

K W A Z U L U - N A T A L
SHARKS BOARD
Maritime Centre of Excellence

TERMS OF REFERENCE

FOR

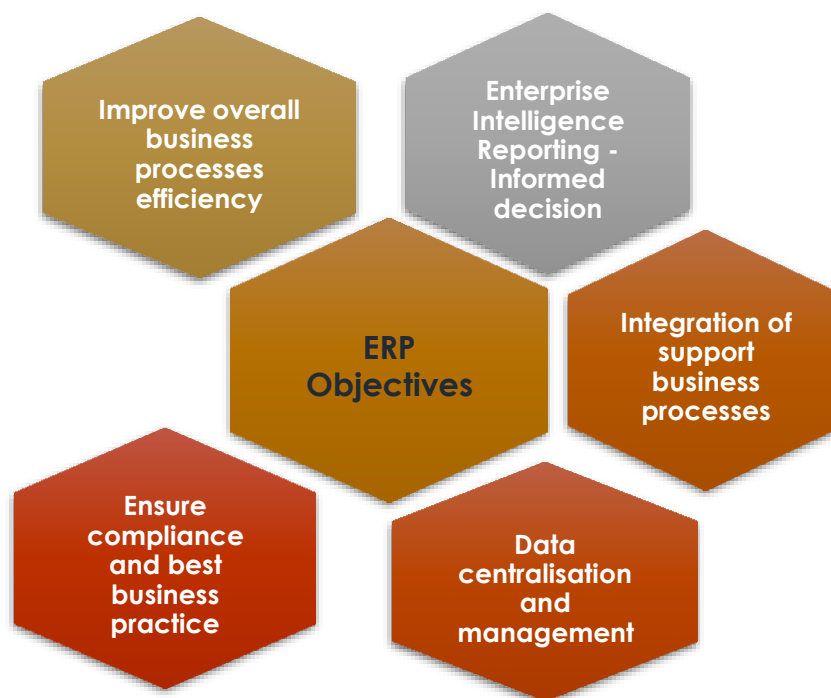
SAGE ERP – Enterprise Resource Planning System

1 EXECUTIVE SUMMARY

KZNSB has embarked on the process of upgrading and maintaining our Sage 300 Enterprise Resource Planning (ERP) system in order to streamline the business support processes that will promote the organisational collaboration and undoubtedly increase efficiency, which is the ultimate strategic goal. KZNSB conducted Enterprise Architecture and Operating Model assessments; both reports recommended the ERP implementation to close the identified capability gaps. Below are the expected benefits for implementation of the ERP.

- Eliminate repetitive manual processes
- Eliminate data silos
- Enhance data integrity
- Improve the data collection and access
- Increase data security
- Enforce regulation compliance

2 BUSINESS OBJECTIVES



3 BUSINESS PROBLEMS AND NEED

From the independent operating model assessment, below were the identified capability gaps that the project aims to resolve.

3.1 CHANNELS

There is a need to address access channels for both internal and external user access. These channels are required to facilitate the ease of getting information on the fly for

business decision making as well as for making it easy for information to be submitted and queries be made to KZNSB, thus improving stakeholder experience. The examples are the introduction of a self-service portal that is external facing for various stakeholders that KZNSB deals with and internal employee self-service portals.

3.2 INTEGRATION AND PROCESS AUTOMATION

Key processes have too much human intervention, which poses a risk to the efficiency and the integrity of the data transmitted between various systems. There is a need to drive the integration of the systems to ensure process automation and tracking of the required audit data by the business

3.3 BUSINESS INTELLIGENCE

KZNSB has a reporting platform but the use of such a platform seems to be limited in certain instances. It is important to ensure that reports are produced in the operational systems where scope of such reports relies only on data in those systems. Furthermore, it is a need to build a data warehousing and reporting environment that runs on its own environment outside the operational systems. This would ensure that reports required by the business can be produced in real-time with all the required data without manually creating them every time they are required.

3.4 FINANCIAL RECONCILIATION

Financial reconciliation is largely manual at the moment and cumbersome. This poses a risk to the business as detail can be missed if these processes are not automated.

3.5 DOCUMENT MANAGEMENT

KZNSB already has SharePoint in place to drive document management. There is a need to move away from making use of shared drives to store documents as it is impossible to link these documents to transactions. SharePoint can be used to link documents to various transactions and systems as well as workflows. The Human Resources management documents and records are currently stored within the current payroll system, some on the shared drive and physical files.

3.6 BUSINESS NEED

The organisation needs a Modern Enterprise Resource Planning system that will support the business functions that are in scope.

4 SCOPE

4.1 MANDATORY REQUIREMENTS:

The successful service provider is expected to have to the following:

- Sage Certified Partner *or equivalent*
- Sage 300 Certified Provider *or equivalent*
- Sage 300 Certified for Accounting, CRM, HR Management and Payroll systems provision
- Accredited to provide Sage Training

4.1.1 Time:

KZNSB aims to go live with the final phase implementation on **29 August 2022**.

4.1.2 Cost

KZNSB budget for the ERP Project is still to be confirmed.

4.1.3 Solution:

Not specified. This process seeks to identify the solution that is fit for KZNSB business purpose.

4.2 BUSINESS AREA SCOPE

All KZNSB employees will use the ERP system. However, below are the business functions that are in scope and directly affected by the change.

People Management

• Human Resources

- Learning & Development
- Corporate Social Investment

- Procurement
- Finance

BDD

- Customer Relations Management

4.3 SOLUTION SCOPE

4.3.1 Data Migration from current systems

- SAGE 300
- SAGE VIP
- SAGE HR

4.3.2 Integrate with and not limited to below systems:

- Active Directory (AD)
- Configuration System
- Bank
- Central Supplier Database (CSD)
- Integrated Data Warehouse
- Access Control System (Time and Attendance) • Reporting tools

4.3.3 Key Features

- Mobility - access ERP data and tools anywhere, anytime via internet
- Integration
- Cross-department workflow management
- Document Management
- Built-in Intelligence Reporting engine
- Security
- Machine Learning
- Application Programme Interface – easy integration with KZNSB website
- Extranet capability – access to external parties (recruitment candidates, suppliers, external interns, bursary custodians)
- Best Industry practice for modules in scope

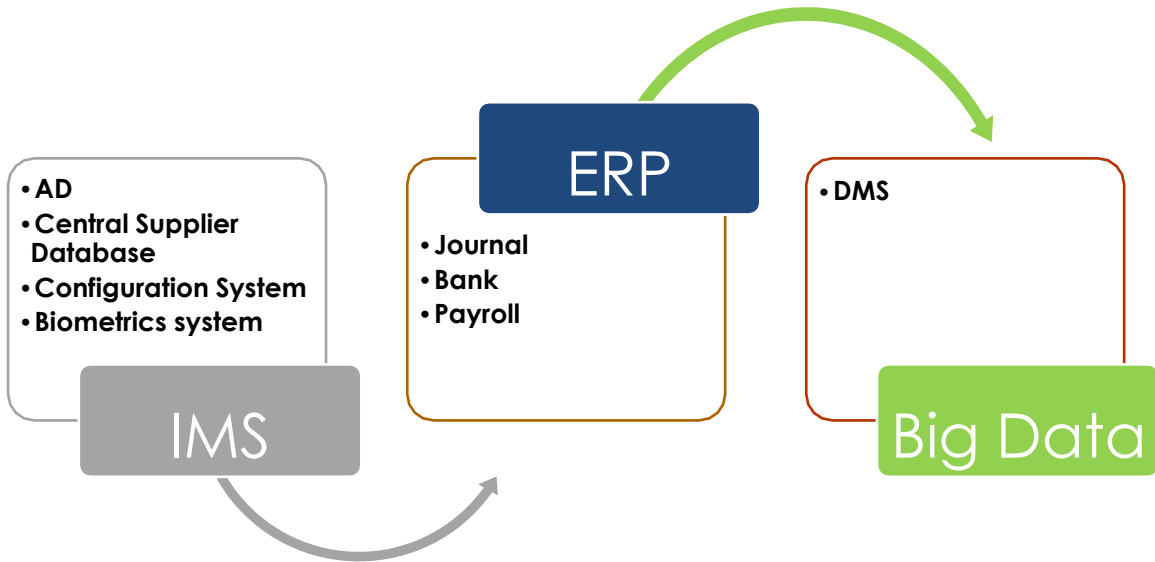


Figure 1: Solution Scope

4.4 EXCLUSIONS

The departments that are not mentioned on the business area scope are out of scope.

BUSINESS REQUIREMENTS

5.1 HUMAN RESOURCES

Human Resources Requirements
Workflow Management Workflow management with timelines to indicate the duration of activities performed in the various Human Resources processes Workflow triggered system notifications/reminders to relevant, stakeholders or users as part of key events
Recruitment Management System to fully support the recruitment process, this includes <ul style="list-style-type: none"> • Position activation • Applicants CV collection (via email/eRecruit) • Automatic shortlisting (survey on minimum requirements) • Applicants score card consolidation • Required documents management • Recording of qualifications validations, ID, criminal and credit check results • Recruitment letters (acceptance/regret letters) • Reporting

<p>New employee on-boarding Automate the on-boarding checklist to guide the HR consultants, new employees of applicable processes to ensure flawless on- boarding journey.</p>
<p>Dispute management/ Employment Relations matters The system must also enable the capturing of disputes Allow uploading of evidence that forms part of the dispute process</p>
<p>Performance Management The system must allow and support a full performance management process</p> <ul style="list-style-type: none"> • Contracting • Coaching • Mid-year review • Year review • Moderations • Reporting (Including bell curve)
<p>Enable the facilitation of 360 degree (survey) performance management, this will include:</p> <ul style="list-style-type: none"> • Nominations • Distribution • Survey result consolidation • Survey report
<p>Dashboard of each division and department (overall) performance must be provided by the system out of the box or with minimal customisation</p>
<p>Enable the application of salary increase calculation based on performance score</p>

<p>Human Resources Requirements</p>
<p>There must be overriding capability for the relevant approved users</p>
<p>Development of a recognition functionality. This will be an informal and separate from the formal performance For example, token of appreciations from colleagues. (Process not in place)</p>
<p>The system must support the issuing of increase letters through Employee Self Service portal.</p>
<p>Compliance The system must facilitate the management of employment equity, including the generation of relevant reports</p>
<p>Ability to generate custom Industrial/Employment Relations reports</p>
<p>Grievance Management Capability to support grievance management process which includes the following:</p> <ul style="list-style-type: none"> • Grievance registration • Human Resources Intervention (updates) • Notification to initiator

The system should be able to update the initiator of a grievance at every step or stage of the process
Enable the link to applicable disciplinary actions
The system must be able to support retrenchments process according to Section 189 of the constitution of the Republic of South Africa
Employee Wellness The system must have the functionality to support employee wellness Wellness plan through mechanisms such as the discovery health index
Termination The system must support automated workflow for employee termination
Ability to manage the exit interview process through a defined questionnaire
Talent Management The system must have the full Talent Management functionality, driven by learning and development needs.
Automation of currently manual/paper based talent management process (templates will be shared at a later stage)
Personal Development Plan Management, it must be linked to employees talent management
The system must allow for the definition of future role specifications based on the business needs
Enable the employee profile management, which includes:

Human Resources Requirements
<ul style="list-style-type: none"> • Profile creation • Profile update • Profile deactivation Profile refers to employee's skills, work experience and educational background.
Functionality to assess employee potential
Capability to assess and identify flight-risk employees
Create the view on the employees' succession plan based on profile and talent positioning
Capability to create profile for each role defining the required competencies.
Capability to update employee's competency level (ongoing assessment)
Identify areas of development to feed into Performance/Personal Development Plan (PDP).
Personal Development Plan (PDP) The system must digitise the PDP process <ul style="list-style-type: none"> • Plan creation • Mid-year review • PDP Update (add new items, remove items, motivation and approvals) • Enable override access to Learning & Development Management (exception) • Final review

The system must be able to link performance development planning to current/succession role required competencies
The system must support the generation of L&D reporting and analytics as well as the ability to draw historical data
The system must enable the link between training payments to training item from PDP
Capability to apply and update Continuing Professional Development (CPD) points where applicable.
Attachment uploading functionality such as proof of completing training(results/certificates) linked to a document management capability
The system must support the capability to apply the L&D policies such as formal training – e.g. education - if employee fails, employee has 2 years to pass that course at own cost else it must then trigger payback (payroll deduction)
The system must support the creation of special leave or note for informal training for visibility.
Link training bookings with PDP items. The system must support the management view on team and division's leave calendar.
The system should be able to offer a capability to run surveys on training outcomes as well as generate report on survey result.
External user management

Human Resources Requirements

The system must support an e-recruit portal for recruitment

Support the management of bursary applicants and progress

Management of external interns performance management

External user document management

Leave Management

System to support the leave management in accordance to KZNSB leave policies for:

- Annual leave
- Sick leave
- Study leave
- Family responsibility leave
- Maternity leave
- Paternity leave
- Special leaves
- Leave forfeiture

(policies will be shared at a later stage)

Payroll Management

Capability to support payroll management processes or integrate with the payroll system.

Employee Self Service (ESS) capability – employees should be able to:

- View benefit statements as well as Total Reward statement
- View payslip
- Flex benefits
- Apply for leave
- Approve leave
- Access Performance Management module
- Update their qualifications and documentation
- Change personal details (limited)

Employment Equity (EE)

Digitise EE process to report to Department of Labour as follows;

- The Economically Active Population (EAP) analysis is done in real-time and can be accessed for every quarterly meeting
- EE Plans are available at the push of a button.
- Functions of the EE Committee (nominations, appointments, agendas) are automated
- Quarterly meetings are webcasted by a senior EE Manager, and members are able to attend meetings online
- There is a need for integration with the payroll module to access employee profiles, demographics

Skills Development

Human Resources Requirements

<p>There is a need to digitise the SETA's Skills Development process as follows;</p> <ul style="list-style-type: none"> • Preparing Workplace Skills Plans • Internships uptake & monitoring • Financial management of SETA grants, learner payments & levy payments • Generating Annual Training Reports
<p>Return of Earnings Information needs to be imported from Payroll module for processing</p>
<p>Compensation for Occupational Injuries and Diseases Act (COIDA) claims There is a need to digitise the process; From the point the employee is injured/ illness/ death as a result of work then reports to enable submission to Compensation Fund.</p>

5.2 FINANCE

Finance Requirements
<p>Integration ERP system must integrate with all KZNSB systems that have any financial transaction</p> <p>ERP must integrate with data warehouse/reporting tools</p>
<p>ERP system to fully integrate with the booking system to ensure that information flow is facilitated</p>
<p>Report import Enable the uploading of investment reporting tool to the reporting system automatically to create reports for investments (received from asset management companies) daily</p>
<p>Integrated and Intelligence reporting, ability to use information from actuaries and data warehouse, create journals and produce reports for management and annual reporting</p>
<p>Automatic uploading of the expenses, fixed assets and investment information back into accounting journal (currently great plains) to facilitate a 360 degree view of the financial transactions</p>
<p>Budgeting Budgeting capability is required and system to have view of budgeting tool for retrieving previous data for efficient budgeting purposes</p>
<p>The budget system must allow for the inputting of budgets for 5 years and for different companies / consolidation</p>
<p>Journal entry process The finance module should be able to process journals:</p>

Finance Requirements
System generated; manual and reversing journals
Backdating capabilities for manual journals
System restrictions for an independent preparer and reviewer/posting of the journals
Treasury
Integration with banking site for payments
Capability to upload bank statements to perform cash book reconciliations
Investments module
Import of asset manager or administration data on the GL system
Perform 3 way reconciliation between General Ledger (GL), asset manager and administrator
Track performance of asset portfolios per different asset class or asset manager.
Ability to track the asset / liability matching as well as the strategic asset allocation of our assets
Creditors/debtors module
Creditors/debtors ageing analysis
Creditors/debtors reconciliations
Creditors/debtors reports
Bookings
The ERP is required to perform reconciliation from ERP booking transactions, commission and binder fees
The system must generate exception reports and distribute exceptions where there are transactions discrepancies
Capability to cater for backdated bookings and reversals on the finance system
The system must apply correct tax for above transactions and cater for VAT changes in the future
Capability to cater for annual and monthly booking transactions tracking and logging
Facility where all organisation upload their annexures into our system, allocate the payment to the annexure
Capability to cater for direct (eft/deposit) and debit order booking collection methods.
Asset Management
The system must ensure the asset procurement transactions are directly linked to asset register and contracts
Provide complete and single view of information on asset status, history and location for audit trail purposes
Transaction types must support full and partial disposals, transfers, enhancements, cost adjustments and revaluation
Enable unlimited number of standard and user-defined depreciation methods for full statutory compliance
Generation of depreciation report
Capability to pull through the assets notes into financials statements
Finance Requirements

Automated alerts for key events such as warranty expiry or replacement date.
Tax management Apply tax standard practice (calculations). Tax-checking automation. Tax reports (standard, customised and exception reports). Tax notes on financial statements and tax reports
Invoicing Capability to generate invoices for the agent's on penalties
Capability to generate salvage invoices
Financial Statements with the integrated report
Prepare annual financial statements with supporting notes for all finance modules
Linking of new accounts between the various systems

5.3 PROCUREMENT

Procurements Requirements
Supplier Management Below supplier management capabilities are required: <ul style="list-style-type: none"> • Supplier database management - List of approved suppliers.
The system must be able to integrate to treasury's (Central Supplier Database) CSD system to pull through supplier details.
Enable the business to perform supplier performance management periodically
The system must support automated supplier on-boarding based on RFP/RFQ process
The system must be able to maintain supplier database such as: <ul style="list-style-type: none"> • Who supplying what service/product • History of suppliers • Price negotiations
The system must be able to send notification/warning when supplier's BBBEE certificate is expiring based on a time threshold that can be defined in the system
The system must support a supplier self-service portal for suppliers to: <ul style="list-style-type: none"> • Register KZNSB profile • Update profile • Submit quote/proposal • Upload documents • View quote/proposal status • View existing contracts
Contract Management The system must support the creation of standard contract templates <ul style="list-style-type: none"> • Enable custom contract template creation • Enable the upload of electronic copy of signed contract

Procurements Requirements
<ul style="list-style-type: none"> • Enable the digital signing of contract
Enable the maintenance of contract details <ul style="list-style-type: none"> • Contract details/conditions • Enable adjustments to costs (approval) • Enable contract extension/cancellation • -15% allowance on extension (triggers on deviation)
Requisition The system must support the requisition processes
System must have prepopulated catalogue (goods and services)
Purchasing Management <ul style="list-style-type: none"> • Enable the logging(registration) of new RFQ/RFP • Update the RFQ/RFP • Track RFQ/RFP status
Enable the appointment of committee members (specification, evaluation and adjudication committees) Enable the online appointment acceptance/rejection
Enable the RFP/RFQ scorecard creation Enable online evaluation (by evaluation committee) System must be able to consolidate the scorecard consolidations
Deviation Must be triggered by exception from RFP/RFQ process <ul style="list-style-type: none"> • Deviations workflow management • Allow attachments uploading
Enable the standard committees' meeting's agenda template creation system to send agenda
Capability to digitise the process for adjudication of tenders
Enable the generation of standard/custom supplier quote/proposal regret/award letters System to send suppliers the regret/award letter template upon quote/proposal evaluation completion Enable supplier to accept/reject the offer (via supplier portal)
Reports The system must have reporting functionality that is linked to procurement processes
The system must produce a report on savings after negotiations
System to generate report on expiring contracts
The system must produce a consolidated report on RFQ/RFP activities end to end
The system must produce the BBBEE spending report
Purchase Order (PO) Management System must be able to generate the Purchase Order
The system must support a 3-way match: Quote, Purchase Order generated from quote, Invoice
The system must enable goods receipting

Procurements Requirements

The short delivery of goods/ services must be able to be recorded on system against the supplier

- capability to receipt short delivery

5.4 CUSTOMER RELATIONS MANAGEMENT (CRM)

Customer Relations Management Requirements

CRM capability

Enable the Agent information overview (Dashboard)

Create a 360-degree view of agent's interaction, this will include:

- Interaction planning
- Interaction outcome record

Capability to create annual/quarter Organisation' targets

Create a view on Organisation' booking growth or decline (trends)

Create Organisation segmentation view, i.e.

- Top 10
- Middle tier
- Bottom tier

Create Customer Relations Manager's portfolio performance view

- Real-time
- Quarterly
- Annually

Create class of business performance overview

Create a view of Organisation' booking trends

Create a view of Organisation' booking reversals

Create a view of Organisation' KZNSB's audit outcomes

Create a view of Organisation' information from social networks (Twitter, Facebook etc.) (Big Data - New capability)

Create a view of Organisation' financial performance (Big Data - New capability)

Ability to maintain customer details (data) on CRM

Mobility solution to manage relationships.

Ability to request client satisfaction surveys

- Conduct surveys
- Survey feedback consolidation
- Survey result presentation

5.5 GENERAL

General Requirements	
Business Intelligence Reporting Capability	System must have built-in standard reports that are customisable
Synchronised	Changes made on the system should be automatically updated on all areas, especially in finance
Unique views	System has unique views for each user level: <ul style="list-style-type: none"> • Employee view • Manager view • Head of division/department view • Overall/Organisational view
General Requirements	
Employee Self-Service through desktop or mobile devices should enable the following functionalities:	<ul style="list-style-type: none"> • Leave Management • Pay Slip view • IRP5 view • Personal Information Update • Performance Management • Personal Development Plan • Employee Profile • Increase letter view • Expense Management
Workflow Management	System must support workflow for basic and complex approval processes
Electronic Document & Records Management	System must be compliant to records management policy Enable digital signature functionality Auto indexing
Electronic document management to allow for efficient document storage, retrieval and distribution	

5.6 NON FUNCTIONAL REQUIREMENTS

5.6.1 Operational

Item	Description
Accessibility	System should be accessible using Desktop and Mobile devices using network cable, WIFI and/or 3G/4G
Response time ranges	Front-end / host / back end: max 15 seconds.

5.6.2 Security and Privacy

Item	Description
Identification and authentication	<p>Users must be assigned unique identities within the system, which clearly identifies who they are.</p> <p>The system must only be accessed by legitimate and authorised users including users from external entities.</p>
	<p>The system must utilise username and password to authenticate users and support two-factor authentication to strengthen access control when necessary.</p>
Single sign on	<p>System user identities must automatically be linked to Active Directory to allow single sign on to the ERP system.</p>
User Group Definitions	<p>Role-based access control shall be used to define content and functionality applicable to users.</p> <p>This must be in line with the user's job function or role. Departments will define access rights and the ERP system administrator with permission from respective departments can only edit these access rights.</p> <p>Segregation of duties rules must be enforced on a system level.</p>

Database Security	<p>The database must be secured by allowing only authenticated and authorised users access to data.</p> <p>The database must be secured by only allowing the Web applications to access data through a service account, which forms part of Windows authentication.</p>
Confidentiality	<p>Data must only be accessed by authenticated and authorised users in line with their job function or role.</p> <p>Data and Passwords must never be viewable at the point of entry or at any other time during the ERP processes lifecycle.</p>
Data Loss (Disclosure of information about individuals or entities)	<p>Security policies must be enabled to prevent leakage/disclosure of sensitive information to unauthorised users.</p> <p>Users must be trained on the functionality of the system to</p>
	<p>understand their responsibilities to safeguard sensitive information.</p>
Data Encryption	<p>All data flowing within internal and external ERP modules must be encrypted with the latest industry standard encryption technology.</p> <p>All data utilised within the ERP system must be encrypted when in storage, or in transit.</p>
Data Integrity (Data Corruption)	<p>All the information flowing within and across the ERP modules should be the same and not be altered throughout its lifecycle.</p> <p>The information must not be compromised during changes and must still be intact after the changes or updates to the ERP system.</p> <p>Only authorised users must be able to edit or make changes to data.</p>

Implementation development lifecycle	and	Development of the ERP applications must comply with Open Web Application Security Project guidelines and ISO 27001 standard.
Access Reports		Reports on user access and activities must be available to monitor policy violations.

.6.3 Audit Trail

Item	Description
Audit trail	<p>Enable transparent audit trail in the system, audit trails must be created for all user actions that are performed. The following information will be recorded in the audit log:</p> <ul style="list-style-type: none"> • User name • Date and time of action
	<ul style="list-style-type: none"> • Field name • Before value • After value • Effective date • Source (Direct/Web/Mobile App) <p>The audit logs are stored in a separate database</p>

5.6.4 Reliability

Item	Description
Availability (Percentage of time available)	100%

Item	Description
Audit Trail Failure	<p>If the audit trail function fails before the user saves updates to the transaction, the system shall be able to recover all changes made in up to one minute prior to the failure.</p>

Hours of Use	<ul style="list-style-type: none"> Monday to Friday: 00h00 – 23h59 Saturday: 00h00 – 23h59 Sunday and public holiday: 00h00 – 23h59
Maintenance Hours	<ul style="list-style-type: none"> Sunday: 10h00 –23h59
Mean Time to Repair (MTTR)	<ul style="list-style-type: none"> Critical: 1 hour High: 1 hour Medium: 1 hour Low: 1 hour
Mean time to failure (MTTF)	<p>ERP time out due to user inactivity shall be after 5min (with warning) Upon timeout, System must cancel the transaction, and must allow the user to start over</p> <p>The above exempts payment transactions while in progress.</p>

5.6.5 Recoverability

Update failure	When an update failure is detected all updates performed during the failed session shall be rolled back to restore the data to pre-session condition
Roll-back	All data recovered in a roll-back condition shall be recorded for use in forward recovery under user control
Safe mode	When operating after a failure the user must be informed that the application is operating in a “safe mode” and all data is available for review without update.
Module/Function Failure	The system shall prevent access to failed module/s while providing access to all currently operational modules

Hardware failure	All hardware components of the assembly operation shall be replicated, such that failure of any one hardware component shall not render the assembly operation unavailable to end-users. It is acceptable for system performance to be poorer than normal for up to 3 business days following the failure and replacement of a piece of hardware.
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5.6.6 Architectural Qualities

Item	Description
Information retention requirements	All stored data must be backed up and archived to be available within 24 hours.
Capacity/Scalability	Current number of users: 130 Current processes: Refer to attached Growth % System should cater for future enhancements and increase in
	volume (users/data) without affecting the system performance

5.6.7 Development Qualities

Item	Description
Integration	KZNSB must be able to integrate with other KZNSB's existing systems and new (to be systems)

Broad-Based Black Economic Empowerment (B-BBEE)

POINTS AWARDED FOR BBEE STATUS LEVEL OF CONTRIBUTION

- In terms with the Preferential Procurement Mechanism, preference points will be awarded to a Tenderer for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE STATUS LEVEL OF CONTRIBUTOR	NUMBER OF POINTS (80/20 SYSTEM)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 6.1 Provisions of the Preferential Procurement Policy Framework Act (PPPFA) 2017 and its regulation will apply in terms of awarding points.
- 6.2 Bidders are required to submit original and valid B-BBEE status level Verification to substantiate their B-BBEE rating claims.
- 6.3 Bidders who do not submit their B-BBEE status level verification certificates or are non-compliant contributors to B-BBEE will not qualify for preference points for B-BBEE.
- 6.4 In a case of exempted micro-enterprise (EMSs), AO/AA must ensure that the B-BBEE Status Level Verification Certificates submitted are issued by the following agencies:
- Verification agencies accredited by SANAS
 - Sworn Affidavit signed by the EME representative and attested by a commissioner of oaths.

7. ADJUDICATION USING A POINT SYSTEM

- The bidder obtaining the highest number of total points will be awarded the contract.
- Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts.
- In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

8. CONTRACTUAL OBLIGATIONS

The acceptance of any proposal shall only be confirmed with the conclusion of a written service level agreement between KZNSB and the Successful Service Provider, in terms of which the rights and duties of the parties are recorded, which agreement shall regulate the relationship between the KZNSB and the

Successful Service Provider. Until such time that an appropriate service level agreement has been concluded between KZNSB and successful Service Provider, no rights shall be conferred, nor shall any legitimate expectations be conferred to the successful Service Provider to carry out the works or services provided for in this call for proposals.

9. INTELLECTUAL PROPERTY RIGHTS

Copyright, patent rights and other similar rights in any works or products created as a result of the performance of this tender and its assignments shall vest in and are hereby transferred to KZNSB, unless specifically agreed otherwise, in the form of individual written Agreement signed by both parties. For this purpose, only, all works created in terms of this tender and the assignments thereof shall be deemed to have been created under the control and direction of KZNSB. All information documents, records, books provided by KZNSB to any service provider in connection with the proposal or otherwise are strictly private and confidential. Any proposer to any third party shall not disclose them, except with the express consent of KZNSB, which shall be granted in writing prior to such disclosure. KZNSB however reserves the right to disclose any information provided by any service provider to any of the members of KZNSB.

10. TERMINATION OF CONTRACT

KZNSB reserves the right to terminate the award of any tender to any party if there are reasonable grounds for considering that there is non-performance by the contractor in terms of the contract. KZNSB also reserves the right to curtail the scope of any tender awarded or to curtail any aspect of any tender. In the event of any such cancellation or curtailment, the tenderer shall have no claim or recourse against KZNSB, of whatsoever in nature.

10.1 Bidders who qualify as Emerging Medium Enterprises (EMES) on terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval Prerequisite for IRBA's approval for the purpose of conducting verification and issuing EME's with B-BBEE Status Level Certificates.

10.2 Bidders other than EME's must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by a Verification Agency accredited by SANAS.

10.3 A trust, consortium, or joint venture will qualify for points for their B-BBEE status level as a legal-entity, provided that the entity submits their B-BBEE status level certificate. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separated bid. Tertiary institutions and public entities will be required to submit their B-BBEE status level certificate in terms of the specialized scorecard contained in the B-BBEE Code of Good Practice.

10.4 A person will not be awarded points for B-BBEE status level, if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

10.5 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other Enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the Contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

10.6 In case of any failure to comply with the conditions of the contract or unsatisfactory rendering of

service, the stipulation of the General Conditions of Contract and the Special Conditions of Contract, shall be applicable.

10.7 Should the Entity, after a reasonable period of notice, of not less than seven days, in writing, depending upon the circumstances, call upon the service provider to comply with any of the conditions and should he/she fail to do so, the Department shall, without prejudice to any of its right be entitled to cancel the contract, and to claim from the service provider any damage or loss that might have been suffered, including any additional expense incurred by it having either to invite fresh bids or to accept any less favorable bid.