individuals with handicaps to discrimi-
nation on the basis of handicap. How-
ever, the programs or activities of enti-
ties that are licensed or certified by 
the agency are not, themselves, cov-
ered by this part.

(c) The exclusion of nonhandicapped 
persons from the benefits of a program 
limited by Federal statute or Execu-
tive order to individuals with handi-
caps or the exclusion of a specific class 
of individuals with handicaps from a 
program limited by Federal statute or 
Executive order to a different class of 
individuals with handicaps is not pro-
hibited by this part.

(d) The agency shall administer pro-
grams and activities in the most inte-
grated setting appropriate to the needs 
of qualified individuals with handicaps.

§§ 1200.131–1200.139 [Reserved]

§ 1200.140 Employment.

No qualified individual with handi-
caps shall, on the basis of handicap, be 
subjected to discrimination in employ-
ment under any program or activity 
conducted by the agency. The defini-
tions, requirements, and procedures of 
section 501 of the Rehabilitation Act of 
1973 (29 U.S.C. 791), as established by 
the Equal Employment Opportunity 
Commission in 29 CFR part 1614, shall 
apply to employment in federally con-
ducted programs or activities.

§§ 1200.141–1200.148 [Reserved]

§ 1200.149 Program accessibility: Dis-
 crimination prohibited.

Except as otherwise provided in 
§1200.150, no qualified individual with 
handicaps shall, because the agency’s 
facilities are inaccessible to or unus-
able by individuals with handicaps, be 
denied the benefits of, be excluded from 
participation in, or otherwise be sub-
jected to discrimination under any pro-
gram or activity conducted by the 
agency.

§ 1200.150 Program accessibility: Exis-
ting facilities.

(a) General. The agency shall operate 
each program or activity so that the 
program or activity, when viewed in its 
entirety, is readily accessible to and 
usable by individuals with handicaps. 
This paragraph does not—

(1) Necessarily require the agency to 
make each of its existing facilities ac-
cessible to and usable by individuals 
with handicaps;

(2) In the case of historic preserva-
tion programs, require the agency to 
take any action that would result in a 
substantial impairment of significant 
historic features of an historic prop-
erty; or

(3) Require the agency to take any 
action that it can demonstrate would 
result in a fundamental alteration in 
the nature of a program or activity or 
in undue financial and administrative 
burdens. In those circumstances where 
agency personnel believe that the pro-
posed action would fundamentally 
alter the program or activity or would 
result in undue financial and adminis-
trative burdens, the agency has the 
burden of proving that compliance with 
§1200.150(a) would result in such alter-
ation or burdens. The decision that 
compliance would result in such alter-
ation or burdens must be made by the 
agency head or his or her designee 
after considering all agency resources 
available for use in the funding and op-
eration of the conducted program or 
activity, and must be accompanied by 
a written statement of the reasons for 
reaching that conclusion. If an action 
would result in such an alteration or 
such burdens, the agency shall take 
any other action that result in such an 
alteration or such burdens but would 
nevertheless ensure that individuals 
with handicaps receive the benefits and 
services of the program or activity.

(b) Methods—(1) General. The agency 
may comply with the requirements of 
this section through such means as re-
design of equipment, reassignment of 
services to accessible buildings, assign-
ment of aides to beneficiaries, home 
visits, delivery of services at alternate 
accessible sites, alteration of existing 
facilities and construction of new fa-
cilities, use of accessible rolling stock, 
or any other methods that result in 
making its programs or activities read-
ily accessible to and usable by individ-
uals with handicaps. The agency is not 
required to make structural changes in 
existing facilities where other methods 
are effective in achieving compliance 
with this section. The agency, in mak-
ing alterations to existing buildings,
shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(2) Historic preservation programs. In meeting the requirements of §1200.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to individuals with handicaps. In cases where a physical alteration to an historic property is not required because of §1200.150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) Time period for compliance. The agency shall comply with the obligations established under this section by January 24, 1994, except that where structural changes in facilities are undertaken, such changes shall be made by November 26, 1996, but in any event as expeditiously as possible.

(d) Transition plan. In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by May 26, 1994, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency’s facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

§1200.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§1200.152–1200.159 [Reserved]

§ 1200.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(i) The agency shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(ii) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the individual with handicaps.

(iii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(b) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices