to illustrate the patterns of audit findings and their legal implications. The primary data sources consist of literature studies, statutory regulations, and the examination of audit findings from government construction projects; however, specific audit reports are not explicitly detailed. The main data are drawn from BPK's audit reports LHP and BPKP's internal audit reports, complemented by hypothetical cases where identical work items result in different calculated state losses.

Although the number of cases is not quantified statistically, the selection criteria focus on projects experiencing overlapping audits, particularly about excess quantities or double volume findings, to demonstrate recurrent patterns of temporal and methodological audit dualism. Analytically, the normative approach establishes the legal basis of authority (e.g., constitutional finality of BPK findings versus BPKP's internal supervisory mandate under presidential regulation), while the sociological approach explores how differences in audit recommendations generate uncertainty in practice. The integration of both approaches allows the study to connect legal boundaries with empirical consequences, revealing that audit dualism produces inconsistencies in findings and suggesting the need for harmonization through methodological standardization between BPK and BPKP.

Result And Discussion

The implementation of audits on government construction projects is a crucial form of state financial oversight. Two institutions that play a central role in this process are the Badan Pengawasan Keuangan dan Pembangunan (BPKP) and Badan Pemeriksa Keuangan (BPK). Both institutions have distinct legal foundations, functions, and audit approaches. This difference often leads to audit dualism in practice, particularly in determining state financial losses and providing recommendations based on audit findings in construction projects.

The Role and Function of BPKP in Construction Project Audits, the development of the national government system of the Republic of Indonesia has led to the establishment of an institution with a similar oversight function to the BPK, namely the BPKP. The formation of BPKP is based on Article 49 of Government Regulation No. 60 of 2008 on the Government Internal Control System, which designates it as the internal auditor responsible for accountability of state finances. The duties and authorities of BPKP are further regulated by a Presidential Regulation. According to Article 1, Paragraph 4 of Government Regulation No. 60 of 2008, in conjunction with Article 1, Paragraph 1 of the Presidential Regulation on BPKP, it is emphasized that “BPKP is the internal oversight apparatus of the government that is accountable to the President.”

Thus, from a juridical perspective, BPKP is not classified as an independent state institution like BPK, but rather falls under the executive branch of government, directly under the President. This position emphasizes that BPKP is an internal oversight instrument of the government, established through legislation, with the mandate to oversee the management and accountability of state finances by government agencies (Taher et al., 2022).

BPKP carries out internal oversight, focusing on the accountability of state finances, including monitoring state revenue and expenditure, cross-sectoral development programs, and activities funded by the state budget or subsidies in areas such as the economy, infrastructure, and territorial development. It also coordinates internal oversight of state financial accountability and national development programs. Additionally, BPKP oversees the management of financing, loans, foreign aid, and non-tax state revenue (PNBP). In accordance with government assignments and regulations, BPKP reviews financial reports of central government agencies and provides assistance in financial reviews and performance audits (Peraturan Presiden Republik Indonesia, 2014).

The audits conducted by BPKP are typically preventive and corrective, aimed at assisting government agencies and contractors in addressing administrative or technical errors before an external audit by BPKP (Sutaryo & Anto, 2023). In construction project audits, BPKP often conducts inspections during the implementation phase or even before the handover of the work (PHO/FHO).

The audit findings by BPKP are then submitted to the project implementing agency as internal recommendations that must be followed up, such as by improving the work or returning excess payments to the state/regional treasury. In practice, BPKP audits often focus on the following aspects: The conformity of work volume with contract documents, as-built drawings, and field conditions; The accuracy of unit price calculations and price adjustments; The administrative order of the project, including payment documents, contract changes, and addenda; Contractor claims audits, such as claims for delayed payments or changes in work scope; Investigative audits on indications of deviations or contract violations. With this function, BPKP often acts as an "early warning system" that can prevent significant findings when external audits by BPK are conducted (Saputra & Umanto, 2024).

The Role and Function of BPK in Construction Project Audits as established in the 1945 Constitution of the Republic of Indonesia, the audits conducted by BPK include the management and accountability of state finances. BPK is authorized to conduct three types of audits: financial, performance, and specific-objective. These audits are carried out in accordance with auditing standards, taking into account international auditing standards (Santoso, 2025; Dwiputrianti, 2011; Raihana et al., 2024).

The results of each BPK audit are compiled in Laporan Hasil Pemeriksaan (LHP) immediately after the audit is completed. Performance audits result in findings, conclusions, and recommendations (BPK, 2017). BPK issues a decree setting a deadline for the treasurer's accountability for any shortage of cash or goods, upon discovering a shortfall that has caused financial losses to state or regional finances. The procedures for resolving state/regional financial losses are established by BPK after consulting with the government (Tampangela et al., 2023).

Referring to MPR Decree VI/MPR/2002 Article 2, which directs BPK to exercise its constitutional auditing authority independently and without interference, the role of BPK as an external state auditing institution provides a benchmark for financial accountability mechanisms in the public sector. Within construction projects, BPK identifies a wide range of audit findings that vary according to contractual arrangements and operational complexity. Common findings include delays that trigger penalties and payment deductions, administrative weaknesses such as incomplete or disorganized documentation, excess payments arising from volume discrepancies or unfinished work, overpayment of consultant fees and taxes, inadequate consultant assessment, price disparities above 110% of the owner’s estimate (HPS), non-functional outputs, contract terminations leading to forfeiture of performance guarantees, and mismatches between financial realization and physical progress on-site. While these categories may appear technical, they carry substantive financial and legal implications; delays and excess payments create restitution obligations, documentation weaknesses complicate clarification processes, and functional failures or contract termination may trigger sanctions or performance claims.

These types of findings may also arise in BPKP audits, yet the institutional consequences are distinct. BPK operates under a constitutional mandate to conduct financial, performance, and specific audits with full access to project documentation and assets, and its conclusions are formalized in a LHP that constitutes the legal basis for administrative follow-up and, when relevant, potential legal enforcement. In the construction context, BPK's focus extends beyond technical deviations to the verification of financial accuracy—particularly the correspondence between work volume and payments—consistency between physical progress and financial reporting, and assessments of effectiveness and efficiency in project implementation. Importantly, BPK determines state financial losses, and such determinations in the LHP are treated as final and binding, thereby creating legal certainty for the state but also elevating the compliance and legal exposure of contractors.

Unlike BPKP, which is internal and focused on guidance, the findings of BPK audits carry strong legal consequences. If BPK identifies overpayments or state financial losses, the relevant agency or contractor must return the amount within a specified period. If not fulfilled, the case can be forwarded to law enforcement agencies such as the Attorney General's Office or the Corruption Eradication Commission (KPK) (Adiyanta, 2024).

Forms of Audit Dualism between BPKP and BPK, In many cases, BPKP and BPK conduct audits on the same project but produce different findings and recommendations. The forms of audit dualism that often arise include (Segah, 2018).

Table 1.
Systematic Comparison of BPK and BPKP Audits

Dimension	BPK	BPKP
Legal Basis	Constitution (Art. 23E) and Law No. 15/2006, highest external authority	Presidential Regulation No. 192/2014, internal executive control
Mandate	External audit on state finance, final & authoritative findings	Internal supervisory & advisory function, preventive and corrective

Dimension	BPK	BPKP
Audit Timing	Ex-post (after project implementation)	Ex-ante & ongoing during project execution
Audit Focus	Accountability, financial loss, compliance	Internal control, performance improvement, risk mitigation
Methodology	State loss quantification and compliance audit	Risk-based internal audit and calculation corrections
Follow-up Mechanism	Legally binding audit findings may trigger law enforcement	Recommendations to improve performance & resolve issues administratively
Consequences for Contractors	Potential legal and criminal exposure; payment adjustment	Administrative correction; opportunity for project adjustment
Impact on Project Flow	May delay final payments and settlement	Generally supportive to continuity & cash-flow stabilization

Audit dualism produces significant consequences for construction service providers, particularly concerning legal certainty. Divergent findings between BPKP and BPK regarding the calculation of state financial losses create ambiguity in contractors' financial obligations, generating uncertainty over whether the internal audit resolution is sufficient or whether further obligations may arise through external audits. In practice, contractors must respond to two institutional audit mechanisms with different legal consequences, resulting in dual administrative burdens and prolonged clarification processes.

Beyond administrative complexity, the asymmetry of audit authority exposes contractors to legal and even criminal risks. While BPKP audits are corrective and internal, BPK audit findings carry binding legal force and may be used by law enforcement authorities in corruption cases if state losses are deemed not to have been fully returned. This condition leads to a heightened perception of risk in government construction projects, affecting contractors' behavior, reducing willingness to bid, and potentially increasing project pricing as a risk premium. Additionally, disruptions in cash flow occur when project settlements, retention releases, or final payments are delayed pending clarification of audit findings, thereby affecting contractors' liquidity and operational continuity. Such financial delays have cascading effects on supply chains, payment of subcontractors, and labor mobilization, further exacerbating project execution challenges.

These impacts underscore the need for harmonization and coordination between BPK and BPKP. Reducing legal uncertainty requires regulatory alignment on institutional authority in construction audits, coordination mechanisms through data and audit result exchange, and standardization of methodologies for calculating state losses, especially concerning physical work items. Harmonization should also occur at the contractual level by including clauses that define follow-up procedures in the event of differing audit findings. Strengthening project administration, digital documentation, and supervisory functions further reduces audit exposure and mitigates potential discrepancies. Coordination with BPKP during project execution can serve as a preventive mechanism so that BPK's ex-post audit does not replicate issues already corrected internally.

A case study of discrepancies involving the same work item illustrates the institutional hierarchy in audit settlement. When BPK issues an LHP and the contractor has returned state losses based on such findings, the obligation is considered legally final and complete pursuant to Article 23E of the 1945 Constitution, Law No. 15/2004, and Law No. 15/2006. In contrast, BPKP's subsequent findings are developmental and recommendatory in nature, as BPKP serves as an internal supervisory apparatus under the executive branch pursuant to Presidential Regulation No. 192/2014 and Government Regulation No. 60/2008. BPKP findings cannot invalidate or replace BPK findings and must not create additional financial obligations for contractors on identical items once settlement through BPK has occurred. This reflects the principle of non-duplication, meaning that double claims on the same audit finding would result in legal uncertainty and maladministration. If such situations arise, contractors typically provide clarification to BPKP with evidence of BPK LHP and proof of deposit, after which BPKP records the finding as resolved while retaining the ability to provide technical recommendations without re-claiming financial obligations.

The implications of this analysis highlight that addressing dualism is not solely an institutional concern but directly affects project governance and market participation. Harmonization increases legal certainty, mitigates criminalization risks, stabilizes contractor cash flows, and improves the attractiveness of government projects. For contractors, internal audit findings should be followed up as a form of compliance and good faith, while documentation must be maintained in anticipation of external audits. Such practices support legal defensibility and administrative clarity when clarifying matters before auditors or law enforcement bodies. Overall, reducing audit dualism strengthens project performance, lowers transaction costs in government procurement, and promotes a healthier construction market ecosystem.

Conclusion

This study highlights the strategic yet problematic coexistence of BPKP and BPK in the auditing of government construction projects. In principle, BPKP functions as an internal auditor with an anticipatory and preventive orientation—conducting reviews, performance evaluations, and internal recommendations to support project completion and mitigate corruption risks prior to the external audit stage. Meanwhile, BPK holds constitutional authority to conduct independent financial and performance audits, before ultimately issuing an LHP that serves as the final legal basis for administrative recovery and potential criminal proceedings. The dual auditing structure, however, produces non-trivial consequences. Differences in audit methodology, timing, and institutional accountability between BPKP (to the President) and BPK (to the DPR) generate inconsistencies in findings and recommendations. These inconsistencies do not merely create bureaucratic inefficiency; they generate legal uncertainty for contractors—especially regarding restitution amounts, compliance obligations, exposure to administrative sanctions, reputational risks, cash flow disruption, and even the possibility of criminalization of technical or administrative project errors.

Resolving these challenges requires harmonizing audit standards and institutional coordination rather than eliminating either institution. Standardization of methodology, clearer regulatory limits on authority, and structured data exchange mechanisms are necessary to reduce contradictory outcomes between BPKP and BPK. From a contractor's perspective, improved predictability in audit findings and clarity in restitution procedures would reduce financial and legal exposure while supporting smoother project execution. In line with BPK's constitutional mandate, when an LHP has been issued and the contractor has fulfilled its restitution obligations, BPK's conclusions should be treated as final and binding. In such cases, BPKP should retain its preventive and advisory role without reopening or recalculating findings that have already been legally settled. Academically, this study contributes to the discourse on state financial accountability by mapping audit dualism as a structural governance issue rather than a mere administrative divergence. Practically, the study calls for regulatory and institutional integration to ensure legal certainty for contractors and efficiency in public financial management, while still maintaining robust anti-corruption safeguards within government procurement.

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