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## **Unit 2**

### The BCA Requirement

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## Objectives

At the end of this unit, participants will be able to:

- Describe the statutory and regulatory drivers behind FEMA's BCA requirement.
- Explain how BCA can help with project planning and execution.

## Scope

- Unit 2 Overview & Objectives
- FEMA's BCA requirement
- Statutory and regulatory drivers
- The Stafford Act
- 44 CFR, Parts 78 and 206 Subpart N
- OMB Circular A-94
- Other reasons to do a BCA
- How do we know that BCAs work?
- What types of projects require a BCA?
- Unit 2 Review

## Methodology

This unit will be delivered as an in-person classroom course, and will use a combination of lecture and discussion.

The instructor will introduce the unit and then go through each slide, pausing for questions and short discussion if needed. The instructor should also prompt students to follow along in their Student Manuals.

## Time Plan

A suggested time plan for each topic in this unit is shown below. More or less time may be required, based on the experience level of the group.

- Unit 2 Overview and Objectives (5 minutes)
- FEMA's BCA requirement (3 minutes)
- Statutory and regulatory drivers (2 minutes)
- The Stafford Act (5 minutes)
- 44 CFR (5 minutes)
- OMB Circular A-94 (5 minutes)
- Other reasons to do a BCA (5 minutes)
- How do we know that BCAs work? (3 minutes)
- What types of projects require a BCA? (2 minutes)
- Unit 2 Review (5 minutes)

**Total Time (Estimated): 40 minutes**

## Materials

- Unit 2 Visuals
- Unit 2 Instructor Guide

- Unit 2 Student Manual
- Whiteboard or easel paper, markers (if available)
- Internet connection

**Unit 2 Overview**

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## Unit 2 Overview

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- Describe the statutory and regulatory requirements for BCAs for FEMA mitigation projects.
- Introduce students to relevant content in statute and regulations.
- Discuss the other advantages of conducting BCAs for mitigation projects.

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*Visual 1: Unit 2 Overview*

**Instructor:**

In this unit we will cover several topics:

- We will talk about the statutory and regulatory requirements for FEMA BCAs.
- We will also introduce you to the relevant content in statute and regulations.
- Finally, we will discuss the other advantages of conducting BCAs for mitigation projects.

**Unit 2 Objectives**

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## Unit 2 Objectives

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- Students should be able to describe the statutory and regulatory drivers behind FEMA's BCA requirement.
- Students should be able to explain how BCA can help with project planning and justification.

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*Visual 2: Unit 2 Objectives*

**Instructor:**

The purpose of this unit is for you to become familiar with the statutory and regulatory drivers behind FEMA's BCA requirement. At the end of this unit, you should be able to:

- Describe the statutory and regulatory drivers behind FEMA's BCA requirement.
- Explain how BCA can help with project planning and execution.

**FEMA's BCA Requirement**

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## **FEMA's cost-effectiveness requirement**

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Now that you've learned some basic concepts behind BCA, let's discuss:

- Why FEMA requires BCAs for federally-funded hazard mitigation projects.
- What kinds of projects require BCAs.

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*Visual 3: FEMA's cost-effectiveness requirement*

**Instructor:**

Now that you've learned some basic concepts behind BCA, let's discuss why FEMA requires BCAs for federally-funded mitigation projects, and what kinds of projects require BCAs.

Contrary to what you may have heard, it's not to make your project applications more difficult!

## FEMA's BCA Requirement

## FEMA's cost-effectiveness requirement, cont.

- Whether FEMA, state, local, territorial, or tribal staff, it is our duty to exercise responsible stewardship of taxpayer dollars.
  - The legislative branch, through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, tells us that we *must* do this.
  - Meanwhile the executive branch, through Title 44 Code of Federal Regulations (44 CFR) and Office of Management and Budget (OMB) Circular A-94, tells us *how*.



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*Visual 4: FEMA's cost-effectiveness requirement, cont.*

**Instructor:**

Whether FEMA, state, local, territorial, or tribal staff, it is our duty to exercise responsible stewardship of taxpayer dollars.

Let's think back to our civics or government class in grade school, and how we learned about the three branches of government. That plays out here with the BCA requirement.

The legislative branch, through the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") tells us that we must be cost-effective with hazard mitigation projects.

Meanwhile, the executive branch, through Title 44 Code of Federal Regulations ("44 CFR") and OMB Circular A-94, tells us how – by doing a Benefit-Cost Analysis.

**Statutory and Regulatory Drivers**

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## Statutory and regulatory drivers

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- Statutory (actual law):
  - Stafford Act
- Regulatory (“administrative law”):
  - 44 CFR: Parts 78 and 206 Subpart N
- Other:
  - OMB Circular A-94

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*Visual 5: Statutory and regulatory drivers*

**Instructor:**

The statutory – that is, actual law—requirement for cost-effectiveness comes from the Stafford Act.

Regulatory (sometimes referred to as “administrative law”) requirements come from 44 CFR Parts 78 and 206 Subpart N.

Finally, we have the White House Office of Management and Budget (OMB)’s Circular A-94, which is an instruction from the executive branch which gives specific guidance on how to conduct BCA for federal programs.

Let’s discuss each of these in more detail.

## The Stafford Act

## The Stafford Act

- Act of Congress governing disaster relief
- Section 203 (PDM): “The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures **that are cost-effective...**”
- Section 404 (HMGP): “The President may contribute up to 75 percent of the cost of hazard mitigation measures **which the President has determined are cost-effective...**”

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 95-284, as amended, 42 U.S.C. 5121 et seq., and Related Authorities	
United States Code, Title 42, The Public Health and Welfare, Chapter 51, Disaster Relief/ 5121, Not Related to Section 5121 or 5122, Chapter 51, Disaster Relief	
<b>Title I – Findings, Declarations and Definitions</b>	
Sec. 5111. Congressional Findings and Declarations (42 U.S.C. 5121).....	1
Sec. 5112. Definitions (42 U.S.C. 5122).....	1
Sec. 5113. References (42 U.S.C. 5123).....	3
<b>Title II – Disaster Preparedness and Mitigation Assistance</b>	
Sec. 201. Federal and State Disaster Preparedness Program (42 U.S.C. 5120).....	4
Sec. 202. Disaster Planning (42 U.S.C. 5121).....	5
Sec. 203. Disaster Hazard Mitigation (42 U.S.C. 5122).....	5
Sec. 204. Emergency Task Force (42 U.S.C. 5123).....	30
<b>Title III – Major Disaster and Emergency Assistance Administration</b>	
Sec. 301. Waiver of Administrative Conditions (42 U.S.C. 5141).....	11
Sec. 302. Coordinating Officers (42 U.S.C. 5142).....	11
Sec. 303. Emergency Support and Response Teams (42 U.S.C. 5143).....	12
Sec. 304. Reimbursement of Federal Agencies (42 U.S.C. 5144).....	12
Sec. 305. Nonapplicability of Federal Government (42 U.S.C. 5145).....	13
Sec. 306. Professions of Disaster (42 U.S.C. 5146).....	13
Sec. 307. Use of Local Plans and Individuals (42 U.S.C. 5147).....	13
Sec. 308. Nonadministration in Disaster Assistance (42 U.S.C. 5148).....	14
Sec. 309. Use and Coordination of Relief Organizations (42 U.S.C. 5149).....	15
Sec. 310. Priority to Certain Applicants for Public Facility and Public Housing Assistance (42 U.S.C. 5150).....	15
Sec. 311. Insurance (42 U.S.C. 5151).....	16
Sec. 312. Publication of List of Disaster Assistance (42 U.S.C. 5152).....	16
Sec. 313. Duplication of Benefits (42 U.S.C. 5153).....	16
Sec. 314. Health and Welfare (42 U.S.C. 5154).....	16
Sec. 315. Health (42 U.S.C. 5155).....	16
Sec. 316. Health (42 U.S.C. 5156).....	16
Sec. 317. Availability of Benefits (42 U.S.C. 5157).....	16
Sec. 318. Protection of Environment (42 U.S.C. 5158).....	16
Sec. 319. Recovery of Assistance (42 U.S.C. 5159).....	16
Sec. 320. Public and Intergovernmental (42 U.S.C. 5160).....	16
Sec. 321. Advances of State Federal Share (42 U.S.C. 5161).....	16
Sec. 322. Limitation on Use of Shifting Funds (42 U.S.C. 5162).....	16
Sec. 323. Rules and Regulations (42 U.S.C. 5163).....	16
Sec. 324. Migration Planning (42 U.S.C. 5164).....	16
Sec. 325. Minimum Standards for Public and Private Structures (42 U.S.C. 5165).....	16

[Link](#)

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### Visual 6: The Stafford Act

#### Instructor:

The Stafford Act is an act of Congress governing disaster relief.

Section 203, which governs the Pre-Disaster Mitigation (PDM) program, states that: “The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of predisaster hazard mitigation measures that are cost-effective...”

Section 404, which governs Hazard Mitigation activities, states that: “The President may contribute up to 75 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major disaster.”



*If time allows, you may want to click on the link in the presentation to show students what the Stafford Act looks like in print, and where they can find a copy. (This will require an internet connection.)*

For a link to the Stafford Act, click here: <https://www.fema.gov/media-library/assets/documents/15271>

## 44 CFR

## 44 CFR

- The CFR is the codification of the general and permanent rules and regulations of the federal government. 44 CFR covers emergency management and assistance.
- Parts 78 (Flood Mitigation Assistance), and 206 Subpart N (HMGP) state that cost-effectiveness is a requirement of receiving mitigation grant funds.



[Link](#)

Visual 7: 44 CFR

**Instructor:**

The CFR is the codification of the general and permanent rules and regulations of the federal government.

44 CFR covers emergency management and assistance.

Part 78 of 44 CFR covers the Flood Mitigation Assistance (FMA) program, and 206 Subpart N covers the Hazard Mitigation Grant Program (HMGP). Both parts state that cost-effectiveness is a requirement of receiving mitigation grant funds. We'll cover excerpts from each section on the next two slides.



*If time allows, you may want to click on the link in the presentation to show students what 44 CFR looks like in print, and where they can find a copy. (This will require an internet connection.)*

For a link to 44 CFR, click here: <https://www.gpo.gov/fdsys/pkg/CFR-2002-title44-vol1/pdf/CFR-2002-title44-vol1.pdf>

44 CFR Part 78

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## 44 CFR Part 78

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### §78.11 Minimum project eligibility criteria (FMA)

- The identification of a project or activity in an approved Flood Mitigation Plan does not mean it meets FMA eligibility criteria. Projects must:
  - (a) Be cost-effective, not costing more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future floods were to occur. Both costs and benefits are computed on a net present value basis.

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*Visual 8: 44 CFR Part 78*

**Instructor:**

We will not go too far into the weeds, but I'd like to point out the relevant text within 44 CFR that references the cost-effectiveness requirement.

44 CFR Part 78 discusses the minimum project eligibility criteria for the FMA program.

It states that projects must: "Be cost-effective, not costing more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future floods were to occur. Both costs and benefits are computed on a net present value basis."

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**44 CFR Part 206 Subpart N**

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## 44 CFR Part 206, Subpart N

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### §206.434 Minimum project criteria (HMGP)

- (c) To be eligible for the Hazard Mitigation Grant Program, a project must:
  - (5) Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster. The grantee must demonstrate this by documenting that the project...will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur. Both costs and benefits will be computed on a net present value basis.

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*Visual 9: 44 CFR Part 206 Subpart N*

**Instructor:**

In addition to Part 78, 44 CFR Part 206 Subpart N discusses the minimum project eligibility criteria for the HMGP program in almost identical language.

Projects must: “Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster. The grantee must demonstrate this by documenting that the project...will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur. Both costs and benefits will be computed on a net present value basis.”

## OMB Circular A-94

## OMB Circular A-94

- Purpose is to “promote efficient resource allocation through well-informed decision-making by the Federal Government.”
- Circular A-94 provides guidance on how to perform BCA.
- FEMA’s BCA Toolkit, which we will discuss more in Unit 4, was developed in accordance with the guidance in Circular A-94 to simplify the BCA process.



[Link](#)

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*Visual 10: OMB Circular A-94*

**Instructor:**

Finally, we will discuss OMB Circular A-94.

As the document itself states, the purpose of Circular A-94 is to “promote efficient resource allocation through well-informed decision-making by the Federal Government.”

Circular A-94 provides guidance on how to perform a BCA. The document is fairly technical and heavy on the economics-speak, so we won’t go into the details.

However, FEMA’s BCA Toolkit, which we will discuss more in Unit 4, was developed in accordance with the guidance in Circular A-94 to simplify the BCA process for applicants and subapplicants.

So, when you use the BCA Toolkit to do the BCA for your project, you can be sure it complies with the requirements in Circular A-94.



*If time allows, you may want to click on the link in the presentation to show students what Circular A-94 looks like in print, and where they can find a copy. (This will require an internet connection.)*

For a link to OMB Circular A-94, click here:

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A94/a094.pdf>

OMB Circular A-94

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## OMB Circular A-94, cont.

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- “Analyses should include comprehensive estimates of the expected benefits and costs to society based on established definitions and practices for program and policy evaluation. Social net benefits, **and not the benefits and costs to the Federal Government**, should be the basis for evaluating government programs or policies that have effects on private citizens or other levels of government.”

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*Visual 11: OMB Circular A-94, cont.*

**Instructor:**

Again, we won't go into the details of Circular A-94 but here is a passage referencing the importance of conducting a thorough BCA.

Per Circular A-94: “Analyses should include comprehensive estimates of the expected benefits and costs to society based on established definitions and practices for program and policy evaluation. Social net benefits, and not the benefits and costs to the Federal Government, should be the basis for evaluating government programs or policies that have effects on private citizens or other levels of government.”

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**Other Reasons to do a BCA**

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## Other reasons to do a BCA

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- BCAs can help you set priorities among projects.
- BCAs help you determine whether a project is a good investment for the public.
- BCAs are also a powerful tool for “selling” good mitigation projects to the communities involved.



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*Visual 12: Other reasons to do a BCA*

**Instructor:**

BCA helps you determine whether a project is a good investment for the public.

BCA can also help you set priorities among projects. Often, there are more good projects than there is money to fund them. BCA helps ensure that society gets the best return on its investment in mitigation—that is, the greatest possible reduction in future damages and losses.

While many of you will conduct BCAs primarily in order to meet the statutory requirement, keep in mind that BCA is also a powerful tool for “selling” good mitigation projects.



*Ask students the following:*

- Can you think of any other good reasons to do a BCA for your mitigation project?

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## How do we know that BCAs work?

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### How do we know that BCAs work?

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- BCAs are theoretical – how can we show that we are meeting OMB’s requirements? How can we tell if a project is “successful”? How can we show that a project did what it was supposed to do?
- Using Loss Avoidance Studies after a disaster, we can calculate how much was avoided in damages through the projects and show cost-effectiveness.
- Nationwide, mitigation projects save \$6 for every \$1 invested—**mitigation works!**

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*Visual 13: How do we know that BCAs work?*

#### **Instructor:**

BCAs are theoretical – how can we show that we are meeting OMB’s requirements? How can we tell if a project is “successful”? How can we show that a project did what it was supposed to do?

Using Loss Avoidance Studies after a disaster, we can calculate how much was avoided in damages through the projects and show cost-effectiveness.

Nationwide, mitigation projects save \$6 for every \$1 invested—mitigation works!

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**How do we know that BCAs work?**

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## What types of projects require a BCA?

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- Almost all mitigation projects require a BCA, including but not limited to:
    - Structural and non-structural retrofits
    - Generators
    - Physical protective measures
  - Some project types that meet certain criteria qualify for “pre-calculated benefits” and don’t require a standalone BCA. We will discuss those in Unit 4.
  - There are also exceptions for projects for which benefits and costs can’t be quantified, such as:
    - Mitigation planning
    - Public education and outreach
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*Visual 14: What types of projects require a BCA?*

**Instructor:**

Almost all mitigation projects require a BCA, including but not limited to:

- Structural and non-structural retrofits
- Generators
- Physical protective measures

Some project types that meet certain criteria qualify for “pre-calculated benefits” and don’t require a standalone BCA. We will discuss those in Unit 4.

There are also exceptions for projects for which benefits and costs can’t be quantified, such as:

- Mitigation planning
- Public education and outreach

In addition, HMGP 5% Initiative projects do not require a BCA.

**Unit 2 Review**

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## Unit 2 Review

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- The statutory and regulatory drivers behind FEMA's BCA requirement include:
  - The Stafford Act
  - 44 CFR
  - OMB Circular A-94
- In addition to the above, there are a number of good reasons to conduct a BCA for your hazard mitigation project.

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*Visual 15: Unit 2 Review*

**Instructor:**

Recall that in this unit, we discussed the statutory and regulatory drivers behind FEMA's BCA requirement. They include:

- The Stafford Act
- 44 CFR
- OMB Circular A-94

In addition to the above, we also discussed good reasons to conduct a BCA for your hazard mitigation project.