Integritas: Jurnal Antikorupsi
Vol 10, No. 1, 2024, pp. 65-80

https://jurnal.kpk.go.id/index.php/integritas

Conflicts of interest and handling mechanisms in public finances management

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Abstract*:* The practice of mitigating conflicts of interest remains vulnerable in the management of public finances. This vulnerability is attributed to issues related to the integrity of state officials, the lack of comprehensive regulations, and the unstructured and systematic aspects of enforcing ethical standards and conflict of interest practices. The objective of this research is to conceptualize effective anti-conflict of interest regulation within Indonesia's legal system and to formulate strategies for addressing conflicts of interest practices in the management of public finances through institutional approaches and financial accountability systems. This research uses normative legal methods. The results indicate the following: first, regulations in Indonesia have not yet been able to accommodate efforts to prevent and enforce action against conflict of interest practices in the conduct of state affairs, especially in the management of public finances, due to overlapping rules and unclear sanction regulations; second, the enforcement of ethical standards concerning conflict of interest practices can be achieved through the establishment of a national ethics commission; third, there is a need to strengthen the audit system and implement internal improvements within the State Audit Agency (BPK). Externally, institutional consolidation in the sectors of financial examination and public financial accountability is required. This can be achieved through the creation of an integrated national financial examination center, serving as the coordinating hub for financial examinations and prevention of financial losses to the state. This would contribute to the development of strategic policies for the management of public finances, with the goal of being free from corrupt practices.
Keywords: Public finances; Conflict of Interest; Corruption.

How to Cite: Toloh, P. W. Y. (2024). Conflicts of interest and handling mechanisms in public finances management. *Integritas : Jurnal Antikorupsi*, *10*(1), 65-80. https://doi.org/10.32697/integritas.v10i1.1024

Introduction

Philosophically, the management of public finances is part of efforts to realize the goals of the state as set forth in Paragraph IV of the Preamble. Specifically, it relates to creating welfare through the authority to manage public finances based on Article 23 of the 1945 Constitution of the Republic of Indonesia as a constitutional basis. According to the constitution, the object of public finances is described in the APBN as a result of political budgeting between the Executive (President) and Legislative (DPR & DPD) powers which aim to maximize the prosperity of the people.

The following provisions grant authority to the State Audit Agency (BPK) to examine the management and responsibility of public finances. This authority is exercised freely and independently at both central and regional government levels with institutional relations with the executive and legislative branches.

In implementing constitutional mandates of public finance, the relationship between the executive, legislative, and audit institutions in the management of public finances starts in the stages of planning, discussing, determining, and implementing accountability. Abuse of authority often occurs (*detournement de pouvoir*) in both corruption criminal law and state administrative law, in which each position has its own legal domain. The cause is the same, namely conflicts of interest between state administrators with private parties who use public finances for personal or group interests.

Conflicts of interest practices in the administration of the state has contributed to adverse effects on the national agenda. According to Transparency International's report, the Corruption

Perceptions Index for Indonesia has declined, partly due to the prevalence of conflicts of interest in policy-making. In Transparency International's Corruption Perceptions Index for 2022, Indonesia received a score of 34, representing a decrease of four points from 2021, when the country scored 38. This decrease in score has caused Indonesia's ranking to drop to 110 out of 180 countries, whereas in 2021, Indonesia was ranked at 96 (Bagaskara & Febriyan, 2023).

The results of the "Map of Business People in Parliament: Portrait of Oligarchy in Indonesia" study, conducted by Marepus Corner, indicate that conflicts of interest had the potential of occurring in the House of Representatives of the Republic Indonesia (DPR) within the 2019-2020 period. The study found that 55 percent of DPR members are entrepreneurs involved in various sectors, leading to a total of 318 business people serving as DPR members. This means that 5 to 6 out of every 10 DPR members are business people. It's important to note that being a businessperson doesn't necessarily disqualify someone from being a DPR member. However, what needs to be closely monitored is the extent to which DPR members can remain impartial and free from their personal interests when carrying out their legislative responsibilities (Rahma, 2020).

Conflicts of interest take various forms in the context of public finances. One such form is related to the budgeting of the House of Representatives and the government. In these instances, budgets are often prepared not in alignment with actual needs due to the practice of budget mark-ups, leading to the allocation of funds that don't correspond to the original plan. Additionally, there may be the misuse of budgets, diverging from the contractual agreements. Another area of concern is accountability during the audit stage conducted by the State Audit Agency (BPK), which may be compromised due to nepotism or favoritism, potentially leading to biased assessments and reports. These problems pose a challenge to the effective implementation of legal policies aimed at managing public finances with a focus on the well-being and prosperity of the people. The presence of conflicts of interest and the associated issues can hinder the achievement of this important goal.

This reality underscores the immediate need for the control and management of conflicts of interest in Indonesia, both at the individual and institutional levels. Whether within government organizations or private institutions, addressing conflicts of interest is vital to prevent corrupt practices among state administrators and private corporations, practices that can have detrimental effects on public finances. Furthermore, controlling conflicts of interest is a crucial step in fostering a culture of good governance that is characterized by transparency and impartiality. Importantly, this should be achieved without compromising the performance of public officials and in line with the principles of sound and ethical governance (Inu, 2011).

Based on the description, the main problems causing conflicts of interest in the management of public finances include regulatory aspects that have not been able to address the handling of conflicts of interest, and institutional factors that lack a structured and systematic system for enforcing ethics among state officials engaged in conflicts of interest practices. Therefore, this article will address several problems, namely: First, whether the regulation against conflicts of interest practices in the Indonesian legal system is comprehensive enough to address conflicts of interest in the state administration; and, Second, how to formulate the handling of conflicts of interest practices in the management of public finances through institutional approaches and the system of financial accountability of the state.

Methods

This research uses a normative legal method, the same as doctrinal legal research (Marzuki, 2017). This study's focus is to understand, examine, and analyze the regulation of conflicts of interest, which frequently occur in the management of public finances in Indonesia, as well as the formulation of means to address conflicts of interest practices through institutional approaches and the public financial accountability system. In this research, the author will examine and analyze legal materials to address the topics of interest. After collecting document data and processing it through a literature review, qualitative data analysis is carried out by applying legal constructs, legal instruments, and legal reasoning in a deductive manner. Multiple research approaches are used. (Marzuki, 2017) *First,* the Legislative Approach (Statute Approach): this

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involves examining and analyzing statutory regulations regarding conflicts of interest and public finances. And *second,* the Conceptual Approach: this is a research approach that involves studying and understanding concepts that can be applied in regulatory substance and institutional structures to prevent and address conflicts of interest practices in the management of public finances.

Results and Discussion

Overview of Conflicts of Interest and Regulation in Indonesia

Conflicts of interest may lead to corrupt practices which be seen in various regulations and institutions. The Corruption Eradication Commission (KPK) defines a Conflict of Interest as a situation in which a state official, who holds power and authority based on statutory regulations, possesses or is suspected of having personal interests in any use of their authority that can influence the quality and performance that should be upheld. State officials in question encompass officers or individuals vested with the power and authority to carry out state functions, whether in the executive, legislative, or judicial branches, law enforcement agencies, extrajudicial bodies, public service executors, assessors, supervisors, the leadership of the Bank of Indonesia, and state officials in state-owned enterprises (BUMN/BUMD/BLU/BHMN) (KPK, 2009)

National regulations concerning anti-Conflict of Interest practices have been explicitly and implicitly addressed in several statutory laws, including: First, Law Number 30 of 2014 on Government Administration, Article 42: Government officials with the potential for a conflict of interest are prohibited from making decisions and/or taking political actions; Second, People's Consultative Assembly Decree Number XI/MPR/1998 Regarding Clean and Corruption-Free state Officials, Free from Collusion and Nepotism Article 2, paragraph (2): "In carrying out their functions and duties, state officials must be honest, fair, open, trustworthy, and able to free themselves from practices of corruption, collusion, and nepotism." Third, Law Number 28 of 1999 Regarding State Officials Who Are Clean and Free from Corruption, Collusion, and Nepotism Article 5, paragraph (4): "Carrying out their duties with a sense of responsibility and not engaging in reprehensible actions, without personal gain, for the benefit of themselves, their family, cronies, or any group, and not expecting rewards in any form contrary to the provisions of applicable statutory laws." Fourth, Law Number 20 of 2001 on Amendments to Law Number 31 of 1999 Concerning the Eradication of Corruption Crimes Article 12, paragraph (b): Imprisonment and fines are given for "civil servants or state officials who accept gifts, knowing or reasonably suspecting that the gift is given as a result of or due to actions taken or not taken in their official capacity that are contrary to their obligations." Article 12, paragraph (i): Imprisonment and fines for "civil servants or state officials, either directly or indirectly, intentionally participating in procurement, acquisition, or leasing, when at the time of the act, they are assigned to manage or oversee all or part of it."

In the realm of internal institutional regulations, several government institutions have established anti-conflict of interest regulations. Within the scope of internal institutional regulations, several government institutions have established regulations againts conflict of interest. These include The House of Representative of Republic Indonesia (DPR) with Regulation of the The House of Representative Number 1 of 2011 on the Code of Ethics The House of Representative Member; The State Audit Agency (BPK) with the Regulation of State Audit Agency Number 4 of 2018 on the Code Ethics of the State Audit Agency; The General Secretariat of the House of Representative of Republic Indonesia with the regulation of the Number 8 of 2015 on the Guidelines for Handling Conflict of Interest in the The General Secretariat of the House of Representative of Republic Indonesia; The Ministry of Communication and Informatics with Ministerial Regulation Number 21 of 2015 on the Guidelines for Handling Conflict of Interest in The Ministry of Communication and Informatics; The Ministry of Agriculture with Ministerial Regulation Number 7 of 2022 on the Handling Conflict of Interest, Control of Gratification, and Management of Public Complaints in the Ministry of Agriculture; The Ministry of Environment and Forestry with Ministerial Regulation number P.10/Menlhk/Setjen/Kum.1/1/2017 on the Guidelines for Handling Conflict of Interest in The Ministry of Environment and Forestry; The Ministry Maritime and Fisheries with the Ministerial Regulation number 13/PERMEN-KP/2016 on the Guidelines

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Handling Conflict of Interest in the Ministry Maritime and Fisheries; The Financial and Development Supervisory Agency (BPKP) with the Regulation of the Head BPKP Number 3 of 2014 on the Guidelines for Conflict of Interest in The Financial and Development Supervisory Agency.

Of the various sectoral regulations, the notions and forms of conflicts of interest are understood in different ways but essentially emphasize the use of office and authority in favour of the personal, group or family interests of such officials that disregard the procedures and general interests established by the institution. Then the sanctions provisions are generally ministerial ethical such as suspension, resignation from office and mutation of office. There are also regulations that do not entail sanctions only with construction such as Kemenkominfo, sanctions that refer to the provisions of the regulations of legislation such as that of the Ministry of Maritime Affairs and Fisheries, the Department of Agriculture and which do not regulate sanctions such as the Ministries of The Ministry of Environment and Forestry and The Financial and Development Supervisory Agency (BPKP).

At the implementation level, handling conflicts of interest is still not very effective, as indicated by the report from the Corruption Eradication Commission of the Republic of Indonesia (KPK RI) in the Integrity Assessment Survey (SPI) for the year 2022. The survey revealed that 255 percent of respondents believe that conflicts of interest frequently occur among officials/employees in various government institutions (Kementerian/Lembaga/Pemerintah Daerah, or K/L/PD) participating in the SPI 2022 in the past 12 months. This signifies a moderate risk and underscores the need for increased vigilance (KPK, 2022).

According to the SPI report, the risk of corruption related to the presence of "trading in influence" in all participating Ministries/Agencies and Regional Governments in the SPI 2022 is at a moderate level, with conflicts of interest being a significant influencing factor. The description of these corruption risks is based on the following components (KPK, 2022); First, 23 percent of employee respondents in various government institutions stated that other parties such as employees/officials, private organizations, political parties, and other organizations could play a role in influencing decisions in all participating Ministries/Agencies/Regional Governments, especially when determining activities/programs, including budget allocations. Second, 23 percent of respondents believed that other parties, such as employees/officials, private organizations, political parties, and other organizations, could influence decisions in all participating Ministries/Agencies/Regional Governments when selecting winners for tenders or procurement of goods and services. This issue poses a high risk in 28.7 percent of regional governments and a low risk in 71.1 percent of Ministries/Agencies.

In the SPI, the Indonesian Anti-Corruption Commission finds that there is a high probability of corruption in ministries and institutions in a number of areas related to the performance of their duties. This includes a potential employee to receive bribery or gratification for violating the law, abuse of office space for personal interest, and conflicts of interest arising from related, religious, tribal, and material factors. According to SPI 2022, there is still a significant risk of corruption in 56% of ministries and institutions, and this percentage has risen to 76% of all participants at the local government level.

The practical reality of state administration is that conflict of interest situations are a primary factor in determining the objectivity of government policies and can be the starting point for corrupt activities. At least two elements closely associated with corruption are derived from conflict of interest situations: the abuse of authority and actions that benefit specific individuals or groups.

Conflicts of Interest are Regarded as Actions that can be Detrimental to Public Finances During The Process of Managing Public Finance

It is necessary to first understand the concept of public finances which relates to Law Number 17 of 2003 concerning public Finance and Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. These two laws share similarities in public finances, however differ on regulation. Hernold Ferry Makawimbang describes the similarities in the public finance arrangements according to Article 1 and Article 2 of Law Number 17 of 2003 and Explanation of Paragraph 3 of Law Number 31 of 1999, including: (Makawimbang, 2015).

2615-7977 (ISSN Online) | 2477-118X (ISSN Print)

Table 1. Similarities in the concept of state finances as explained in paragraph 3 of Law No. 31/1999 and in Articles 1 and 2 of Law No. 17/2003

No.	Article 1 and Article 2 of Law Number 17 of 2003	Explanation of paragraph 3 of Law Number 31 of 1999
1.	All rights and obligations of the state that can be valued in money, as well as everything in the form of money, as well as everything in the form of goods that can be owned by the state in connection with the implementation of these rights and obligations. a. The state's right to collect taxes, issue and circulate money, and make loans. b. The state's obligation to carry out public service tasks for the state government and pay third party bills. c. State revenues and state expenditures and regional revenues and regional expenditures.	All state assets in any form, separated or not separated, are included. This includes all parts of the country's assets and all rights and obligations. Being in the assignment, management and accountability of officials of state institutions, both at the central and regional levels.
2.	State/regional assets that are managed by themselves or other parties in the form of money, securities, receivables, goods, and other rights that can be valued in money, including assets that are separated into state/regional companies	Being in the assignment, use and accountability of state-owned enterprises/regional-owned enterprises
3	Wealth of other parties controlled by the government in the context of implementing governmental tasks and/or public interest	Being under the control, management and accountability of foundations, legal entities and companies which include state capital
4	Wealth of other parties obtained by using facilities provided by the government	Being under the control, management and accountability of a company that includes third party capital based on an agreement with the state

Although the concept of lex specialis derogate legi generalis applies in accordance with article 23 UUD 1945 which states that “other matters relating to state finances are governed by its own laws”, the state financial management in the two laws can complement each other. Therefore, all terminology and regulations related to public finances refer to Law No. 17/2003 on public Finances, while Law No. 31/1999 on the Eradication of Corruption regulates public finances from the perspective of territorial jurisdiction over the management of public finances. Hence, the formulation of public finances within the scope of territorial management of public finances, as explained in the third paragraph of Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, remains valid, as long as it has not been revoked or determined otherwise void by the competent authority (Makawimbang, 2015).

There is a terminological problem in the state's financial burden, such as the loss of understanding of the country's finances. In Law Number 1 of 2004 on State Treasury, the terminology "state/ regional loss" is used, and in Article 1, point 22, it is defined as "State/Regional Loss is the deficit of money, securities, and goods, which is clear and certain in amount as a result of unlawful actions, whether deliberate or negligent." On the other hand, the approach to the concept of public financial loss, as per Law No. 17 of 2003 on Public Finances, is formulated as follows: *"'the disappearance or reduction of public financial' revenue entitlements and the emergence of clear and certain state obligations that can be assessed in terms of money, as well as goods that can become state property in connection with the exercise of rights and obligations due to deliberate unlawful actions."*

The differing terminology regarding public financial losses between the Public Treasury Law and the Public Finance Law often leads to misconceptions, affecting the application of regulations, which, in turn, gives rise to inconsistencies in the types of violations and associated sanctions. In the Public Treasury Law, state/regional losses tend to have an administrative or civil nature. As a result, officials who commit procedural violations or administrative negligence can often resolve legal complications simply by compensating for the losses through compensation claims (TGR). Conversely, public financial losses referred to in the Public Finance Law are more likely to have

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criminal implications. This is because they are closely linked to criminal acts of corruption, involving elements such as gratification, bribery, or self-enrichment, whether for individuals or corporations. These acts result in the loss or reduction of public financial rights and the emergence of tangible and definite state obligations.

In comparison with the Act No. 31 of 199 on the Elimination of Criminal Acts of Corruption, the interpretation of State financial formula and State losses, it is understood that any loss or decrease in State property, whether divided or not, including the entire portion of State assets, all rights to receive State funds, and all obligations to pay state funds resulting from being under the management, control, and authority of State-owned enterprise agencies or regional owned enterprises, foundations, legal entities, and enterprises that incorporate state capital or third-party capital under State agreements, can in fact and undoubtedly be assessed monetary as the result of illegal activities.

Acts detrimental to public finances can occur in every stage of public financial management starting from planning, the process of discussing and determining, implementing, and the holding accountability for the budget. Actions detrimental to public finances in each of the above stages can be described as follows (Makawimbang, 2015):

Detriment to Public Finances in the Budget Planning Process in the Central and Regional Governments

The budget planning process by the central and regional governments is drawn up with legislative policies, and at the central government level is carried out by the Minister of Finance as a manifestation of the exercise of power over fiscal management, beginning with drafting the state budget, and ministers/heads of institutions as budget users/goods users drawing up work plans and budgets of state ministries/institutions for the following year. Work plans and budgets are prepared based on work performance goals. Work plans and budgets are accompanied by expenditure estimates for the following year after the budget year is prepared. The work plan and budget are submitted to the House of Representatives for discussion in preliminary talks on the draft APBN. The results of the discussion of the work plan and budget are submitted to the Minister of Finance as material for preparing the draft law on the following year's state budget. Further provisions regarding the preparation of work plans and budgets of state ministries/agencies are overseen by Government Regulations.

At the regional government level, regional financial management is carried out by the head of the work unit as the APBD management official. In the context of preparing the RAPBD, the Head of the Regional Work Unit as the budget user prepares the work plan and budget for the following year. The work plan of the Regional Apparatus Work Unit is prepared using an approach based on work performance. The work plan and budget are accompanied by expenditure estimates for the following year after the yearly budget has been prepared. According to Public Financial law, the said work plan and budget are then submitted to the DPRD for discussion in the preliminary discussions on the RAPBD.

The results of the discussion of the work plan and budget are conveyed to the regional financial management officials to prepare for the Draft Regional Regulation on the following year's APBD. Further provisions regarding the preparation of work plans and budgets for Regional Work Units shall be regulated by Regional Regulation.

Risk of violating the law and abuse of position in the Budget Planning Process: (Makawimbang, 2015): (1) Mark up volume and cost in the work plan; (2) Manipulating activities to finance leadership; (3) Manipulating technical specifications that are only owned by a consortium, certain companies; (4) Planning fictitious activities (without in-depth field studies).

The "harmful" acts in this budget planning are classified as "initial crimes", while public financial losses occur when full payment (100%) has been made for work that is "insufficient in volume and/or poor quality" due to mark up and engineering since planning. Under these conditions, the initial act of "budget planning fraud" becomes a joint crime.

2615-7977 (ISSN Online) | 2477-118X (ISSN Print)

Acts that are Detrimental to Public Finances in the Process of Discussing and Determining the Budget at Representative Institutions

The central government submitted a Draft Law on the state budget, accompanied by financial notes and supporting documents, to the House of Representatives in August of the previous year. Discussion of the Draft Law on the State Budget is carried out in accordance with the law governing the structure and position of the People's Representative Council. The People's Representative Council can submit proposals that result in changes to the amount of revenue and expenditure in the Draft Law on the State Budget. Decision making by the House of Representatives regarding the Draft Law on the State Budget is carried out no later than 2 (two) months before the implementation of the relevant fiscal year. If the House of Representatives does not approve the draft law, the central government can spend as much as the APBN figure the previous fiscal year. Then, at the local government level, they can submit the general policy of the next budget year in line with the Regional Government Work Plan, as the basis for preparing to submit the draft budget and regional expenditure revenues to the regional representative no later than mid-June of the current year. The DPRD discusses the general APBD policy proposed by the Regional Government in preliminary talks on the RAPBD for the following fiscal year. Based on the general APBD policy that has been agreed upon with the DPRD, the Regional Government together with the Regional People's Representative Council discuss priorities and temporary budget ceilings to be used as a reference for each Regional Work Unit.

The relationship between the Government and the DPR/DPRD in the process of discussing and determining the budget often results in acts that are detrimental to public finances, including acts of corruption such as gratuities and bribes, and deciding on a budget that benefits certain groups of people in return for a fee that will be given to the parties who are considered to have helped and contributed. In the KPK's reports, many cases of corruption handled by the KPK stem from conflicts of interest that occur in the process of discussing and determining the budget at commission meetings as well as in the budget bodies of the DPR RI. If the authority of the DPR RI and the Budget Agency is too large in the context of budgeting, it has the potential to cause abuse or corruption, meaning that the regulation of the authority of the legislature in budget functions must be carried out in a transparent, accountable manner, have clear formulation of parameters and/or indicators, should not give rise to conflicts of interest, and not be transactional.

In practice, acts that harm public finances abound in this process, such as the role of local people's representative council members or private parties proposing new activities that are not planned by the government, asking for work rations or approval money rations, and lobbying for a budget through job compensation or bribes.

Detriments to public finances in the budget implementation process in government

Aspects of implementing the budget include: applying the revenue and expenditure budgets, payments for executing activities, and preparing reports. Acts that are detrimental to public finances include: irregularities in the use of the state budget to intentionally and unlawfully enrich one's finances, collaborating with private parties through transactional relations of bribery and gratification between the executive as the budget user and the legislature; and, causing problems in the accountability process through the preparation of budget reports that are not in accordance with the program or project being realized. Fraudulent practices at this stage include: formal auction processes (complete documents/direct appointment), project implementation with the practice of lowering volumes and increasing prices while the quality of procurement goods is low resulting in unfair profits, and fictitious project work.

Detriments to public Finances in the Budget Accountability Process in the Government

Accountability for the implementation of the state budget (APBN) and Regional budget (APBD) as stipulated in Law of Public Finance at the central government level includes the President reporting the draft law on accountability for the implementation of the APBN to the DPR in the form of financial reports that have been audited by the BPK no later than 6 (six) months after the end of the fiscal year. The financial reports referred to include the realization of the State Budget,

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Balance Sheets, Statements of Cash Flows, and Notes to Financial Statements, which are accompanied by financial statements of state companies and other bodies.

The Governor/Regent/Mayor submits the draft regional regulation on accountability for the implementation of the APBD to the DPRD in the form of a financial report that is audited by the BPK no later than 6 (six) months after the end of the fiscal year. The financial reports referred to include APBD realization reports, balance sheets, cash flow reports, and notes to financial statements, which are accompanied by regional company financial reports.

At this stage, violations have an adverse impact on public finances in the process of accountability for the government's budget, such as: (1) Accountability reports are not timely; (2) Fictitious reports (not according to conditions); (3) Fictitious report evidence (report evidence exists but is fake); (4) The accountability report is incomplete or not prepared.

In each stage of public financial management as described above, actions that are detrimental to public finances at eacg stage can be considered a crimnal act of corruption. There are “dark’ relationships tha reflect certain interest, and this practice fulfills the elements of a criminal act of corruption in accordance with Law number 31 of 1999 on the Eradication of Corruption Crimes. Provisions regarding the element of causing harm to public finances as a criminal offense of corruption are regulated in Article 2 with the element of every person; unlawfully; commit acts of enriching oneself or another person or a corporation; which can harm public finance or the state economy. Then in Article 3 applies the element of every person; with the aim of benefiting oneself or another person or a corporation; abuse the authority, opportunities or facilities available to him because of his position or position; which can harm public finances or the state economy. This law provides severe sanctions such as life imprisonment and fines for perpetrators of criminal acts of corruption that harm public finance in various forms of unlawful acts.

In accordance with the provisions above, harming public finances occurs because of "*unlawfully committing an act of enriching oneself or another person or a corporation"* and *"with the aim of benefiting oneself or another person or a corporation, abusing existing authority, opportunity or means him because of position or standing*." A classified act of corruption by a party involved in managing public finances is described as follows: (i) committing an unlawful act; (ii) misusing position, authority, opportunity or available means to enrich, benefit oneself, other people or the corporation; (iii) orders to commit or intentionally encourages other people to commit criminal acts; (iv) participating or assisting in committing criminal acts; and (v) providing opportunities, means or information to commit criminal acts. A criminal act resulting in a real and definite public financial loss is penalized on the basis of the value of the loss (Makawimbang, 2015).

According to the guidelines of the Corruption Eradication Commission (2009), a state official who has legal power and authority when having a personal interest, may affect their performance into a conflicts of interest. Similarly, in accordance with Law Number 30 of 2014 on Government Administration, government officials who are potentially involved in conflicts of interest are prohibited from making or taking decisions and actions because they may affect the neutrality of the policy. Conflicts of interest in the management of public finances are defined by: (a) the presence of an actor (government or private sector), (b) the possession of authority or power, and (c) the execution of decisions or actions. (Tojeng, 2017).

Conflicts of interest place an official in the government sector or public service in a situation in which their professionalism is pushed aside by personal, family or group considerations (Tojeng, 2017). There is a close relationship between conflict of interest behavior and the abuse of public office to provide personal benefits for individuals or corporations. Economic Co-operation and Development states "conflict[s] of interest occurs when an individual or a corporation (either private or governmental) is in a position to exploit his or their own professional or official capacity in some way for personal or corporate benefits”(Cache, 2007).

Conflicts of interest in the management of public finances occur from the planning stage through to budget discussions, execution, and financial accountability, demonstrating the existence of a corrupt policy or regulatory capture. Simply put, regulatory capture is defined as a series of regulatory development processes driven by the interests of political and economic elites to legitimize corrupt practices at all stages, from budget realization in the form of policies to budget accountability, in order to avoid legal consequences (Laporan Koalisi Bersihkan Indonesia

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& FRI, 2020). Regulatory capture occurs when a regulatory institution, established to serve the public interest, ends up promoting the interests of specific groups that dominate the investment or public financial management spaces that should be governed by public institutions. In this context, the institutions involved in state management include central and regional governments, DPR RI/DPRD, as well as auditing and oversight bodies such as the BPK.

Formulation of Prevention and Eradication of Conflicts of Interest in Public Financial Processes

Indonesia Corruption Watch (ICW) has identified conflicts of interest leading to corruption in a case study involving six Provincial-level Regional Representative Councils (DPRD). Several key findings emerged from this research: first, conflicts of interest are still prevalent within the legislative branch of government. Second, the oversight of government processes is often disrupted due to external influences. Third, holding multiple positions or affiliations with certain companies frequently leads to situations of conflict of interest. Fourth, relationships with private entities that are part of the legislative process can influence the stance of council members. Fifth, familial connections engaged in business activities have an impact on the behavior and actions of legislative members. Sixth, affiliations with specific organizations can influence the statements and actions of DPRD members. Seventh, political parties have not sufficiently considered business ownership when assigning elected legislative members to specific committees (Ramadhana, et al, 2022). The prevalence of conflicts of interest within legislative bodies, which hold significant authority in the management of public finances through budgeting functions, is further emphasized by ICW's previous research in 2015. This research revealed that conflicts of interest had a high potential to occur within the Indonesian House of Representatives (DPR) because, out of the 560 members of the DPR during the 2014-2019 period, 293 individuals (52%) were entrepreneurs. Consequently, there was a significant likelihood that DPR members acted on their personal interests when executing their entrusted responsibilities. This is evident in cases such as the Hambalang corruption scandal, which implicated DPR members with business backgrounds such as M. Nazaruddin, who engaged in conflicts of interest during lobbying efforts to influence budget allocation and bid winners (ICW, 2016).

Based on the aforementioned facts, the prevalence of corrupt practices in Indonesia is closely linked to conflicts of interest in various sectors of state administration, particularly in the management of public finances. The situation persists because there is still no specific regulation with the same legal standing as a law to comprehensively prevent and address conflicts of interest. Laws governing provisions related to conflicts of interest are scattered across various regulations, including Law No. 31 of 1999 on the Eradication of Corruption, Law No. 30 of 2014 on Government Administration, as well as several executive branch institutions/ministries that have established internal regulations related to anti-conflict of interest measures. Internal legislative regulations on this matter are also addressed in the Rules of the Indonesian House of Representatives (DPR) No. 1 of 2015 on the Code of Ethics for the People's Consultative Assembly (DPR) and the Secretary-General of the Indonesian House of Representatives (DPR) Regulation No. 8 of 2015 on Guidelines for Handling Conflicts of Interest at the General Secretariat of the Indonesian House of Representatives (DPR).

As an existing law explicitly regulating conflicts of interest, there are still several normative weaknesses in Law No. 30 of 2014 on Government Administration. First, Article 42, paragraph (1), prohibits public officials who potentially have conflicts of interest from making decisions. The issue lies in determining who has the authority to detect and announce conflicts of interest before making decisions. This is a mitigation effort to ensure the formation of objective government policies. Second, Article 44, paragraph (1) states that the public has the right to report or provide information about suspected conflicts of interest by government officials in the performance of their duties. However, there are issues in the follow-up process, including the lack of clarity regarding the complaint channels for the public and the administrative sanctions that apply only to the objects of the decisions or policies but not to the officials who issue them. These issues makes conflicts of interest difficult to prevent and stop (Yazid, et al, 2023).

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The regulatory issues described above have resulted in the ineffectiveness of prevention and enforcement efforts against conflicts of interest, which are prevalent in various state administration activities, especially in the management of public finances. An effective mechanism for addressing conflicts of interest can be promoted through a comprehensive legal instrument, in the form of a law, which governs a unified prevention and enforcement system for conflicts of interest in sectors of state administration that are vulnerable to such practices. This includes processes related to the management of public finances carried out by executive, legislative, and auditing bodies. Furthermore, there are several normative aspects that can be accommodated in a law concerning conflicts of interest: *Firstly*, there should be an obligation for officials holding certain positions to disclose and report their potential conflicts of interest, both within their family, relatives, and other relationships, to their superiors and the public. In the context of public financial management, this obligation can apply to executive officials involved in procurement of goods and services, legislative members who can influence the objectivity of budget planning and discussions (such as DPR/D members), and BPK officials responsible for auditing the government's financial accountability. *Secondly*, there should be a strengthening of the reporting system, including a whistleblower system, within internal and external spheres. This would provide fellow employees a channel to inform about potential conflicts of interest. *Thirdly*, a punitive process and administrative sanctions should be established for decision-making officials and their superiors who allow conflicts of interest to occur. The application of sanctions should be based on the degree of the offense, with varying degrees of administrative penalties, including light sanctions (verbal warnings, written warnings, and written expressions of dissatisfaction), moderate sanctions (salary increase postponement, a one-time salary reduction equivalent to one pay raise, and promotion delay), and severe sanctions (demotion, removal from office, honorable discharge from civil service, and dishonorable discharge from civil servant) (Yazid, et al, 2023).

The ineffective implementation of sanctions against conflicts of interest is due to the unclear and vague conceptualization of these sanctions. In many cases, these sanctions are not even specified in internal regulations of ministries and institutions, such as the Ministry of Agriculture, the Ministry of Communication and Informatics, the Ministry of Maritime Affairs and Fisheries, the Ministry of Environment and Forestry, and the Secretariat-General of the Indonesian House of Representatives (DPR RI). The heavy sanctions are often linked to criminal corruption laws, as per the Corruption Eradication Law, which are typically focused on enforcement rather than prevention. However, the crucial stage is preventing conflicts of interest from occurring in the first place, and this requires the clear and effective application of sanctions as a mitigation measure to prevent corrupt practices originating from conflicts of interest. This can be achieved through various types of sanctions, including ethical sanctions for violations of a code of ethics, administrative sanctions for violations of bureaucratic procedures, and criminal sanctions for actions meeting the elements of corrupt offenses.

The enforcing bodies should also be clearly defined, with ethical sanctions enforced by an external oversight commission, administrative sanctions enforced by internal oversight bodies such as the Government Internal Supervisory Apparatus (Aparat Pengawasan Intern Pemerintah - APIP) or superiors of officials, and criminal sanctions enforced by law enforcement agencies such as the Corruption Eradication Commission (KPK), the Attorney General's Office, and the National Police. Examples of sanctions schemes and enforcement institutions can be seen in the Table 2.

Table 2. Sanctions schemes and enforcement institutions

Forms of Conflict of Interest	Types of Sanctions	Enforcement Agency
Holding positions in several agencies that have direct or indirect relationships, similar or dissimilar, resulting in the use of one position for the benefit of another position	Ethical sanctions in the form of recommendations for transfer from related positions to dismissal from office	External Supervisory Commission such as the ASN Commission
A supervision process that does not follow procedures due to the	Administrative sanctions include non-payment of financial rights within a certain time, postponement	Internal supervisory institutions such as the Government Internal

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influence and expectations of the party being supervised Opportunities for accepting gratuities or bribes to influence policy within their authority	of promotion and temporary dismissal from office Imprisonment and fines as regulated in the Corruption Eradication Law	Supervisory Apparatus (APIP) or superior officials Law Enforcement Officials such as the Corruption Eradication Committee and the Courts

Referring to international conventions, the scope of preventing conflicts of interest is more comprehensively regulated in the United Nation Convention Against Corruption (UNCAC), in Article 12 paragraph (2) letter e, by imposing restrictions, as appropriate and for a reasonable period of time. Professionalism of former public officials in the private sector after resignation or retirement is required, where the activities or work are directly related to the functions held or supervised by the public official during their term of office. The waiting period or revolving door mechanism which limits retired public officials from carrying out activities in positions in state administration or the private sector has been implemented in the United States as specified in (Federal Conflict of Interest Statutes, t.t.) Practices in other countries that can also be adopted in anti-conflict of interest regulations in Indonesia include the Netherlands' policy, which in its constitution stipulates receiving double income and multiple positions as a conflict of interest (Boekje Grondwet Netherland Act of Parliament, t.t.).

Jimly Asshiddiqie's view of anti-conflict of interest law states that various laws are interrelated with regulatory material and contain potential conflicts of interest; conflicts of interest must be evaluated and revised in a harmonious and integrated manner using the omnibus law method. Examples include: the Law on Judicial Commissions, the Law on Limited Liability Companies, the Law on Broadcasting, the Law on ITE, the Law on ASN, the Law on Civil Servants, the Law on Political Parties, the Law on Community Organizations, the Law on Organizing Elections, the Law on MPR, DPR, DPD , and DPRD (MD-3), the Law on Judicial Power, the Law on the Prosecutor's Office, the Law on the Police, the Law on the TNI, the Law on Cooperatives, and all laws that establish state commissions or state institutions that regulate office ethics, office law, professional positions that regulate professional ethics, and so on (Asshiddiqie, 2022).

This is in line with Christoph Demmke's analysis which says the higher the level of trust in public officials, the fewer regulations need to be made (to regulate conflicts of interest). On the other hand, if more and more regulations are made, this shows that the situation that is occurring is still anomalous and has not achieved the regulation's objectives, so conflicts of interest need to be regulated more strictly and in detail. The hierarchy of regulations regarding conflicts of interest should be determined depending on the context, needs, and level of trust in public officials. Therefore, regulations on management can be at the statutory level and not have derivative regulations that are more implementable, but can still be effective. On the other hand, lots of regulations may not be effective in managing conflicts of interest due to issues of overlapping rules, sporadic regulation, and ignorance of the enforceability of these regulations (Demmke et.al, 2020). The substance of anti-conflict of interest regulations can be harmonized through a central rule or law in the form of an omnibus.

In Asshiddiqie's view, the projection of the law on anti-conflict of interest regulations can hinder irresponsible relations and limit the size of conflicts of interest between: (i) The four macro domains of branches of power, namely state institutions and state government, corporations in the business world, social organizations, and mass media managed by the state, corporations, or by the community. All things that can cause a conflict of interest between the four domains of power must be evaluated and corrected to prevent the practice of conflict of interest from continuing, as has happened to date; (ii) The four micro domains of state power, namely the executive branch of government, the branch of legislative power, the branch of law enforcement and judicial power, and the idealized independent mixed branch of power; (iii) Conflicts of interest between office holders, families or friendship groups, with institutional positions (office), both in (a) communication in the public space, (b) access to information in office, (c) influences that determine the process and substance of decisions in office, both regulatory decisions, adjudication decisions, as well as administrative decisions relating to positions, public finances, or regarding anything that is not related to the personal and family matters of the office holder concerned,

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and/or (d) decisions regarding office decisions related to gratuities in the form of goods or objects that can be valued in money or with honor and with political popularity which is also valuable as political gratification (Asshiddiqie, 2022).

The urgency of forming a anti-conflict of interest law is stated in the Law of Ratification of the 2003 United Nations Convention Against Corruption in accordance with the provisions of Article 7 paragraph (4) and Article 8 paragraph (5). In addition to normative provisions preventing the occurrence of conflicts of interest from personal gain and an immoral mentality of an official as a reflection of the crisis of state ethics, it is necessary to have a sub-system of material ethical principles and standards of behavior as outlined in the code of ethics and behavior. Formal ethics are concerned with upholding material ethics and the institutions that carry out the management process (Asshiddiqie, 2022). The legal and ethical frameworks must work hand-in-hand to regulate and guide the management of public finances free from conflicts of interest. Public finances management is vulnerable to corruption, with conflicts of interest as an entry point that until now has not been prevented and handled effectively.

From the conceptualization of the substance of the anti-conflict law through the unification of the law in the form of the omnibus. The handling of conflict of interest practices as part of the enforcement of the ethics of state maintenance can be enforced through an independent and impartial national ethics commission, The jurisdiction of this institution should pertain to prosecuting ethical violations, including conflict of interest practices carried out by state officials in the executive, legislative, and judicial branches. Currently, ethics enforcement bodies are still fragmented across sectors and have not been consolidated into a national ethics commission. The operationalization of this institution would be similar to a regular court, meaning it would have the authority to receive complaints, conduct the process of evidence examination, and execute judgments with universal legal standards.

Figure 1. Conflict of interest practices enforcement scheme

Strengthening the Public Financial Management Accountability System to be Free from Conflicts of Interest

Auditing is an integral part of managing public finances. Article 1 point 1 of Law Number 15 of 2004 concerning Examination of Public Financial Management and Responsibility confirms that auditing (public finance) is the process of identifying problems, with analysis and evaluation carried out independently, objectively and professionally based on auditing standards, to assess the truth, accuracy, credibility and reliability of management. According to Asshiddiqie, the existence of the BPK in the Indonesian constitutional structure is auxiliary to the DPR's function in supervising government performance. In order to balance the DPR's political oversight function, a special institution is needed to carry out financial audits in a more technical manner (Asshiddiqie, 2006).

In contrast to this view, in practice financial audits seem political due to ambiguous reports, including auditing administrative terminology such as "indications of state losses, overpayments, underpaid state revenues, incomplete evidence, lack of evidence, insufficient evidence, not in accordance with provisions, the fairness of which is doubtful, the truth is doubtful, and it cannot be accounted for." The uncertainty of these terms creates risk in the form of lack of state management responsibility and misuse through an auditor's violation which "omits" the substance of public financial losses. Hernold Makawimbang outlines the risks that may occur in the audit process, including (Makawimbang, 2015): (1) The audit is not independent because the examining official accepts bribes, gratuities and does not examine the object of the problem, and then eliminates the problem qualifying as "public financial loss or corruption" to become an administrative problem; (2) The audit was carried out unprofessionally on purpose not based on public financial audit standards, the inspection stages were not carried out in a procedural and in-depth audit manner; (3) The report does not reveal the problems found, or was carried out in an unbiased way, reducing, manipulating or eliminating material findings that result in losses to public

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finances; (4) The issue of "criminal acts" which resulted in "public financial losses", was disclosed or reported in an "administrative" manner with "ambiguous" language, the meaning of which was confusing and unclear, giving rise to multiple interpretations in carrying out follow-up actions.

The financial audit bodies' (BPK) actions occurred because in practice, audits became subjective, for example due to the heads of the institutions being friends or colleagues with BPK leaders or examiners, causing tolerance for corruption or deliberate concealment of mistakes of the entities that were the object of audit. This notably also occurs in the management of public finances. The output of the BPK audit is a report detailing a conflict of interest, e.g. regarding impartiality and not blaming authority and the public interest. In essence, laws and regulations do not justify a policy based on partiality to a particular subject which would nullify aspects of objectivity by abusing authority.

To overcome conflicts of interest in BPK, internal ethical enforcement must be optimized and work with law enforcement through integrative anti-conflict of interest regulations. Perhaps it will be more effective if the BPK's audit performance involved as much participation as possible from the public and relevant stakeholders so that potential conflicts of interest in public financial accountability can be prevented. With this conception, BPK can undoubtedly carry out audits of public finances objectively, independently, and professionally and uphold integrity.

Optimizing BPK's audit authority should involve related institutions such as the Financial and Development Audit Agency (BPKP), the Inspectorate General of State Ministries and Non-Ministry Agencies, regional inspectorate institutions and professional institutions of financial and legal auditors, financial and legal auditors themselves, law enforcers such as the KPK, the Police and the Attorney General's Office, and Civil Servant Investigators (PPNS) in each agency (Asshiddiqie, 2022).

The role of BPK's violations and irregularities audit is not solely related to legal compliance in spending public finances, but also to the accuracy of performance based on applicable standards. Therefore, audits must be carried out not only with regard to finance and legal audits, and the quality of public financial spending but also with regard to the quality of planning and development which often proves to be the root of the problem, including violations of substance and the morality of public financial law (Asshiddiqie, 2022).

It is this problem of national planning and development that has received little attention from the public financial examiner amidst the many quality issues of public financial spending. Performance audits are very rare, meaning planning performance audits have not been optimally carried out. Therefore, in order to strengthen prevention efforts, an agency should deliberately carry out system coordination and implementation of (i) national and regional development planning, (ii) APBN and APBD budget planning, and (iii) national policy planning that will be set forth in certain legal forms, such as the Constitution, Laws, Government Regulations and Implementing Regulations for Laws, and regional regulations at the local government level throughout Indonesia.

BPK's authoritative and supervisory position in the management and responsibility of public finances is very strategic for creating democracy in state governance with the existence of a system of checks and balances (Zakariya, 2020). BPK has constitutional authority to oversee state objectives and create transparent and accountable management of public finances in order to build legal certainty and increase public trust in public finance utilization.

For the effective implementation of these constitutional powers, public financial audit sector consolidatoin and accountability can be achieved through an integrated national financial audit center as the focal point for public financial audits and the prevention of financial losses to the state. This center would serve as a platform for coordination, communication, and the formulation of strategic policies regarding the management of public finances, free from corrupt practices. The composition of this institution could include the State Audit Agency (BPK) as the leading institution, the Corruption Eradication Commission (KPK), the Financial and Development Supervisory Agency (BPKP), the Police Inspectorate, the Prosecutor's Office, the Ministry of Finance, the Ministry of State-Owned Enterprises, the National Development Planning Agency (Bappenas), and the Central Bank of Indonesia (Bank Indonesia). Operations would be carried out collectively in an integrated system, with each institution retaining its own authority. The handling of conflicts

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of interest practices would be one of the focal points of this institution, ensuring the effectiveness of public financial management and preventing financial policy abuse.

The institutional design would be somewhat similar to integrated law enforcement centers *(Gakkumdu)* in the realm of elections and financial system stability committees (KSSK) in the monetary and banking sectors. Its status would be permanent, established through legal frameworks such as laws or joint regulations among the institutions. Its functions would be carried out through a coordinated, communicative, and collective approach while preserving the autonomy of each institution.

Conclusion

Conflicts of interest in the management of public finances are detrimental to public financial well-being and constitute corruption that occurs during the planning, budgeting, budget implementation, and budget accountability processes by central government/local government (executive), legislative bodies (DPR/DPRD), and the State Audit Board (BPK). Corrupt practices stem from the erosion of ethics and morality among state officials and ineffective preventative and punitive regulations which are prevalent in various state administration activities, particularly in financial management. Overlapping rules and vague sanctions are the primary factors contributing to regulatory issues in handling conflicts of interest in state administration.

There is a need for the unification of an omnibus law on conflicts of interest, which should include provisions that accommodate the following: *First,* the obligation of officials to report a list of potential conflicts of interest. *Second,* strengthening the reporting system, both internally and externally, through a whistleblower clause. *Third,* adopting mechanisms such as waiting periods or revolving doors. *Fourth,* categorizing dual income and concurrent positions as part of conflicts of interest. *Fifth,* conceptualizing sanctions in the form of administrative, ethical, and criminal penalties, with their enforcement through appropriate institutions.

Effective mechanisms to combat conflicts of interest practices can be reinforced through the strengthening of institutions, such as the establishment of a national ethics commission as an integrated body for the prevention and prosecution of conflicts of interest in sectors vulnerable to these practices. This includes the financial management processes carried out by executive and legislative bodies. Enhancing the auditing system within the State Audit Board, free from conflicts of interest, and internal improvements that prioritize integrity will enable the objective, independent, and impartial execution of auditing and accountability functions. In addition to internal systems, there is a need for institutional consolidation in the financial audit sector and accountability through the formation of an integrated national center. This center could be comprised of the Supreme Audit Agency (BPK) as the leading institution, the Corruption Eradication Commission (KPK), the Financial and Development Supervisory Agency (BPKP), the Police Inspectorate, the Prosecutor's Office, the Ministry of Finance, the Ministry of State-Owned Enterprises, the National Development Planning Agency (Bappenas), and the Central Bank of Indonesia. This institution would serve as the focal point for financial audit activities and the prevention of financial losses to the state, maximizing coordination, communication, and the formulation of strategic policies to ensure financial management free from corrupt practices.

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