

Paweł Romaniuk*

Administrative and legal obligations of the auditee in connection with the performance of an audit task in local government units

Abstract

This article concerns internal auditing, which is an active tool supporting the head of the unit of the public finance sector in fulfilling their duties. In connection with the implementation of assurance tasks, there are legal obligations of the auditee to cooperate with the internal auditor, necessary for the proper course of such activities. Transfer of information about the planned implementation of the assurance task begins the process of preparation by the audited unit of all documentation and transmission of various information, closely related to the task in question.

Key words: internal audit, public administration, local government, administrative law, audit activities

* Assoc. Prof. Paweł Romaniuk, PhD, Faculty of Law and Administration, University of Warmia and Mazury in Olsztyn, e-mail pawel.romaniuk@uwm.edu.pl, ORCID: 0000-0002-7217-956X.

Introduction

Internal audit is treated as a specific form of support for the manager of a public finance sector unit in task management procedures. One of the duties of an internal audit is to provide the manager with information on whether all processes in the local government unit are carried out following the principle of legality and accepted arrangements. Undoubtedly, the effectiveness associated with the functioning of an internal audit largely depends on the knowledge, competence, and efficiency of the auditor. The performance of an assurance task resulting from the annual audit plan leads to the formation of mutual rights and obligations of the partners participating in the task. However, this article deals with the legal and functional responsibilities of the audited unit (auditee) in the implementation of the assurance task in local government units.

Local self-government is nowadays the foundation of a democratic state under the rule of law. The Constitution of the Republic of Poland adopted on April 2, 1997, defines the functioning of local government in Poland, referring to the units of local government, indicating precisely the commune, as the basic unit (level) of local government¹. Following Art. 15 sec. 1–2 of the Constitution of the Republic of Poland, the territorial system of the Republic of Poland ensures the decentralization of public authority, and the fundamental territorial division of the state, taking into account the social, economic or cultural ties, must provide territorial units the opportunity to perform public tasks. The main task of the local government in Poland is the administration of local affairs as well as meeting the current needs of citizens.

Legal assumptions of internal audit functioning

In Poland, internal audit was obligatorily introduced into the public administration in terms of the obligation to meet the requirements of the European Union regarding financial management. Full membership in European structures obliged Poland to discipline and rationalize public spending. In pursuing this objective, the presence of an internal audit is intended to increase attention to the proper use of funds coming largely from the European Union and to counter possible financial fraud.

1 See Art. 164 sec. 1 of the Constitution of the Republic of Poland of April 2, 1997 (Journal of Laws of 1997, no. 78, item 483 as amended).

In the current legal order, the legal definition of internal audit can be found in the Act of August 27, 2009, on public finance². According to Art. 272 sec. 1 of the Act on public finance, an internal audit is an independent and objective activity that aims to support the minister in charge of a department or the head of a unit in achieving objectives and tasks through a systematic assessment of management control and advisory activities. The assessment shall include, in particular, the adequacy, efficiency, and effectiveness of management control in the government administration department or unit³. It can be noted that internal audits should focus on diagnosing and detecting weaknesses that can always appear in the functioning of public agencies. The audit is also intended to state future facts, be present for current changes, and anticipate future risks⁴. It can be noted that the internal audit is a modern management tool, which is directed at the correctness of the functioning of the entity. This audit should also correctly identify and assess the risk of activity of the public finance sector unit, and its use should be completely objective and independent in the process of creating added value, improving the activity of each unit of the public finance sector⁵.

It should be remembered that under Art. 274 sec. 3 of the Act on public finances - internal audit is conducted in local government units if the amount of revenue and income or the amount of expenditure and expenditure in the budget resolution of the local government unit revenues and income or the amount of expenditures and outgoings exceeds the amount of PLN 40,000 thousand. Therefore, where there is a legal obligation to conduct such an audit, there is a need to guarantee the organizational independence of the internal audit function. The indicated independence is ensured when the internal auditor in the organizational structure approved by the manager is empowered by position and directly reports to the head of the unit of the local government. In doing so, it is recommended that, following accepted practice, organizational independence be respected in the context of not combining the internal audit function with other organizational units⁶.

2 Act dated August 27, 2009, on public finances, consolidated text of Journal of Laws of 2021, item 305 as amended).

3 See Art. 272 sec. 1-2 of the Act on public finances.

4 *Praktyczne aspekty audytu wewnętrznego*, ed. H. Grocholski, vol. 1, Warszawa 2004, p. 8.

5 Cf. K. Winiarska, *Audyty wewnętrzny w 2007 roku. Standardy międzynarodowe - regulacje krajowe*, Warszawa 2007, p. 20-22.

6 P. Sołtyk, *Audyty wewnętrzny w jednostkach samorządu terytorialnego - zagadnienia ogólne*, „Finanse Komunalne” 2007, no. 11, p. 5.

Internal audit, under Art. 283 sec. 1 of the Act on public finances, is carried out based on an annual audit plan. Referring to the implementing regulations, it is necessary to indicate the assumptions arising from § 13 of the Regulation of the Minister of Finance of September 4, 2015, where the head of the internal audit unit informs the auditee about the planned implementation of the task. It is a process of shaping rights and responsibilities, both on the part of the audit unit and the auditee⁷. It is good practice in this regard to provide notice of a planned assurance task well in advance. This practice is intended to assist the head of the audited unit in ensuring efficient access to all employees and securing the proper conditions for conducting an independent and objective audit. Thus, the implementation of any assurance task, for the efficient mode of its conduct, which involves the audited entity, can be divided into several stages, in particular: 1) conducting a preliminary review; 2) performing audit activities; 3) informing the head of the audited unit of the preliminary audit results; 4) submitting a report on the assurance task⁸.

Conducting an initial review

When starting any assurance task in a local government unit, the internal auditor should, under Art. 287 sec. 1 of the Act on public finances, present the auditee with appropriate authorization from the head of the unit, respectively the commune head, city mayor, chairman of the board of directors of the local government unit. In particular, it should be remembered that under § 14 sec. 1 of the Regulation, the internal auditor, when starting an assurance task, conducts a preliminary review. This review should specifically include the following actions taken by the internal auditor, i.e.: 1) getting acquainted with the objectives and the area of activity of the entity in which the task is performed; 2) performing proper risk identification and assessment, taking into account the existing control mechanisms; 3) agreeing with the auditee on

7 For more information, see: Regulation of the Minister of Finance of September 4, 2018, *on internal audit and information about the work and results of this audit* (Journal of Laws of 2018, item 506), hereinafter referred to as the regulation.

8 K. Hudzik, *Obowiązki audytowanego w związku z przygotowaniem dokumentacji niezbędnej do realizacji zadania zapewnającego*, „Kontrola Zarządcza w Jednostkach Sektora Publicznego” 2021, no. 14, p. 55.

the criteria for the assessment of control mechanisms in the area of activity of the entity, covered by the task in question⁹.

However, when criteria cannot be agreed upon with the auditee, the internal auditor agrees directly with the head of the entity.

The preliminary review is a technique that is most often used by the internal auditor even before the audit task program is written. The role it plays in local government units most often involves the collection of information by the internal auditor about the audited area of activity but without detailed analysis of this data. The initial review also involves analyzing the collected information for legality. Whereas the start date of the initial review becomes the start date of the assurance task.

When conducting an audit task, the internal auditor conducts a preliminary review and becomes familiar with the entity's objectives and the area of activity in which the given task is performed. The auditor's work should focus on reviewing documents, data, and information that pertain to the area being audited. This type of activity is aimed at a proper understanding of the analyzed activity and also includes the identification of existing control procedures to help achieve the objectives while mitigating the risks associated with the business under review. Moreover, when identifying risks in the audited area, the internal auditor assesses them and also takes into account the probability of their occurrence with possible consequences that they may cause. When performing risk assessment, the audit team should also verify that appropriate control procedures have been designed to protect the entity from various risks. When such controls are insufficiently efficient – or worse, nonexistent – a real factor may arise, affecting the likelihood of an undesirable event, affecting the proper implementation of objectives and tasks¹⁰.

For a better understanding of the nature of the area being audited, the internal auditor may also use some informal measures. This may include, but is not limited to, discussion with the auditee, on-site observation of a specific task, review of documents or analyses prepared for management, evaluation of documented control activities, or interviews with persons who may be directly or indirectly affected by the assessed activity.

Also referring to the legal presumption in § 15 of the regulation, after the preliminary review, the internal auditor is required to prepare an assurance

⁹ The initial review shall include the activities listed in § 14 sec. 1 of the Regulation.

¹⁰ Confer: J. Wawer-Bernat, *Przebieg realizacji czynności audytowych w jednostkach administracji rządowej*, „Finanse, Rynki Finansowe, Ubezpieczenia” 2017, no. 3, p. 121–128.

task program. This program must take into account, in particular, the outcome of the preliminary review, the comments of the head of the entity and the auditee themselves, the necessary resources to carry out the task, including the possible need for expert assistance, and the expected duration of the task.

Implementation of audit activities

Implementation of audit activities usually takes the form of an analysis of management and control systems in the entity, as well as the assessment of existing financial control procedures. Based on these measures, the unit's manager receives an objective and independent assessment of the effectiveness and efficiency of these systems. The internal auditor must carry out audit activities following the applicable rules and procedure, as provided by law, including the Act on public finance. It must also objectively and reliably determine and precisely document the area covered by the audit activities¹¹.

When carrying out a substantive assurance task, the auditee must provide the auditor with a large number of documents that are closely related to the task at hand. When analyzing the documents already received, the internal auditor is guided by the guidelines that can be found in the International Standards for Internal Auditing of Public Sector Entities¹². The main purpose of these standards, implemented into Polish law, is in particular to provide guidance on how to comply with the mandatory elements of the international auditing professional practice framework and how to contribute to improving the processes and operations of any organization.

The above recommendations require that the internal auditor, auditing a specific area of the entity's activities, when requesting specific materials from the auditee, remembers to respect universal and accepted standards. Specifically, this includes: 1) standard 2300 (performing the task), which instructs the internal auditor to collect, analyze, evaluate and document information sufficient to achieve the objectives of the task; 2) standard 2310 (collecting information), which instructs the internal auditor to collect such information

11 See A. Wszelaki, *Zasady i efekty audytu wewnętrznego w administracji publicznej na przykładzie Starostwa Powiatowego A*, ibidem 2015, no. 2, p. 156.

12 See the Communication of the Minister of Development and Finance of December 12, 2016 on internal audit standards for entities in the public finance sector (Journal of Laws of the Ministry of Development and Finances 2016, item 28).

that should be sufficient, reliable and useful to achieve the objectives; 3) standard 2320 (analysis and evaluation), where the internal auditor must base their conclusions and results of the assignment on appropriate analysis and evaluation; 4) standard 2330 (documenting information), where the audit activity leader must document sufficient, reliable, useful and relevant to the assignment information that forms the basis for the results and conclusions.

The documentation provided by the auditee that is necessary to perform an assurance engagement may be classified by internal auditors according to their value. First documents can be treated as documentary evidence. This is the most common form of information they collect, which includes both documents produced within an organization and from external communications. These may include, in particular, various types of letters, contracts, invoices, or accounting evidence¹³. The second form of obtaining information may be through testimonial evidence. These are data from auditees, contained in oral or written statements, questionnaires, or reviews. Information derived from the testimony is often not conclusive and should be supported by other forms of data. Physical evidence, on the other hand, is obtained by the internal auditor through direct inspection or observation of auditees. The findings and conclusions obtained from this form of data acquisition require a large number of objective observations, which should be carried out according to a predetermined schedule based on mutual cooperation and tolerance of activities. The fourth form of data capture, as a result of audit activities, may be analytical evidence. Although they require the internal auditor to make an effort by calculating, comparing or interpreting the information analyzed, the results from this activity are the most measurable and take the form of outputs. This is because an internal auditor using analytical procedures can use them to, for example, detect potential errors, fraud, or improper financial transactions¹⁴. The internal auditor may also use sampling in an audit when, in the course of performing audit activities, it is not possible to examine all (100%) of the elements comprising the audited population due to, for example, the size of the population. In doing so, they assume that, at some confidence level, the selected sample has the same properties and characteristics as the population as a whole.

¹³ See P. Bojda, *Audyty wewnętrzny jako metoda usprawnienia działalności firmy*, „Journal of Modern Management Process” 2016, no. 1, p. 54–55.

¹⁴ Confer A. Skoczylas, W.A. Nowak, *Ewolucja audytu wewnętrznego w polskim sektorze finansów publicznych*, „Zeszyty Teoretyczne Rachunkowości” 2011, vol. 63, p. 160–161.

Informing the head of the audited unit of the audit's preliminary results

According to the legal disposition in § 17 sec. 1 of the Regulation, the internal auditor, after conducting audit activities, agrees in writing with the auditee on the preliminary results of the internal audit. They must also remember to indicate a proposal for recommendations, in a situation where, for example, formal errors or irregularities have been defined. The internal auditor may, but is not required to, conduct a closing meeting to agree on preliminary audit findings. The closing meeting invites managers of audited units, heads of divisions or organizational units to discuss assumptions and findings related to the task conducted. However, if the preliminary results of the internal audit are not agreed upon, the auditee may submit written reservations within a period specified by the internal auditor, not shorter than 7 calendar days from the date on which the auditee was informed of the preliminary results¹⁵.

A popular practice used by internal auditors is to provide the auditee with a so-called preliminary report on the activities performed. This is to address any recommendations or reservations by the auditee within the deadline set. From the point of view of building good cooperation and good practices between the auditor and the auditee, this solution is very appropriate, because then the auditee can calmly address the remarks contained in the report. It is also an opportunity to polemicize the content of the preliminary report. It may, of course, happen that the auditee understands the recommendations indicated by the internal auditor differently, so this is the time to resolve any doubts. When the auditee has just received the preliminary report, the auditee becomes aware of what specific provisions may be included in the final report, the contents of which will be provided to both the head of the audit function and the head of the audited unit. The internal auditor should address the comments that were made by the auditee. However, when such comments are not included in the final report, the internal auditor must give objective and meteoric reasons for their decision.

15 See § 17 sec. 3 of the Regulation.

Submission of a report on the assurance task

The submission of the report on the assurance task is the last formal action that imposes obligations on the auditor to respond to the contents of the report on the actions taken. For the legal disposition contained in § 18 sec. 1 of the Regulation, the internal auditor, after agreeing on the preliminary results of the internal audit, or after the auditee has made reservations, prepares a report on the assurance task, which should include, in particular: 1) the subject and objective of the task; 2) the subject and object scope of the task; 3) the date when the task started; 4) the findings and evaluation according to the criteria adopted in the program of the assurance task; 5) the suggestions or recommendations indicated in the report; 6) the evaluation of the adequacy, effectiveness, and efficiency of management control in the area of the entity's activity covered by the task; 7) the date when the report was prepared; 8) the name and surname of the internal auditor performing the task and their signature.

In the case of an assurance task carried out by several internal auditors, the report may, of course, be signed by all internal auditors who were involved in the task. Such a report may also be signed by the internal auditor responsible for the performance of this task, who was appointed by the head of the audit unit from among several internal auditors performing the task. In preparing such a report, internal auditors must be aware that the document should be clear, concise, transparent, readable, objective, and complete¹⁶. Consideration of these features will facilitate the auditee's understanding of the contents of the report and also ensure an efficient process for the exchange of correspondence between the auditing unit and the audited unit¹⁷.

In further action, the head of the internal audit unit provides the report to the auditee and the head of the unit. The auditee, within 14 calendar days of receiving the report, shall determine the manner and timing of implementation of any recommendations and shall designate the persons responsible for the implementation of such recommendations. They are required to inform the head of the internal audit unit and the head of the unit of their decisions in writing. However, it may happen that for various reasons, the auditee refuses to implement the recommendations. They may find that the deficiencies

¹⁶ Confer I. Emerling, *Rola audytu w zarządzaniu jednostką – aspekt praktyczny*, „Studia Ekonomiczne” 2015, no. 240, p. 94.

¹⁷ See § 18 sec. 1–2 of the Regulation.

identified in the report are not appropriate, and the recommendations indicated, realistically, will not eliminate the defined risks in the future. Then, within 7 calendar days of receiving the report, the auditee shall present their position in writing, informing the head of the unit and the internal auditor. The task of the head of the unit in such a situation is to make the final decision on the implementation of recommendations, informing the auditee and the head of the internal audit unit¹⁸.

However, if the auditee accepts the recommendations contained in the final report and at the same time indicates the deadline for their implementation, the internal auditor, after this period, monitors the implementation of the recommendations and carries out follow-up activities. The role of these actions is to a large extent to confirm that the auditee has effectively implemented the recommendations and thus fulfilled the legal obligation contained in § 20 of the Regulation. Formally, the internal auditor presents the results of the verification activities to the head of the entity and the auditee in the form of an information memo, specifying how to implement the findings, eliminating the possibility of similar dangers in the future.

Conclusion

In conclusion, it can be noted that an internal audit is an instrument that supports the heads of local government units in the decision-making process. The role of an internal audit is to evaluate the areas under review and to report on the effectiveness of existing functional governance processes, risk management process analysis, and controls that are designed to achieve the entity's planned strategic objectives.

When carrying out an assurance task in local government units, the auditee also has obligations in connection with the performance of a given audit task. These responsibilities are aimed at building a good relationship between the audit team and the auditee where such a task is carried out. It is the auditee's task to provide the internal auditor with all necessary documents and information and to ensure appropriate cooperation conditions so that the assurance task is carried out in an efficient, effective, and timely manner. In turn, the results of the audit activities carried out in the future are aimed at

18 See § 19 sec. 4 of the Regulation.

eliminating or possibly minimizing the potential dangers and threats that may affect any local government unit.

Bibliography

- Bojdak P., *Audyty wewnętrzny jako metoda usprawnienia działalności firmy*, „Journal of Modern Management Process” 2016, no. 1.
- Emerling I., *Rola audytu w zarządzaniu jednostką – aspekt praktyczny*, „Studia Ekonomiczne” 2015, no. 240.
- Hudzik K., *Obowiązki audytowanego w związku z przygotowaniem dokumentacji niezbędnej do realizacji zadania zapewniającego*, „Kontrola Zarządcza w Jednostkach Sektora Publicznego” 2021, no. 14.
- Praktyczne aspekty audytu wewnętrznego*, ed. H. Grocholski, vol. 1, Warszawa 2004.
- Skoczylas A., Nowak W.A., *Ewolucja audytu wewnętrznego w polskim sektorze finansów publicznych*, „Zeszyty Teoretyczne Rachunkowości” 2011, vol. 63.
- Sołtyk P., *Audyty wewnętrzny w jednostkach samorządu terytorialnego – zagadnienia ogólne*, „Finanse Komunalne” 2007, no. 11.
- Wawer-Bernat J., *Przebieg realizacji czynności audytowych w jednostkach administracji rządowej*, „Finanse, Rynki Finansowe, Ubezpieczenia” 2017, no. 3.
- Winiarska K., *Audyty wewnętrzny w 2007 roku. Standardy międzynarodowe – regulacje krajowe*, Warszawa 2007.
- Wszelaki A., *Zasady i efekty audytu wewnętrznego w administracji publicznej na przykładzie Starostwa Powiatowego A*, „Finanse, Rynki Finansowe, Ubezpieczenia” 2015, no. 2.

Administracyjnoprawne powinności audytowanego w związku z realizacją zadania audytowego w jednostkach samorządu terytorialnego

Streszczenie

Artykuł dotyczy audytu wewnętrznego, który jest aktywnym narzędziem wspierającym kierownika jednostki sektora finansów publicznych w wypełnianiu obowiązków. W związku z realizacją zadań zapewniających pojawiają się prawne obowiązki audytowanego w zakresie współpracy z audytorem wewnętrznym, niezbędne do prawidłowego sposobu przeprowadzenia takich czynności. Przełożenie informacji o planowanej realizacji zadania zapewniającego rozpoczyna proces przygotowania przez komórkę audytowaną całej dokumentacji i przekazywania różnych informacji ściśle powiązanych z przedmiotowym zadaniem.

Słowa kluczowe: audyt wewnętrzny, administracja publiczna, samorząd terytorialny, prawo administracyjne, czynności audytowe