

Rules for Participation in the Earthquake Brace + Bolt Program in Napa

A Project of the

California Residential Mitigation Program

A Joint Powers Authority of the
California Earthquake Authority and the
California Governor's Office of Emergency Services



Introduction

These Rules (“Rules”) govern the Earthquake Brace + Bolt program in Napa (“Napa EBB”), a project of the California Residential Mitigation Program (“CRMP”). CRMP is a joint powers authority of the California Earthquake Authority and the California Governor’s Office of Emergency Services.

Napa EBB is funded in part by the Federal Emergency Management Agency (“FEMA”) under its Hazard Mitigation Grant Program. For this reason, Napa EBB program rules and requirements vary in part from the flagship Earthquake Brace + Bolt program. It is very important for each participant in Napa EBB to refer to the napabracebolt.com website for all program information and timelines.

These Rules govern the operations of Napa EBB and are binding on all homeowners who apply to participate in Napa EBB and on all Participating Homeowners and Participating Contractors in Napa EBB.

These Rules may be amended at any time, and the amended Rules become effective upon being posted on the Napa EBB website (www.napabracebolt.com).

The definitions provided in these Rules apply to these Rules and to the Napa EBB Program documents and on the Napa EBB website.

Section 1 – Homeowners and the Napa EBB Program

1.1 Official Source of Napa EBB Program Information

The Napa EBB program is described on its website, www.napabracebolt.com. Information about Napa EBB may be available from other sources, but the website is the only official source of information about Napa EBB.

1.2 Locations Where Napa EBB Is Offered

Napa EBB is offered in ZIP Codes 94558 and 94559. Houses not located in one of those two ZIP Codes are not eligible for Napa EBB participation.

1.3 Incentive Payments

Napa EBB offers an incentive payment of up to \$3,000 per house for seismic-retrofit work done in accordance with California Existing Building Code Appendix Chapter A3 (“Chapter A3”) on Qualifying Houses (see section 1.5) that are

accepted for participation in Napa EBB (see section 1.7), provided the Participating Homeowner sends Napa EBB documentation as required by these Rules (see section 1.8).

The actual cost of qualifying seismic retrofit work may exceed the \$3,000 Napa EBB incentive payment, but any expense that exceeds the Napa EBB incentive payment is the sole responsibility of the Participating Homeowner.

1.4 Qualifying Seismic Retrofit Work

Only seismic retrofit work done in accordance with Chapter A3 qualifies for the Napa EBB program incentive payment.

Chapter A3 allows for a seismic retrofit to be done by a contractor or by an owner-builder, either using a standard plan set for Type 1 Qualifying Houses (see section 1.5), or using plans prepared by a registered design professional (engineer or architect) for Type 2 Qualifying Houses (see section 1.5). *(Note: The value of the labor provided by an owner-builder is not a recoverable cost under the Napa EBB program and is not considered a reimbursable out-of-pocket expense.)*

Every contractor doing seismic retrofit work in the Napa EBB program is required to be a Participating Contractor selected by the Participating Homeowner using at least two competitive bids (see section 1.8.1).

In addition to the seismic retrofit, the water heater must also be properly strapped. Strapping the water heater will reduce the likelihood of water and fire damage in the event of an earthquake. Incentives for water heater strapping are only eligible under the Program when bracing and bolting are also being performed on the house.

1.5 Qualifying Houses

There are two types of Qualifying Houses. Each Qualifying House must be a detached residential building composed of one to four dwelling units.

1.5.1 Type 1 Qualifying House

The Type 1 Qualifying House has a “cripple wall” that does not exceed 4 feet in height in any part of the crawl space. A cripple wall is a wood-stud wall extending from the top of the foundation to the underside of the lowest-floor framing. In addition, the house must not:

- (a) have a lateral-force-resisting system that uses poles or columns embedded in the ground;
- (b) exceed three stories in height or be a three-story house with cripple wall studs exceeding 14 inches in height;
- (c) be constructed in whole or in part on concrete slab(s) on grade*; or
- (d) be classified by the local building department as a house required to be retrofitted with plans prepared by a registered design professional.

The local building department can approve a Type 1 Qualifying House retrofit to be performed using Chapter A3 or the Association of Bay Area Governments Standard Plan Set A.

** The local building department may determine that a house can qualify as a Type 1 Qualifying House if a portion of the house is constructed on a concrete slab on grade and the retrofit work is limited to the remainder of the house.*

1.5.2 Type 2 Qualifying House (Plans Prepared by Registered Design Professional)

The Type 2 Qualifying House is required by Chapter A3 to be retrofitted with plans prepared by a registered design professional, who must sign the plans and certify in writing that the plans conform to Chapter A3.

The Type 2 Qualifying House has a cripple wall that exceeds 4 feet in height, or:

- (a) has a lateral-force-resisting system using poles or columns embedded in the ground;
- (b) exceeds three stories in height or is a three-story house with cripple wall studs exceeding 14 inches in height;
- (c) is constructed in whole or in part on concrete slab(s) on grade; or
- (d) is classified by the local building department as a house required to be retrofit with plans prepared by a design professional.

1.5.3 Important Additional Limitations

Napa EBB cannot accept a house as a Qualifying House if:

- (a) it is listed in or considered eligible for listing to the National Register of Historic Places or designated as a National Historic Landmark pursuant to the National Historic Preservation Act; or
- (b) it is located in or near designated prime and unique farmlands pursuant to the Farmlands Protection Policy Act; or
- (c) it is located in a FEMA-identified 100-year or 500-year floodplain; or
- (d) it is located in a FEMA-identified floodway; or
- (e) it is depicted on a FEMA Flood Insurance Rate Map.

1.6 Registering for Napa EBB

The homeowner must either register through the Napa EBB website or request a paper application during the 30-day application period stated on the Napa EBB website for the ZIP Code in which the house is located. No incomplete, early, or late registrations will be considered.

By answering the Napa EBB qualification questions on the Napa EBB website, the homeowner can determine whether the house is a Qualifying House (see section 1.5). The person registering and answering the Napa EBB qualification questions must be an owner of record and live in the house.

Homeowners must also:

- (a) Provide the GPS coordinates of the house, its assessor parcel number, and its date of construction.
- (b) Indicate whether the registering Homeowner is currently barred by the State of California or the federal government from bidding on, accepting, or performing any State of California or federal-government-funded public works contracts, either as a contractor or subcontractor. If the homeowner is debarred, they will be unable to participate in Napa EBB.

If the house is a Qualifying House, the homeowner will be permitted to complete registration, add contact information, and authorize Napa EBB to send text alerts when important email communications are sent.

If the house is not a Qualifying House, the homeowner may sign up for future Napa EBB mailings and program updates but is not eligible to receive a Napa EBB incentive grant.

Houses are often owned by more than one person. Napa EBB does not undertake and is not responsible to confirm that a house is owned by the person applying to Napa EBB or whether that person is authorized to perform seismic retrofit work on the house. It is the sole responsibility of each Participating Homeowner to make sure that any co-owners have been notified of, and agree to, the Napa EBB seismic retrofit work.

Napa EBB also determines in its sole discretion the number of Participating Homeowner incentive payments it will award.

1.7 Acceptance as a Napa EBB Participating Homeowner

Once homeowner registration closes, FEMA will review the homeowner registration list, and then an electronic system will randomly select homeowners for Napa EBB.

All homeowners who have applied will be notified by email whether they have been selected to become Participating Homeowners or whether they have been placed on a waiting list for possible eligibility for Napa EBB incentive payments as spaces become available. Being placed on a waiting list, however, does not guarantee eligibility for future Napa EBB incentive payments.

Following notification, Participating Homeowners must visit www.napabracebolt.com within 30 days of the notification date and log in with the user credentials set up during registration. Each Participating Homeowner will have an online “Homeowner Dashboard” to upload all required documentation and photographs.

Participating Homeowners will also receive a Homeowner Packet by mail with detailed program instructions, including specific information to give to the contractor doing the work. A digital version of the Homeowner Packet will also be included with the Napa EBB notice of acceptance email.

1.8 Required Documentation for Incentive Payment

Participating Homeowners are required to submit documents described in Sections 1.8.1 and 1.8.2 to Napa EBB via the Homeowner Dashboard to qualify for the incentive payment.

- ✓ A Participating Homeowner may authorize his or her contractor to submit retrofit documentation on behalf of the Participating Homeowner by following the instructions on the Homeowner Dashboard.

1.8.1 Before the retrofit works begins

Within 60 days of receiving the program-acceptance email, the Participating Homeowner must do the following **via their online Homeowner Dashboard**:

- (a) Indicate whether the project will be constructed by the Participating Homeowner as an owner-builder or by a Participating Contractor. An EBB Participating Contractor must be used to do the retrofit work and the Contractor Directory can be found at www.napabracebolt.com. Projects constructed by a contractor who is not a Participating Contractor will not qualify for the incentive payment.
- (b) If the project is to be constructed by a Participating Contractor, the Participating Homeowner **must obtain and submit at least two competing bids** from Participating Contractors.
 - ✓ If the higher bid is selected, the Participating Homeowner must state the reason.
 - ✓ Provide the name of the Participating Contractor selected to do the work.
- (c) Obtain a building permit from the local building department (either the City of Napa or Napa County, depending upon where the house is located) and submit the permit details and upload a copy including:
 - a. If the house is a Type 1 Qualifying House, the building permit **must** state that the work is to be performed in accordance with Chapter A3 or in accordance with an approved standard plan set.
 - b. If the house is a Type 2 Qualifying House, the building permit **must** state that the work is to be performed in accordance with Chapter A3 using plans prepared by a design professional.
 - c. While the wording on building permits varies, the criteria immediately above applies to every permit for every Qualifying House.
- (d) Take and upload six photographs:
 - ✓ Three in the basement or crawl space showing the cripple walls and the foundation.
 - ✓ Three of the exterior of the house (one showing the front and one side of the house, one showing only the front of the house, and one showing only the other side of the house)

- (e) Alert Napa EBB if any retrofit work will be visible from the exterior of the house after it is finished.

1.8.2 After the retrofit work is complete

The seismic-retrofit work must be completed within six months after the building-permit-issuance date. Within 30 days after completion of the retrofit the following items must be submitted to Napa EBB **via the online Homeowner Dashboard**:

(a) Building Permit

- ✓ A copy of the building permit as signed by the building inspector after final inspection.

(b) Photos (six total):

- ✓ Three showing the completed retrofit work: in the crawl space from the same locations as the “before” photos and showing the cripple walls, the foundation, and the completed retrofit work. Photos must clearly depict the completed retrofit work.
- ✓ Three of the water heater strapping: Taken from the front and then each side at an angle showing the strapping around the heater and the attachment to the wall.

(c) Contractor Invoice or Homeowner/Builder Receipts for Retrofit-Related Expenses

- ✓ If a Participating Contractor performed the work, the contractor’s invoice for work performed (not the contractor’s initial bid or proposal) must be submitted. Invoice must be broken out by labor, materials and overhead and profit. Additionally, the invoice must state the contractor’s name, license number, and business address.
- ✓ If the Participating Homeowner performed the work as an owner-builder, receipts for “House-Retrofit Expenses,” which are out-of-pocket costs such as the building permit fee and the cost of materials and rented equipment used for the retrofit project.

(Note: The value of the labor provided by an owner-builder is not a recoverable cost under the Napa EBB program and is not considered a reimbursable out-of-pocket expense.)

- ✓ If the house is a Type 2 Qualifying House, the design professional's invoice (not the design professional's initial bid or proposal) and the contractor's invoice must be submitted.

1.8.3 Additional conditions regarding documentation

- (a) The Participating Homeowner must confirm that he or she has reviewed—and is fully responsible for the accuracy of—all the documentation submitted to Napa EBB (including documentation submitted by the Participating Contractor on behalf of the Participating Homeowner).
- (b) Napa EBB will reject incomplete documentation and will endeavor to promptly advise the Participating Homeowner to complete and re-submit the required documentation.
- (c) Failure to submit complete, required documentation to Napa EBB may render the Participating Homeowner ineligible for an incentive payment.
- (d) The Executive Director or Managing Director of CRMP, in their sole discretion, may waive any requirements or extend any time limits stated in Sections 1.7 or Subsections 1.8.1 or 1.8.2.

1.9 Retrofit Inspections

As a condition of payment approval or for quality assurance purposes, Napa EBB reserves the right to inspect, upon reasonable notice to the Participating Homeowner, the seismic-retrofit work performed on any Qualifying House.

1.10 Payment and Tax Reporting

Incentive payments will be mailed within 4 weeks following final approval by Napa EBB.

Napa EBB has taken the position that Napa EBB incentive payments qualify as exempt from federal income taxation under Internal Revenue Code Section 139(g) and as exempt from California state income taxation under California Revenue and Taxation Code Section 17138.3 or Section 24308.7, provided, however, that the California state income tax exemption will only apply to any such payment made to a Participating Homeowner in a taxable year of the Participating Homeowner beginning July 1, 2015, or later. Each Participating Homeowner is encouraged to seek appropriate professional advice on the

federal and state tax implications of the receipt of the Napa EBB incentive payment and whether the incentive payment will affect eligibility, income thresholds or limitations, or other issues relating to any health-care or other program of interest to the Participating Homeowner.

1.11 Program Communications

Napa EBB communications will be delivered by email, with the exception of the Participating Homeowner packet, which will be sent by U.S. Postal Service mail. Participating homeowners may also opt-in to receive text alerts to important email communications.

Neither CRMP nor Napa EBB is responsible or liable for any email communications that are missed, scrubbed, or filtered by anyone's computer system or email functions, or responsible or liable for any communications that are missed, lost, damaged, misdirected, or otherwise not delivered or received through use of U.S. Postal Service mail. Napa EBB has no obligation to provide other forms of communication.

1.12 Personal Information, Privacy Policy, and Terms of Use

(a) The information that Napa EBB and CRMP collect, maintain, and use includes, but is not limited to:

- ✓ personal information about homeowners, Participating Homeowners, contractors (and their employees and subcontractors), and design professionals;
- ✓ applications for building permits and building permits;
- ✓ documentation of costs and materials associated with the seismic-retrofit work;
- ✓ information about houses belonging to homeowners and Participating Homeowners; and
- ✓ photographs of houses and of the seismic-retrofit work.

(b) Any homeowner who does not agree that the information described in Subsection 1.12(a) may be collected, maintained, and used for the purposes described in the Privacy Policy and Terms of Use referred to in Subsections 1.12(c) and 1.12(d) may not become or remain a Napa EBB Participating Homeowner.

(c) The Privacy Policy posted on the Napa EBB website www.napabracebolt.com pertains to the information described in Subsection 1.12(a); that Policy is part

of and is incorporated into these Rules by this reference. The Privacy Policy may be amended at any time, and any amendment becomes effective when posted on that Napa EBB website.

- (d) The Terms of Use posted on the Napa EBB website www.napabracebolt.com are binding on homeowners, Participating Homeowners, contractors, Participating Contractors, and design professionals hired by Participating Homeowners; those Terms are part of and are incorporated into these Rules by this reference. The Terms of Use may be amended at any time, and any amendment becomes effective when posted on that Napa EBB website.

1.13 Contractors and Design Professionals

Contractors and design professionals hired by Participating Homeowners are not selected by, approved by, governed by, or in any way the responsibility of CRMP or Napa EBB. The Contractor Directory on the Napa EBB website, referred to in Section 2.1, is not an endorsement or approval of any Participating Contractor. Napa EBB has no obligation to maintain, keep current, or monitor the Contractor Directory or monitor the licensing, financial condition, contracts, or competence of any Participating Contractor listed on the Contractor Directory or any other contractor or any design professional hired by a Participating Homeowner.

Section 2 – Participating Contractors

2.1 Contractor Directory

2.1.1 The “Contractor Directory” on the Napa EBB website is a list of California-licensed contractors in good standing that have one or more employees, workers, or other associated personnel who have (a) successfully reviewed the six FEMA (Federal Emergency Management Agency) training videos for seismic retrofit work and (b) passed all related quizzes associated with each such video. Those contractors who have done so are called “Participating Contractors”.

- ✓ ***Napa EBB offers the Contractor Directory on its website as a convenience and a resource for Participating Homeowners—the listing in that Directory of a contractor who has become a Participating Contractor does not constitute CRMP’s or Napa EBB’s endorsement, approval, or recommendation of that Participating Contractor.***

2.1.2 To be included in the Contractor Directory, a licensed contractor must:

- (a) have one or more employees, workers, or other associated personnel who have successfully completed the FEMA training videos and quizzes offered on the EarthquakeBraceBolt.com website;
- (b) register on the EarthquakeBraceBolt.com website as a “Participating Contractor” and maintain an online EBB account;
- (c) affirm on the Contractor Dashboard that the contractor is a California-licensed contractor in good standing in a field reasonably related to residential-retrofit work on dwellings in California and have that standing accurately reflected on California’s [Contractors State License Board website](#);
- (d) agree, by signifying on the Contractor Dashboard, that neither CRMP nor Napa EBB will have any liability or responsibility for any work bid or performed by the contractor; and,
- (e) affirm by signifying on the Contractor Dashboard that neither the contractor, or any of its principals, or any of its affiliates is currently barred by the State of California or the federal government from bidding on, accepting, or performing any State of California or federal-government-funded public works contracts, either as a contractor or subcontractor.

2.1.3 To remain listed in the Contractor Directory, a Participating Contractor must:

- (a) comply with all applicable Napa EBB rules and requirements;
- (b) perform all Napa EBB retrofit work in accordance with Chapter A3 and ensure that an employee, worker, or other associated person who has taken and successfully completed the FEMA training videos and quizzes offered on the Napa EBB website, oversees and approves all Napa EBB retrofit work performed by the Participating Contractor;
- (c) provide Participating Homeowners with invoices that clearly and separately show charges for materials, taxes, labor, and overhead, profit, or margin;
- (d) ensure that each and every building permit for Napa EBB retrofit work includes the required references to Chapter A3 or a standard plan set (for a Type 1 Qualifying House) or the required references to plans prepared by a registered design professional (for a Type 2 Qualifying House);

- (e) provide on the Contractor Dashboard, upon Napa EBB request, evidence of (1) a current California contractor's license and (2) a current Contractor Bond or Bond of Qualifying Individual, or both, that meets the statutory requirement, and retain evidence of current workers' compensation insurance for all employees;
 - (f) not be barred or have any of its principals or affiliates barred by the State of California or the federal government from bidding on, accepting, or performing any State of California or federal-government-funded public works contracts, either as a contractor or subcontractor; and
 - (g) demonstrate a commitment to work within the local jurisdiction's building-construction permitting and inspection processes.
- ✓ In its sole discretion, Napa EBB may remove a Participating Contractor from the Contractor Directory in the event Napa EBB determines that the Participating Contractor has failed to meet all of these requirements.
 - ✓ In its sole discretion, Napa EBB may remove a Participating Contractor who is using Napa EBB's trademark or Napa EBB's phrase "Brace + Bolt"—or any mark or phrase that is, in Napa EBB's sole opinion and discretion, reasonably similar to Napa EBB's registered marks—in any manner that implies that the Participating Contractor is affiliated with Napa EBB in any manner beyond its status as a Participating Contractor.
 - ✓ Napa EBB has no obligation to maintain, keep current, or monitor the licensing, financial condition, contracts, or competence of any Participating Contractor listed on the Contractor Directory or any other contractor hired by a Participating Homeowner.

2.2 Advertising

Participating Contractors are permitted to use language in their marketing and sales materials that describes their successful completion of the FEMA training videos and testing offered on the Napa EBB website. In no instance and under no circumstances may a Participating Contractor use language indicating "approval", "endorsement", "qualified", or "referred" by Napa EBB in marketing or sales materials.

2.3 Personal Information, Privacy Policy, and Terms of Use

- (a) The information that Napa EBB and CRMP collect, maintain, and use includes, but is not limited to, information regarding:
- ✓ personal information about homeowners, Participating Homeowners, contractors (and their employees and subcontractors), and design professionals;
 - ✓ applications for building permits and building permits;
 - ✓ documentation of costs and materials associated with the seismic-retrofit work;
 - ✓ information about houses belonging to homeowners and Participating Homeowners; and
 - ✓ photographs of houses and of the seismic-retrofit work.
- (b) The Privacy Policy posted on the Napa EBB website www.napabracebolt.com pertains to the information described in Subsection 2.3(a); that Policy is part of and is incorporated into these Rules by this reference. The Privacy Policy may be amended at any time, and any amendment becomes effective when posted on that Napa EBB website.
- (c) The Terms of Use posted on the Napa EBB website www.napabracebolt.com are binding on homeowners, Participating Homeowners, contractors, Participating Contractors, and design professionals hired by Participating Homeowners; those Terms are part of and are incorporated into these Rules by this reference. The Terms of Use may be amended at any time, and any amendment becomes effective when posted on that Napa EBB website.
- (d) Any Participating Contractor who does not agree that this information may be so collected, maintained, and used for the purposes described in the Privacy Policy and Terms of Use referred to below may not become or remain a Participating Contractor.

Section 3 – Dispute Resolution

By applying to participate or participating in Napa EBB, homeowners, Participating Homeowners, and Participating Contractors agree to resolve any dispute or controversy with, or claim against, CRMP or Napa EBB according to the Terms of Use posted on the Napa EBB website.

3.1 Informal Procedure

In the event a controversy or claim arises out of the use of the Napa EBB website or participation in Napa EBB, a homeowner, Participating Homeowner, or Participating Contractor may contact Napa EBB and discuss the matter informally with the managing director or her designee. If the controversy or claim is not resolved through that discussion, any party who still feels aggrieved may send a letter to the managing director.

The managing director or her designee will meet, in person or by telephone, or both, with the parties within 10 business days of receipt of the letter or such longer period as may be mutually acceptable.

The managing director will provide a written decision within 20 days of the conclusion of the meeting.

Homeowners, Participating Homeowners, and Participating Contractors are not required to follow this informal dispute-resolution procedure, and following this informal dispute resolution procedure does not prevent them from initiating the arbitration procedure described in section 3.2.

3.2 Mandatory Arbitration

By using the Napa EBB website or by participating in any way in any Napa EBB program, homeowners, Participating Homeowners, and Participating Contractors agree that any claim or controversy arising out of their use of the Napa EBB website or participating in Napa EBB—that is not settled or resolved by use of the Informal Procedure in Subsection 3.1—must be settled solely by arbitration administered by the American Arbitration Association in accordance with its [Home Construction Arbitration Rules](#), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

In doing so, homeowners, Participating Homeowners, and Participating Contractors, and each of them, acknowledge that (1) each is giving up the right to sue in court, including the right to trial by jury, except as provided by the rules of the American Arbitration Association; (2) arbitration awards are generally final and binding, and the ability to have a court reverse or modify an arbitration award is limited; (3) the ability to obtain documents, witness statements, and other discovery is generally more limited in arbitration than in court proceedings; (4) the arbitrators do not have to explain the reasons for their award; and (5) the rules of the American Arbitration Association may impose time limits for bringing a claim in arbitration.

Section 4 – Contact Information

Please contact the Managing Director if you have questions.

Sheri Aguirre, Managing Director
California Residential Mitigation Program
801 K Street
Sacramento, CA 95814
Toll free: (877) 232-4300

For general questions about Napa EBB, email to:
info@earthquakebracebolt.com

Or visit the Napa EBB website at:
www.napabracebolt.com