

AUTHORITY OF EAST JAVA PROVINCE INSPECTORATE IN PREVENTING CRIMINAL ACTS OF CORRUPTION IN EAST JAVA PROVINCE GOVERNMENT

Bramanto Wisynu Wardhana

Abstract

This study aims to determine the constraints on the authority of the Inspectorate of East Java Province in preventing criminal acts of corruption within the East Java Provincial Government, using normative legal research methods that are analytical descriptive. The results of the research show that the authority of the Provincial Inspectorate which has been regulated in laws and regulations needs to be revised to strengthen the position of the Inspectorate in its authority to prevent acts of corruption in the Regional Government. Changes to laws and regulations are the main thing that needs to be revised because the position of the Provincial Inspectorate is currently still under the Provincial Secretary. Inspectors in districts/cities must be appointed by the Head of Province (Governor) through the Pansel and Provincial Inspectorates appointed by the Minister of Home Affairs. With this more tiered authority, the inspectorate will become an independent institution and can prevent corruption from occurring in its area without fear of being arrested by the regional head.

Keywords : Inspectorate, Regional Secretary, Governor, laws and regulations, authority of the inspectorate

PRELIMINARY

Background Problem

Corruption is an action which according to social, social, religious, cultural and state life is a deviant act, The practice of corruption is a problem faced by every country that is difficult to overcome, especially if the power is absolute or absolute, then acts of deviation will corruption is getting bigger. Corruption does not only occur among high-ranking officials and big businessmen, but has also occurred among small bureaucrats who provide bribes in the form of money or goods. This act of corruption has harmed state finances but can also cause losses to the people's economy. In Indonesia, the growth of corruption problems has categorized as large and the growth is fast, on the other hand the eradication process is still very slow. This act of corruption has become an extraordinary crime because the conventional methods used cannot resolve corruption cases in society. According to the Corruption Eradication Commission (KPK) most regional heads commit corruption because of debts to investors or supporters who are usually always associated with financing and implementing political costs so that regional heads have to reciprocate sponsors in the form of support for granting regional budget projects illegally. the second aspect that encourages regional heads to misappropriate state funds.

Critical Review

The existence of a paradigm shift in the implementation of governance in Indonesia which was originally centralized to decentralization has consequences on the authority of the central government to regional governments (regional autonomy) which aims to develop potential within the region itself, the aim of regional autonomy is to improve the welfare of its people by carrying out development in the region in regulating and managing regional government governance by providing flexibility and opportunity to regional heads. With the increasing amount of authority given, more optimal open supervision is needed to prevent irregularities and abuse of authority. To carry out this supervisory role in a system owned by the Indonesian government itself is in accordance with Presidential Decree Number 74 of 2001 concerning Procedures for Oversight of Regional Government Administration, then supervision in the ministry environment is carried out by the Minister and the Head of Non-Departmental Institutions through the Inspector General of the Department or the Head of the Agency or Unit who is given the task of carrying out supervision. At the Provincial Government level, supervision is carried out by the Governor through the Provincial Regional Oversight Agency or Institution, namely the Provincial Inspectorate, while at the Regency and City Government levels, the

supervisory role is carried out by the Regent and Mayor through the Regency and City Regional Oversight Agency or Institution, namely the Regency and City Inspectorates.

The almost non-functioning APIP (government Internal Monitoring Apparatus) in this case is the Inspectorate creating loopholes for regional heads to commit TIPIKOR (Criminal Acts of Corruption). . The accountability system that is owned within the Inspectorate structure is one of the causes that is a factor in the occurrence of acts of corruption which are considered to be very not independent and seem to be a protector for regional heads in smoothing out their evil plans because the Inspector is appointed and responsible to the regional head so that the APIP function is almost unable to function. to function optimally because the regional head will choose an inspector who can protect his interests.

Research methodology

Types of research

This research is categorized as normative legal research which is descriptive qualitative in nature by examining the laws and regulations governing the authority of the Provincial Inspectorate in preventing the formation of embezzlement crimes. In this research, research methods that stand on the philosophy of postpositivism are generally used to examine the natural state of justice where the researcher himself functions as the key instrument. **Research**

Locations and Subjects

The reason it was carried out at the East Java Provincial Inspectorate was because its position was in the middle between the center and the regions as a bridge between the Regency and City and the Ministry. Purposive research subjects were selected by Inspectorate employees in East Java Province who served as structural, functional, who served as implementers and OPD representatives in the East Java Province which in recent years were used as sampling tests by BPK in the 2019-2021 period.

Data collection technique

Through participation observation with informants, Provincial Inspectors, Secretaries, regional and special assistant inspectors in terms of completing LHP, in-depth interviews with informants, Auditors and Secretariats as well as from OPD (KPA, PPKom, PPTK, BP, BPP and the Technical Team as well as employees who assist in the examination BPK) especially those that have been used as sampling tests by BPK and Primary Data, Monev and LHP Documentation of Data Validity. With the triangulation method (source, method or time), method triangulation is triangulation whose implementation is by collecting data in different

ways or techniques and methods. In qualitative research, researchers collect a lot of data by means of interviews, surveys, and observations. In this way researchers can collect correct data and get a real picture of an event. In using triangulation methods, researchers can combine more than one method in collecting data. For example, the interview method is accompanied by a survey method. You can also use several different sources to be more sure of the truth of the data obtained. With so many perspectives, the possibility of getting accurate data is higher. This triangulation method is used when the interviewees are deemed less convincing. Therefore, if the data is deemed accurate and clear, it does not require the use of triangulation.

Triangulation of data sources is a triangulation that is used when exploring data from many sources. Such as data generated from sources, books, archives, documents, surveys, observations, and interviews. By using this triangulation, it is possible to increase the point of view of the research by conducting interviews with more sources. The acquisition of diverse data will produce different and broader perspectives. So that the quality of the research results obtained is more reliable and more valid.

Time triangulation is a research method that considers the time of data collection, it can be in the form of hours, days, mornings, evenings, and others. This is because the time of data collection can affect the results of the data acquisition. For example, interviews are conducted when the interviewee is relaxed in the afternoon, when there is no work pressure to do. Most likely the resource person will answer in a relaxed and straightforward manner, and the data provided is valid. If the test results obtained different data, then the researcher can re-test until the data is really accurate.

Through a documentary study, the data used in this study are as follows: Primary data in the form of monitoring data from the East Java Provincial Inspectorate through Audit, Evaluation, Monitoring and Review activities carried out in the period 2019-2021 on the object of inspection or auditee, namely at the Office , Agency and UPT that exist in the East Java Provincial Government. Secondary data in the form of data from interviews and documentary data related to this research problem, whether it is in books, journals, websites and others.

Data analysis

The research used is a normative legal study which refers to the law regarding the function and authority of the Inspectorate in preventing acts of corruption, in this study using secondary data such as the laws in force in Indonesia and the opinions of auditors and structural officials. In this research using a statutory approach (statute approach), and an abstract approach (conceptual approach). The legal approach (statute approach) is carried out by observing all

rules and regulations related to the legal issues being handled. On the other hand, the abstract approach departs from the views and doctrines that grow in the science of law. This research was conducted by examining existing regulations and looking at the list of centers and studies that have taken place in the field.

Overview of Authority

In references to political science, government science, and legal science, the terms authority, authority, and authority are always found. Authority is often equated like that with authority, and authority is often interchanged with the term authority, and vice versa. Moreover, authority is often equated with authority. Authority is generally in the form of a bond in the sense that "there is one party that orders as well as another party that is governed" (the rule and the ruled). Authority is official authority, authority delegated by law or from administrative administrator authority. as the right to participate and issue orders with the authority possessed by ordinary administrators or state bodies.

Legal basis for the authority of the Provincial Inspectorate

In order to see the authority structure of the Provincial Inspectorate, the initial step taken is to detail the laws and regulations that are currently in force in which there are determinations related to the authority of the Provincial Inspectorate. The following are laws that were still in effect at the time this research was conducted::

- a) Law Number 23 of 2014 concerning Regional Government
- b) Regulation of the Minister of Home Affairs Number 64 of 2007 concerning Organizational Technical Guidelines and Working Procedures of Provincial and Regency/City Inspectorates.
- c) Government Regulation of the Republic of Indonesia Number 60 of 2008 concerning the Government's Internal Control System
- d) Government Regulation of the Republic of Indonesia Number 12 of 2017 concerning Development and Supervision of Regional Government Administration
- e) Government Regulation of the Republic of Indonesia Number 72 of 2019 concerning Amendments to Government Regulation Number 18 of 2016 concerning Regional Apparatuses
- f) Governor of East Java Regulation Number 83 of 2021 concerning Position, Organizational Structure, Description of Duties and Functions and Work Procedures of the Inspectorate of East Java Province.

Based on this matter, the authority of the Inspectorate is to supervise and monitor the implementation of Government affairs which fall under the authority of the Province.

4.2 Implementation of the current Authority of the Inspectorate

The concept of hierarchical constitutional status and the pattern of accountability for the authority of the Inspectorate's internal oversight can be analyzed by how the mechanism for managing state finances from the center to the regions, includes the positions of officials managing the state budget and internal oversight institutions which can be illustrated in the following chart:

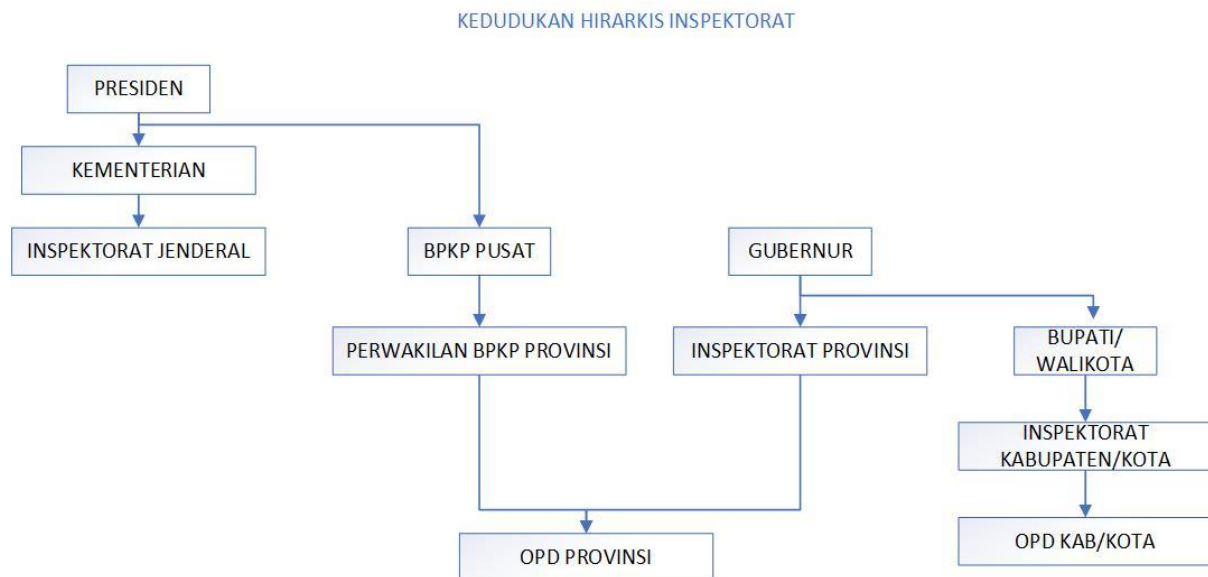


Figure 4.2 Hierarchical Position of the Inspectorate

With the Inspectorate's hierarchical position still like this where Regency/City Inspectors are still appointed by the Regent/Mayor and Provincial Inspectors are appointed by the Governor, the potential for corruption will still occur because the system is not yet optimal. By intervening in a system that has the potential to cause acts of corruption by increasing accountability and strengthening the supervisory function of the Inspectorate and exercising strict control over the performance of regional heads and their staff, it has proven effective in overcoming acts of fraud, in this case corruption. To prove this, it is necessary to carry out a comparison between Internal APIP (Inspectorate) and External (BPK) in terms of authority, thus it will be known where the problems experienced by the Inspectorate as an independent internal APIP are where the head of government is the highest state financial management, namely the President knows more often the existence of the TIPIKOR case was not from internal examiners but from reports from the community itself through the mass media or from

Community Complaint reports (Dumas). The Inspectorate itself as the regional financial examiner in its audit report shows a decrease in negative audit results, but this is different from the results of audits conducted by the BPK where there was an increase in the number of findings. This can be caused by differences in seeing a problem where the Inspectorate plays a role in conducting guidance and can also be caused by the way of reporting which turns out to have a very big influence in disclosing and saving state money, where the inspectorate reports the results of its audit to the Governor through the Provincial Secretary and not for public consumption while the BPK through the House of Representatives which then makes public consumption finally known to the public.

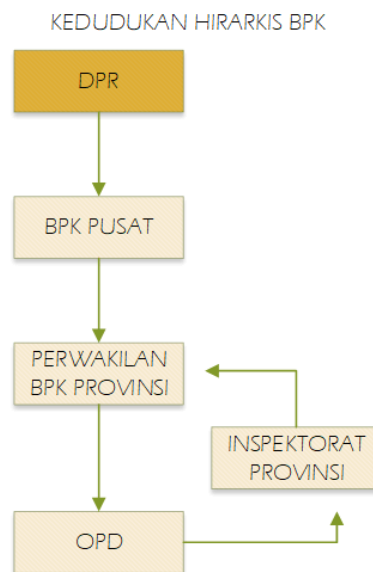


Figure 4.3 BPK's hierarchical position

4.4 Analysis

In order to obtain research results as objectively as possible, it is necessary to compare the position and authority of the Inspectorate and External Audit Institutions such as the BPK to find out where the difficulty lies with internal auditors as an independent institution, where the President as the head of government holding the authority to manage state finances often knows about the existence of TIPIKOR cases from public reports not from internal examiners themselves, namely the Inspectorate. In the inspections carried out by the Inspectorate there was a trend or tendency to decrease in the number of findings. However, a different trend or tendency was obtained in the results of the audits conducted by the BPK RI, where in fact there was an increase in the number of findings on regional apparatus which were the object of inspection or auditees. The Difference Where the Inspectorate Reports the results of its inspection to the Governor through the Provincial Secretary and the BPK through the DPR turns out to have a very big influence in disclosing and saving state money. To analyze these

differences, the authors conducted tests through expert opinions or asked for expert opinions through closed interviews with several parties; Inspectors, Assistant Inspectors, Auditors at the East Java Provincial Inspectorate and BP and BPP in several OPDs in the East Java Provincial Government.

From the closed interviews, there are several key questions with the type of closed questions addressed to each expert which according to the author's opinion is in accordance with their capacity to provide opinions. The things being asked relate to the authority that the Inspectorate currently has, what steps will be taken by the Inspectorate if there are findings indicating TIPIKOR, if there are findings indicating TIPIKOR what will APH do and what form of punishment will be received by the perpetrators, the obstacles faced by the examination against the Regent or Mayor regarding TIPIKOR actions as well as with TIPIKOR Indicated Employees, differences in sanctions if officials and staff are indicated to have committed TIPIKOR, examination of the regional apparatus/services that you lead by the Inspectorate, assessment of the professional attitude of the East Java Inspectorate auditor.

There is a conflict with the regulations contained in the Government Regulation of the Republic of Indonesia Number 12 of 2017 concerning the Development and Supervision of the Implementation of Regional Government, especially in article 16. The conflict as referred to lies in the position of the Regency/City Inspectorate which is under the Regional Secretary, while the regulations under it are required to be professional, independent, objective, not overlapping between AIPs and oriented towards improvement and early warning. To be able to carry out their duties professionally, independently and objectively, changes that can be made are by changing/repositioning the position of the Inspectorate. An alternative change that can be made is to adopt the position of Internal Auditor in the organizational structure of a company. Broadly speaking, there are three alternative positions or positions of the Internal Auditor in the company's organizational structure as follows:

1. Internal Auditing is under the Board of Commissioners;
2. Internal Auditing is under the President Director;
3. Internal Auditing is under the Head of Finance.

If the internal auditor position structure in the company is applied in the Inspectorate position, then there are 2 possible alternative positions for the Provincial Inspectorate, namely being under the President through the Ministry of Home Affairs, and being under the Governor parallel to the Regional Secretary as shown below:

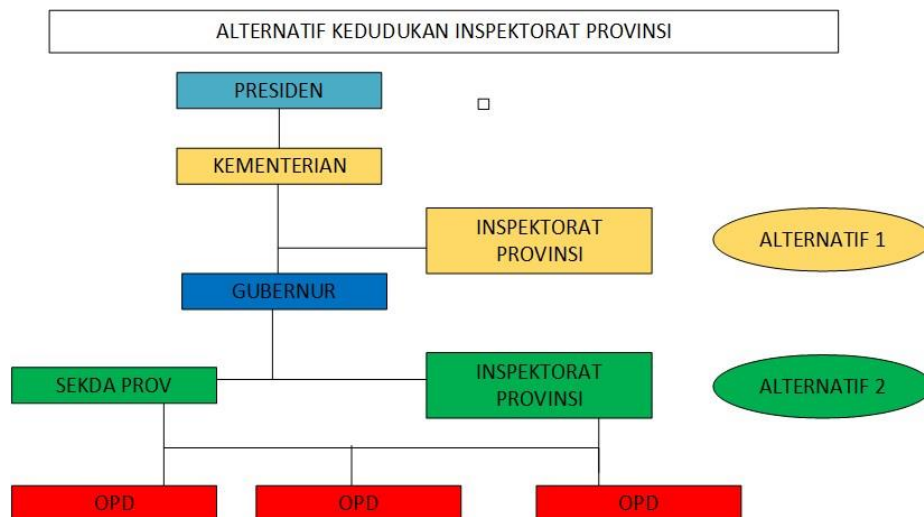


Figure 4.4 Alternative Provincial Inspectorate positions

There is something that catches the author's attention in the results of the interview, namely that the Inspectorate cannot be Independent because the Inspectorate is included in the SPI where the Inspector is appointed and appointed by the governor. The Internal Control System (SPI) is an integral process of actions and activities carried out continuously by leaders and all employees to provide adequate assurance of achieving organizational goals through effective and efficient activities, reliability of financial reporting, safeguarding state assets, and compliance with legislation.

Government Internal Control System (SPIP) is an Internal Control System that is carried out as a whole within the Central Government and Regional Governments. Internal Control is the entire process of auditing, reviewing, evaluating, monitoring and supervising activities on the implementation of organizational duties and functions aimed at controlling activities, securing assets and assets, providing good financial reports, increasing effectiveness and efficiency, and early detecting irregularities and non-compliance with statutory provisions. On August 28, 2008, the Government of Susilo Bambang Yudhoyono has stipulated and promulgated Government Regulation No. 60 of 2008 concerning the Government's Internal Control System, which is the implementing regulation of Article 58 paragraph (2) of Law no. 1 of 2004 concerning the State Treasury.

SPI plays an important role in supporting the implementation of good corporate governance. The role of SPI with daily operational activities provides an opportunity for SPI to carry out periodic and comprehensive assessments of high-risk aspects of the company's activities/operations to continuously monitor the government's internal control structure through the identification and detection of red flags that indicate the existence a fraud. The

effectiveness of the SPI's role in preventing and detecting fraud is highly dependent on the size of the status of authority possessed and the mechanism for reporting the results of fraud investigations that can be carried out as well as the opportunities provided by the Inspector to the Auditor to receive adequate training, one of which is by adhering to the five principles of GCG, namely Transparency , Accountability, Responsibility, Independence and Fairness and based on moral ethics.

Conclusion

The government is right to have given additional authority to the Inspectorate. Through Government Regulation (PP) Number 72 of 2019 concerning Amendments to Government Regulation Number 18 of 2016 concerning Regional Apparatuses, the Inspectorate can carry out surveillance indicating regional losses without having to wait for the approval of the Regional Head and reporting patterns are informed in a tiered manner. Although positive, but that stage is not sufficient enough. Because they did not change positions, the Inspectorate was still under the control of the Sekda. The government only gave weapons, but did not remove the shackles. As a result, the inspectorate has not been able to move much. The government should consider suggestions from several institutions such as the KPK so that the inspectorate's position can be on an equal footing with the regional secretary. It does require improvement in regulations, but with a more free position coupled with an increase in competence, the inspectorate will be more flexible in carrying out its roles and duties in preventing corruption. Additional authority from the government can also be carried out to the fullest.

Each OPD is expected to carry out consultations with the Inspectorate if they do not understand the applicable regulations regarding the use of the regional budget in accordance with the guidelines in force in that year, thus the practice of corruption violations can be prevented at an early stage, but the improvement of the function and role of the Inspectorate has so far not been effectively implemented. significantly can detect and significantly reduce the number of corruption in the area. Many regions have received fair audit results or received unqualified opinions in their financial reports, but their regional heads have still been caught committing acts of corruption (TIPIKOR). reliable financial reports but not in terms of securing state assets from corruption. this happened because the Inspectorate itself entered the SPI which shackled its authority, so the role of the BPK and the Corruption Eradication Commission will be highly relied upon to suppress state financial fraud and APH as executors are expected to prevent TIPIKOR from happening.

RECOMMENDATION

The Inspectorate should convey the problem of authority and position that is not independent to the Ministry of Home Affairs (Kemendagri) where the role of APIP as an internal supervisory institution must be strengthened immediately. With the aim that the inspectorate is no longer responsible for the head of the local area. District or City level inspectors, for example, should be appointed by the Provincial Head (Governor). On the other hand, the Provincial Inspectorate is responsible to the Minister of Home Affairs. With this tiered position, the inspectorate will become an independent institution and will no longer worry about being fired or dismissed if it detects an audit that is detrimental to the interests of the Regional Head.

DAFTAR PUSTAKA

- Ensiklopedia Umum. *Jajaran Kanisius. Jakarta.*
- Hidjaz, Kamal. *Efektivitas Penyelenggaraan Kewenangan Dalam Sistem Pemerintahan Daerah Di Indonesia. Makasar: Pustaka Refleksi.*
- HR, Ridwan. 2008. *Hukum Administrasi Negara, Jakarta: Raja Grafindo Persada.*
- Kelsen, Hans. 2006. *Teori Umum Tentang Hukum dan Negara (diterjemahkan oleh Raisul Muttaqien dari Hans Kelsen, 1971, General Theory of Law and State, Russel and Russel, New York). Bandung: Nusamedia dan Nuansa.*
- Muchsan. 1992. *Sistem Pengawasan Terhadap Perbuatan Aparat Pemerintah dan Peradilan Tata Usaha Negara Indonesia. Yogyakarta: Liberty.*
- M. Hadjon, Philipus. 1998. *Tentang Wewenang Pemerintahan (Bestuurbevoegdheid). Pro Justitia Tahun XVI Nomor I Januari 1998.*
- Suhartanto. *Strategi Pencegahan Tindak Pidana Korupsi: Mengoptimalkan Peran Aparat Pengawasan Internal Dalam Upaya Pencegahan Tindak Pidana Korupsi.*
- Suryanto, Agus. *Studi Keterlambatan Tindak Lanjut Temuan Hasil Pemeriksaan Inspektorat Daerah Kabupaten Kulonprogo D.I Yogyakarta Dan Implementasi Manajerial.*
- Syafrudin, Ateng. 2000. *Menuju Penyelenggaraan Pemerintahan Negara yang Bersih dan Bertanggung Jawab. Jurnal Pro Justisia Edisi IV. Bandung : Universitas Parahyangan.*
- Tamaka, Arther Nus. 2014. *Kinerja Inspektorat Daerah Dalam Melakukan Fungsi Pengawasan.*
- Waseso, Budi. 2015. *Pemanfaatan Informasi Hasil Audit Apip dalam Penanganan Perkara Korupsi. Jakarta.*

Wahab, Solihin, A. 2008. *Analisis Kebijakan Dari Formasi Ke Implementasi Kebijakan Negara. Bumi Aksara. Malang.*

Wiliam N. Dunn. 2000. *Analisis Kebijakan Publik. Yogyakarta; Gadjah Mada University Press.*

Winarno, Budi. 2002. *Teori dan Proses Kebijakan Publik. Yogyakarta: Media Pressindo*

Yosa. 2010. *Pengawasan sebagai sarana penegakan hukum administrasi Negara. Jurnal Depdagri. Ag Subarsono. 2010. Analisis Kebijakan Publik, Konsep, Teori dan Aplikasi. Yogyakarta : Pustaka Pelajar Media Group.*

Dokumen dan Peraturan Perundangan

Undang-Undang Nomor 31 Tahun 1999 jo Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi.

Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

Undang-Undang Republik Indonesia Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

Peraturan Pemerintah Republik Indonesia Nomor 60 Tahun 2008 tentang Sistem Pengendalian Internal Pemerintah.

Peraturan Pemerintah Republik Indonesia Nomor 72 Tahun 2019 Tentang Perubahan Atas Peraturan Pemerintah Nomor 18 Tahun 2016 Tentang Perangkat Daerah Peraturan.

Pemerintah Republik Indonesia Nomor 12 Tahun 2017 Tentang Pembinaan Dan Pengawasan Penyelenggaraan Pemerintahan Daerah.

Pemerintah Republik Indonesia Nomor 33 Tahun 2018 Tentang Pelaksanaan Tugas Dan Wewenang Gubernur Sebagai Wakil Pemerintah Pusat

Peraturan Menteri Dalam Negeri Nomor 64 Tahun 2007 Tentang Pedoman Teknis Organisasi Dan Tata Kerja Inspektorat Provinsi Dan Kabupaten/Kota.

Peraturan Menteri Dalam Negeri Nomor 8 Tahun 2009 Tentang Perubahan Atas Peraturan Menteri Dalam Negeri Nomor 23 Tahun 2007 Tentang Pedoman Tata Cara Pengawasan Atas Penyelenggaraan Pemerintahan Daerah.

Peraturan Menteri Negara Pendayagunaan Aparatur Negara Nomor 9 Tahun 2009 Tentang Pedoman Umum Pelaksanaan, Pemantauan, Evaluasi, Dan Pelaporan Tindak Lanjut Hasil Pengawasan Fungsional.

Peraturan Gubernur Jawa Timur Nomor 83 Tahun 2021 Tentang Kedudukan, Susunan Organisasi, Uraian Tugas Dan Fungsi Serta Tata Kerja Inspektorat Provinsi Jawa Timur.