

# Take a number:

## *FOIA backlogs, wait times worsen at key environmental agencies*

By Benjamin Purper and Timothy B. Wheeler  
*SEJ Freedom of Information Task Force*

Since 1967, the Freedom of Information Act (FOIA) has helped the public exercise its right to know what its government is up to. Over the decades, it's also been an important tool for journalists who want to dig beneath agency press releases and public statements.

A pair of reporters used FOIA extensively, for instance, to document [threats to the nation's wetlands](#) from federal rules changes and from the U.S. Environmental Protection Agency ignoring its own scientists' warnings. Another investigative project filed FOIAs to document how [communities most impacted](#) by climate change are, in many cases, communities of color forced by housing discrimination to live at risk of flooding.

Yet, as veteran journalists can attest, getting government information through FOIA has grown increasingly time-consuming over the years, undermining its usefulness. Under the law, all federal agencies are required to respond to a FOIA request within 20 business days, unless there are "unusual circumstances." In reality, though, agencies take much longer than that to determine what if any documents they will provide and then to deliver them. Understaffed FOI operations in agencies haven't kept up with the volume and complexity of queries, forcing requesters to wait weeks, months and even years to get a response.

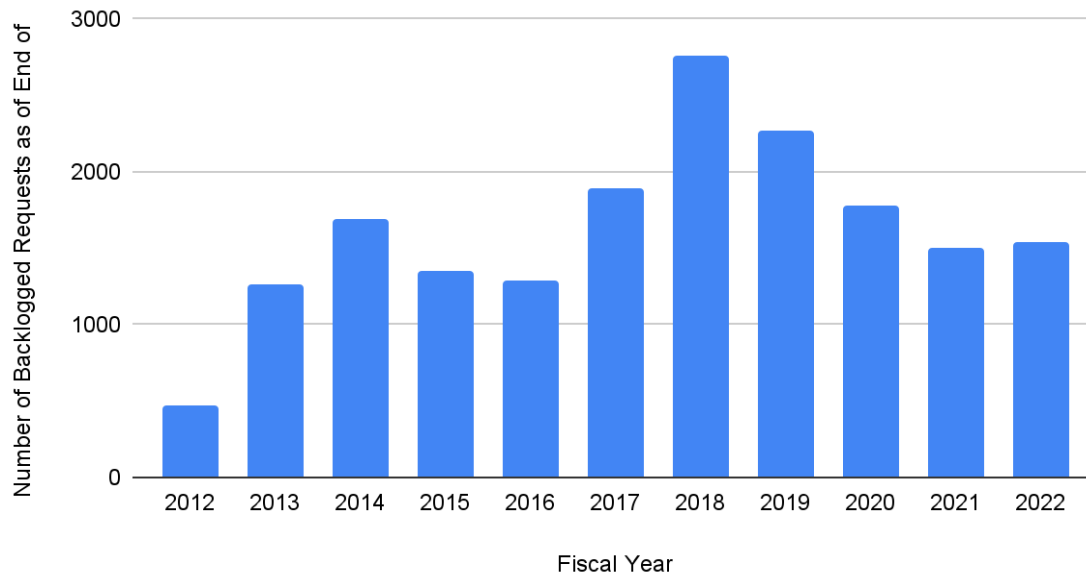
Congress and the agencies have at times acknowledged the problem and have pledged to reduce or even eliminate FOIA backlogs. Recently, the Society of Environmental Journalists checked agencies' annual FOIA compliance reports to see what progress has been made at those agencies with which environmental journalists frequently deal. We found some encouraging data but much more still trending in the wrong direction. EPA, for instance, has reduced its backlog considerably in the last few years, yet the number of pending FOIA requests at the Department of the Interior has continued to grow. At the end of fiscal 2022, DOI reported its backlog was 10 times what it had been a decade earlier. And although EPA and the Fish & Wildlife Service have reduced backlogs recently, the number of pending requests at each is still far higher than what it was in 2012. At the end of fiscal 2022, Interior had the eighth largest FOIA backlog of any federal agency, while EPA had the 13th biggest.

Hence, this report's title: "Take a Number." Read on for details, agency responses and experts' insights into the reasons for worsening backlogs and delays.

## Environmental Protection Agency

The [FOIA backlog at EPA](#) generally follows a bell curve over the last ten years of available data, peaking in fiscal year 2018 and trending generally downward since then. However, the backlog slightly increased between fiscal year 2021 and the most available data from 2022. Below are EPA's agency-wide numbers, including all regional districts and HQ.

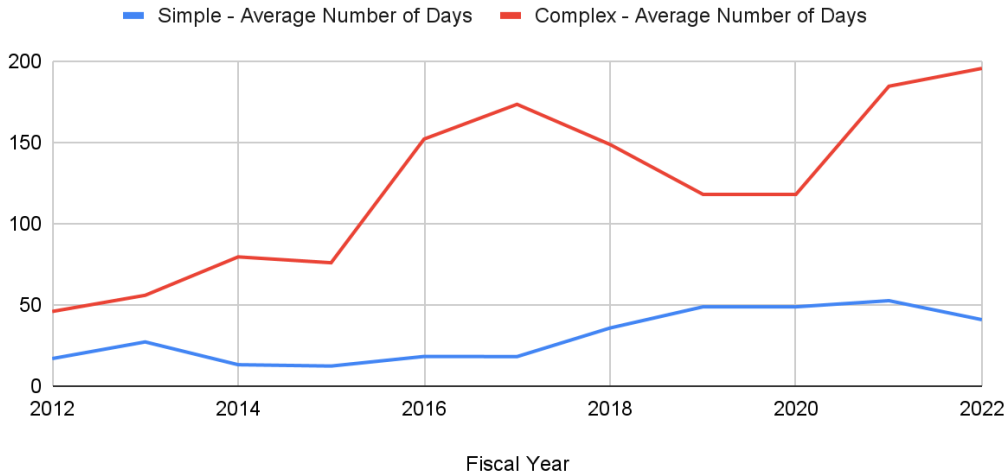
EPA: Number of Backlogged Requests as of End of Fiscal Year



*View the data [here](#).*

However, response times to FOIA requests have not followed the same trajectory. Average response times at the EPA fluctuated over the last decade, but were higher in 2022 than in 2012. Response times for complex requests hit a 10-year high last year.

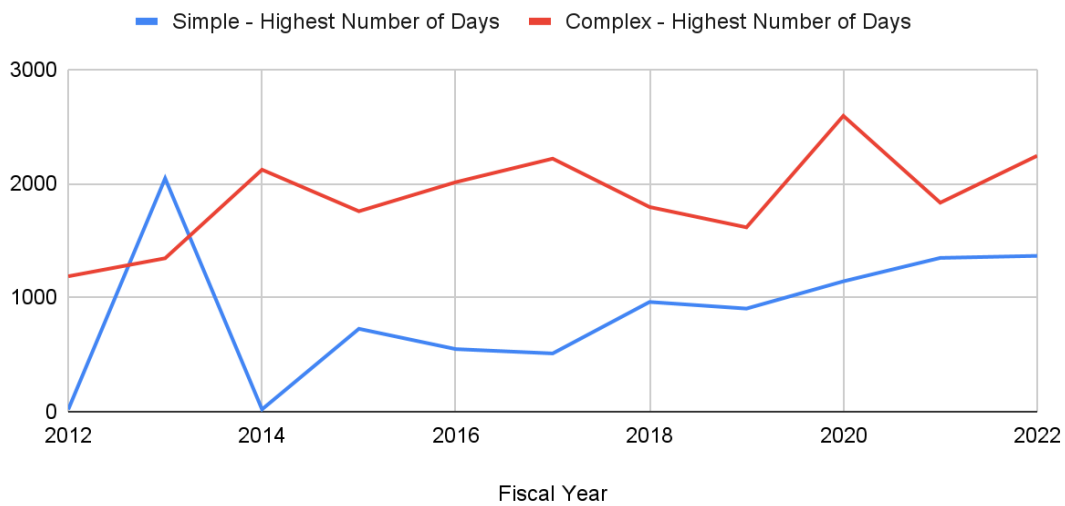
### EPA: Simple - Average Number of Days and Complex - Average Number of Days



*View the data [here](#).*

Still, these are the average number of days requesters received responses from the EPA. While requests can be processed within a day, many requesters had to wait much longer.

### EPA: Simple - Highest Number of Days and Complex - Highest Number of Days



*View the data [here](#).*

## **EPA's response**

“In FY 2022, EPA experienced lower momentum on backlog reduction because of delays in hiring and onboarding staff to replace certain key employees who retired or left the agency in offices with the highest backlogs,” said agency spokesperson Melissa Sullivan. “EPA is committed to achieve its Strategic Plan goal to eliminate the backlog of overdue FOIA requests by the end of FY2026.”

SEJ's WatchDog editor Joseph Davis dug into EPA's backlog in a [column last year](#) and found the agency's progress at that time was uneven.

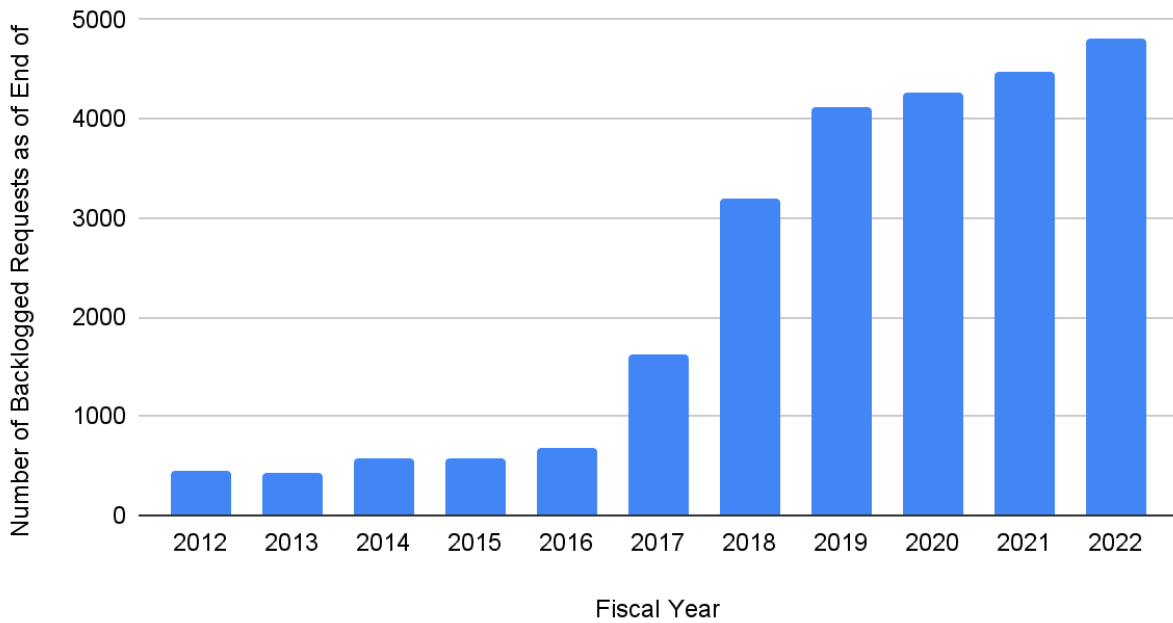
In 2019, the EPA [proposed an “update”](#) to its rules for handling Freedom of Information Act requests. More than three dozen media organizations, including SEJ, [objected to them](#) on procedural and substantive grounds. They alleged that one provision would “allow political appointees to claim that portions of a document are not responsive to a FOIA request or are exempt from disclosure,” which the groups charged “could encourage politicized, arbitrary, and otherwise unlawful handling of FOIA requests.”

In November 2022, EPA [proposed new revisions](#) to its FOIA rules. Three nonprofit groups complained that the changes “still permit unnecessary political meddling into EPA's FOIA process in complete contravention of government transparency and public accountability.” Public comment on them closed in December. View the comments [here](#). In an opinion column in February, SEJ WatchDog editor Joseph Davis [reviewed the proposed changes](#) and saw little improvement in them.

## Department of the Interior

Meanwhile, the Department of the Interior has seen its agency-wide FOIA backlog massively increase from 2012-2022, significantly overshadowing the EPA's.

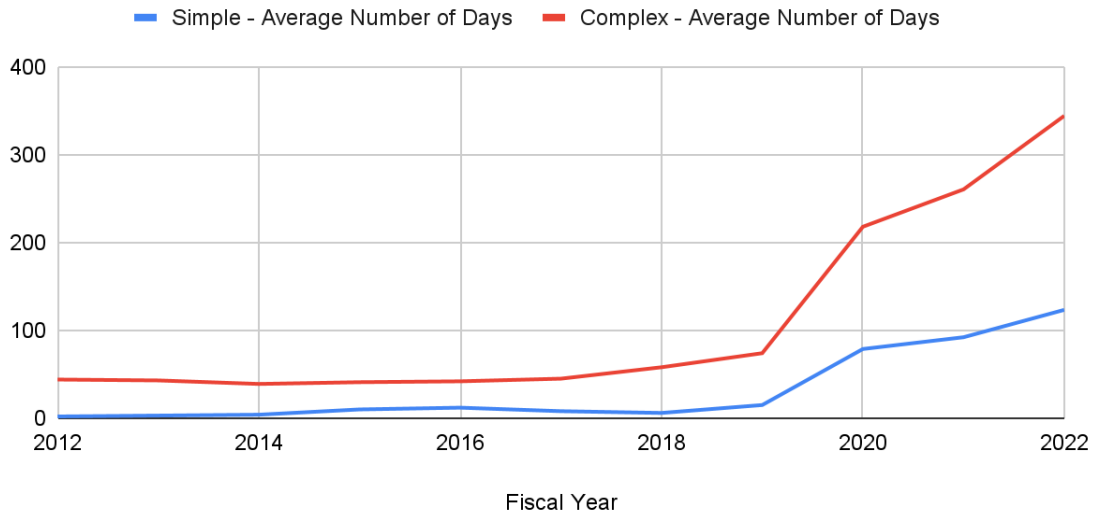
DOI: Number of Backlogged Requests as of End of Fiscal Year



View the data [here](#).

DOI's wait times also increased significantly in the most recent available data.

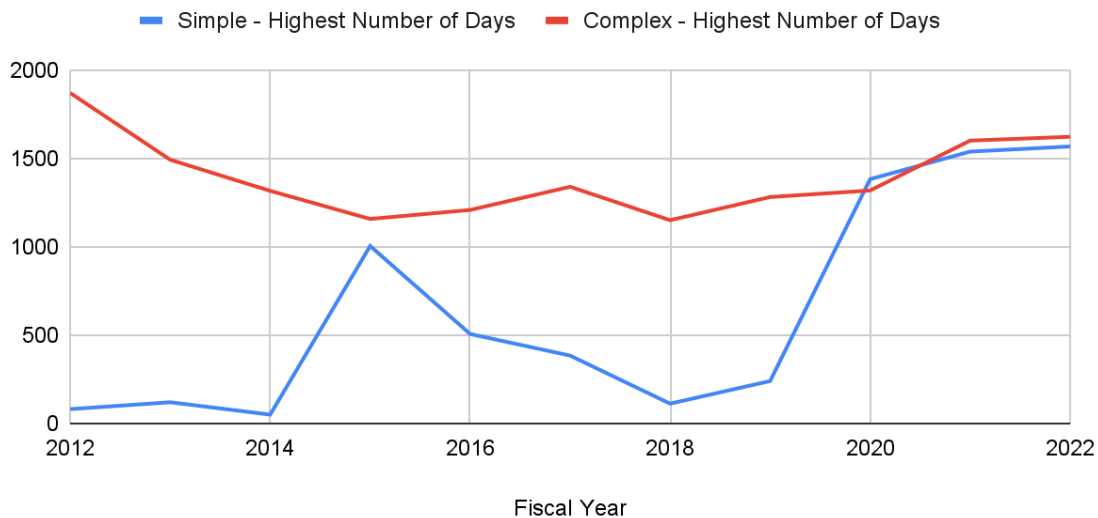
### DOI: Simple - Average Number of Days and Complex - Average Number of Days



*View the data [here](#).*

The highest number of days for DOI to process a request did not follow a consistent trend in this time period, but the large numbers here still offer some insight into how the agency is handling FOIA requests. Lately, some simple FOIA requests have taken as long as complex ones.

### DOI: Simple - Highest Number of Days and Complex - Highest Number of Days

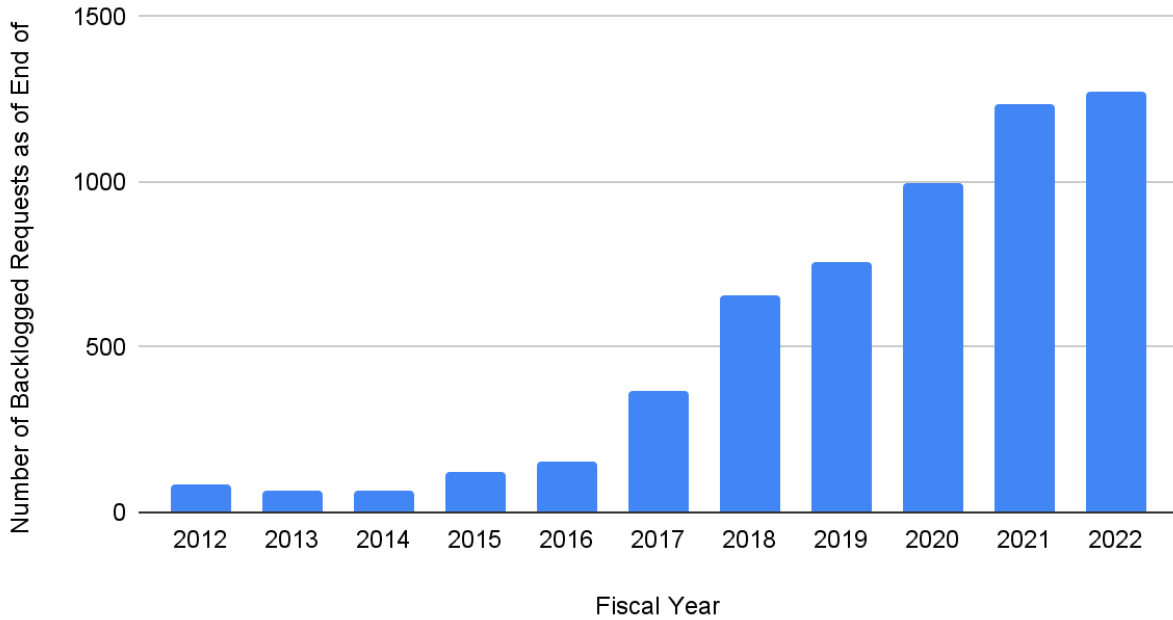


*View the data [here](#).*

## **Bureau of Land Management**

As a sub-agency within DOI, BLM hasn't seen the numbers its parent agency has. Still, the problem is getting worse there too.

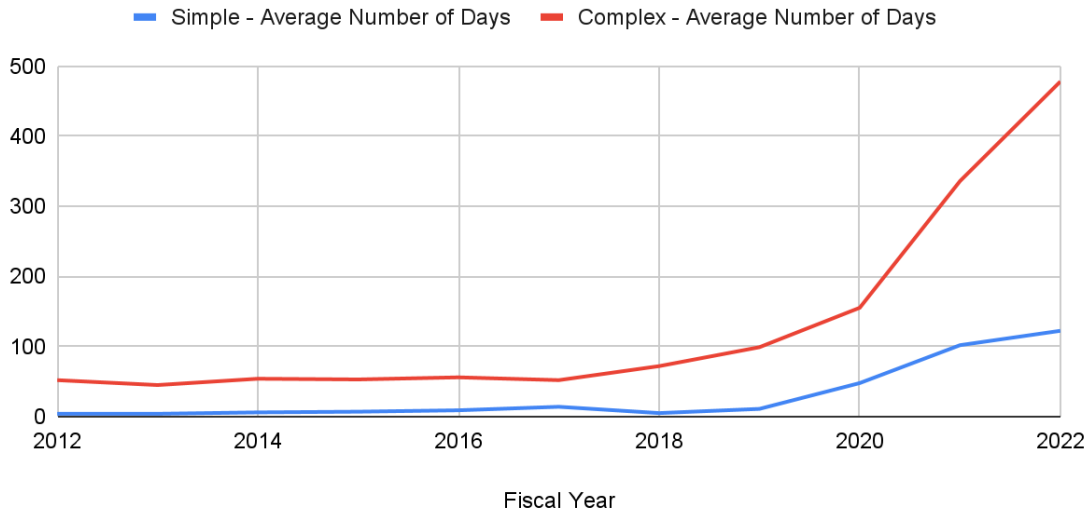
### BLM: Number of Backlogged Requests as of End of Fiscal Year



View the data [here](#).

Wait times have similarly worsened from 2012-2022.

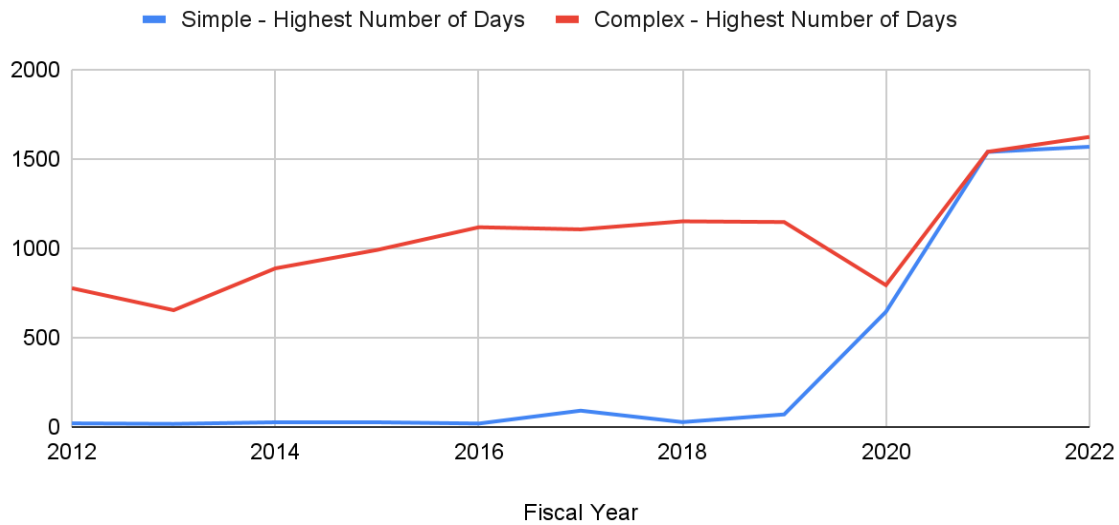
### BLM: Simple - Average Number of Days and Complex - Average Number of Days



*View the data [here](#).*

The trend of maximum wait times increasing continues here, too.

### BLM: Simple - Highest Number of Days and Complex - Highest Number of Days



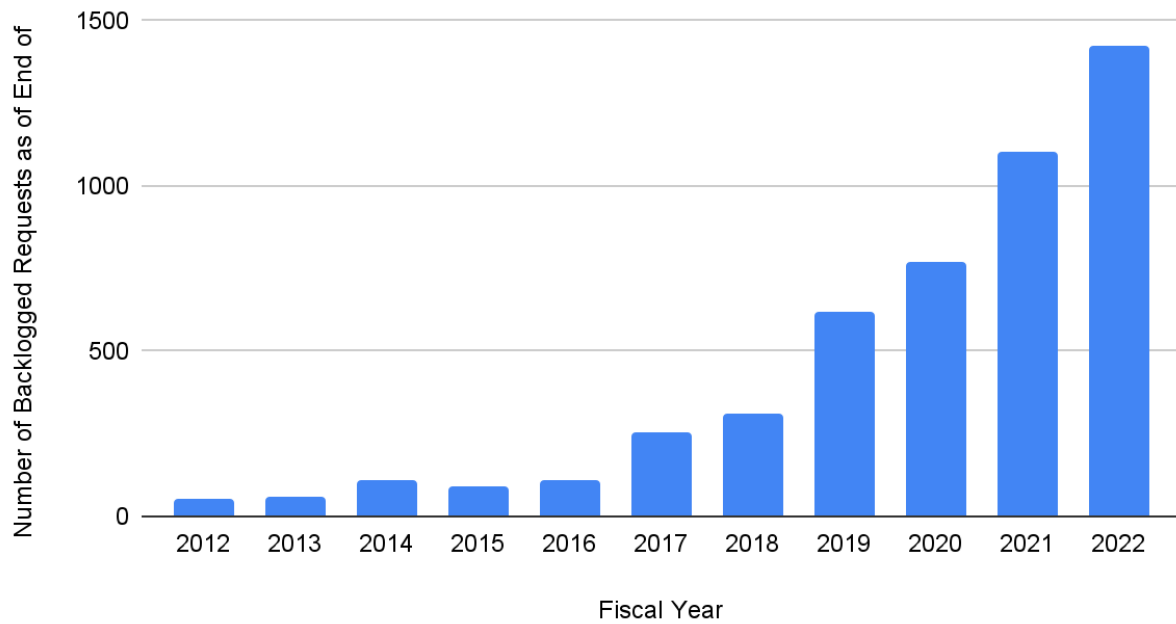
*View the data [here](#).*



## **National Park Service**

The National Park Service (NPS) is another sub-agency within DOI that has seen major, consistent increases in FOIA backlogs.

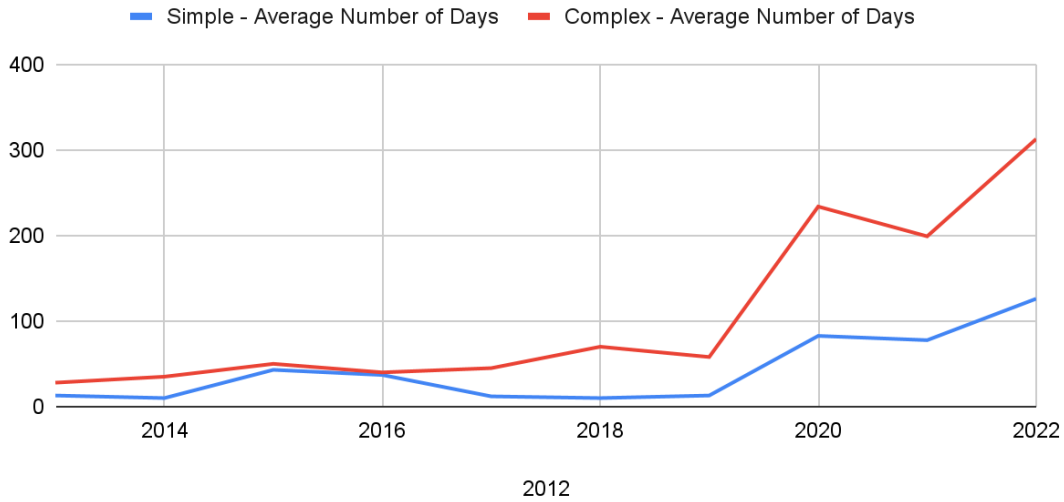
NPS: Number of Backlogged Requests as of End of Fiscal Year



View the data [here](#).

Average response times at NPS jumped significantly over the last few years and were at their highest in 2022 despite some progress the year before.

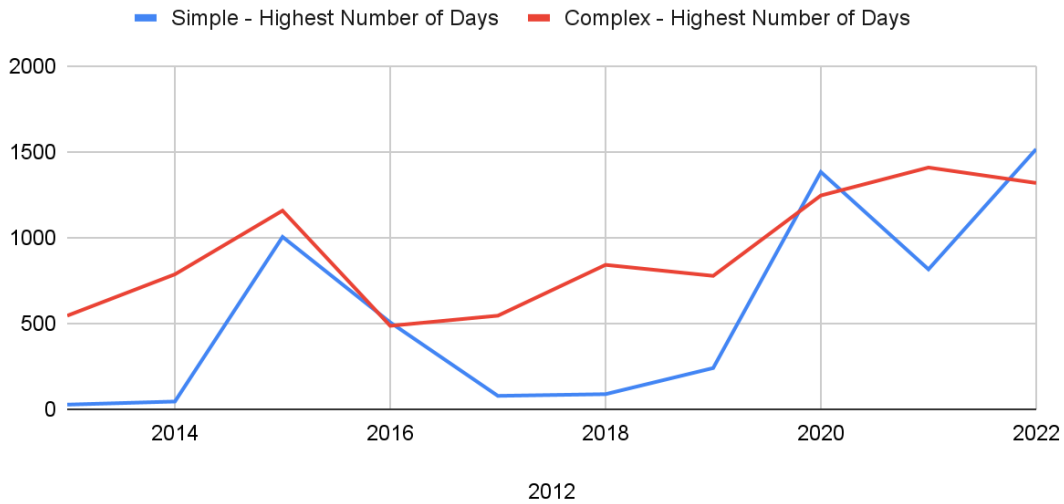
### NPS: Simple - Average Number of Days and Complex - Average Number of Days



View the data [here](#).

The longest response times for FOIAs at NPS are similar to other sub-agencies but are unusual in that some are longer for simple requests than complex requests — including in the most recent data from 2022.

### NPS: Simple - Highest Number of Days and Complex - Highest Number of Days

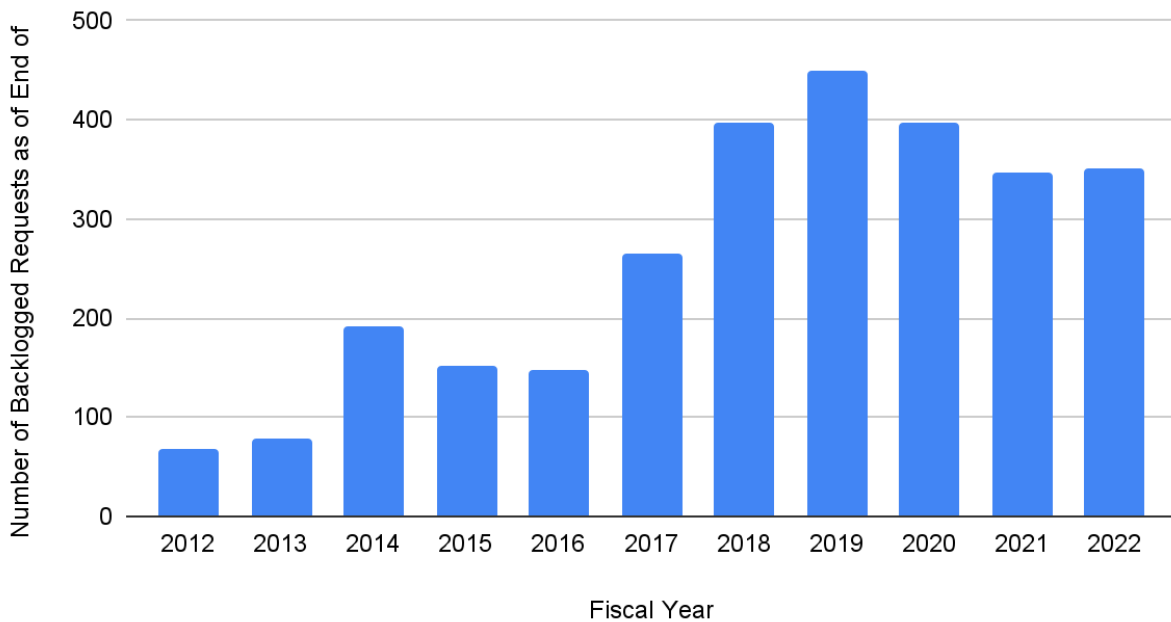


View the data [here](#).

## **Fish and Wildlife Service**

The U.S. Fish and Wildlife Service (FWS) has a relatively small backlog compared to its cohorts, but it has followed a similar growing trend over the last decade. The backlog grew during the Trump administration; it has since improved some, but it remained several times larger in FY 2021 and 2022 than it was in 2012.

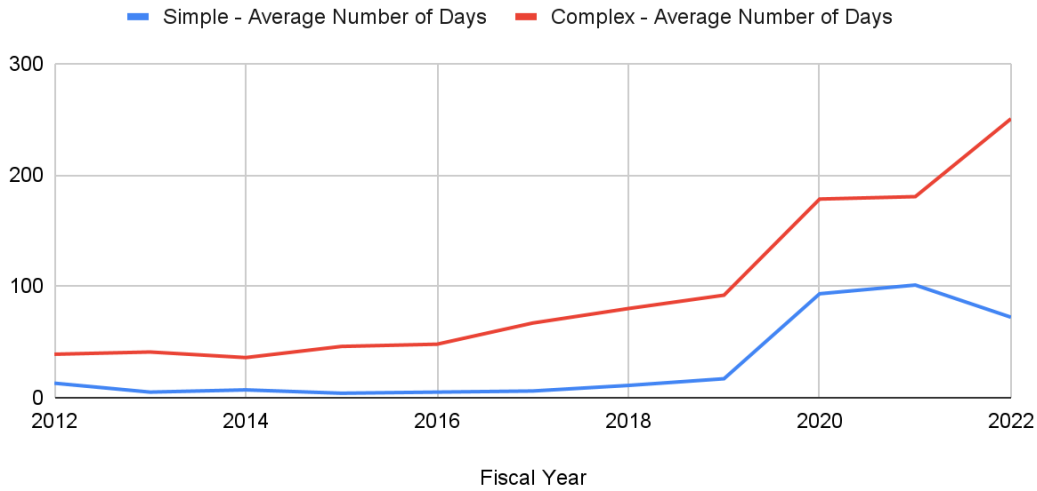
FWS: Number of Backlogged Requests as of End of Fiscal Year



View the data [here](#).

The same is true of wait times at FWS, which while shorter than the Interior agencies reviewed above have nevertheless trended longer over the last decade.

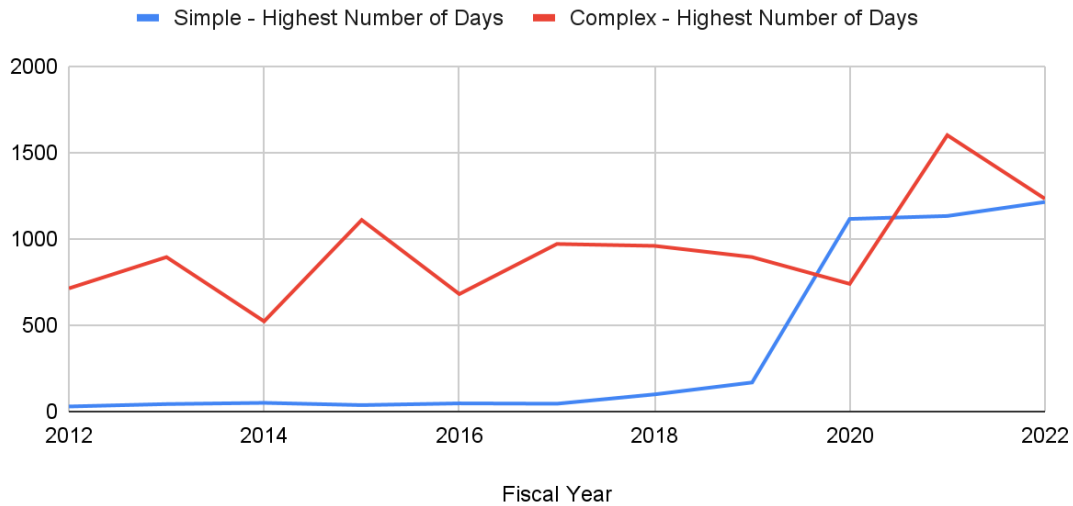
### FWS: Simple - Average Number of Days and Complex - Average Number of Days



*View the data [here](#).*

However, the FWS' maximum response times were much higher relative to the size of their backlog.

### FWS: Simple - Highest Number of Days and Complex - Highest Number of Days



*View the data [here](#).*

## DOI response

“The Interior Department has implemented systemic changes to improve the processing quality and capacity of the bureau FOIA offices and provide ongoing central governance and oversight,” said DOI communications director Melissa Schwartz. She said there has been a “significant increase” in requests, which has led to longer processing times. “Despite the increase in backlogged requests for some bureaus,” she noted, “many others were successful in reducing their backlogs.”

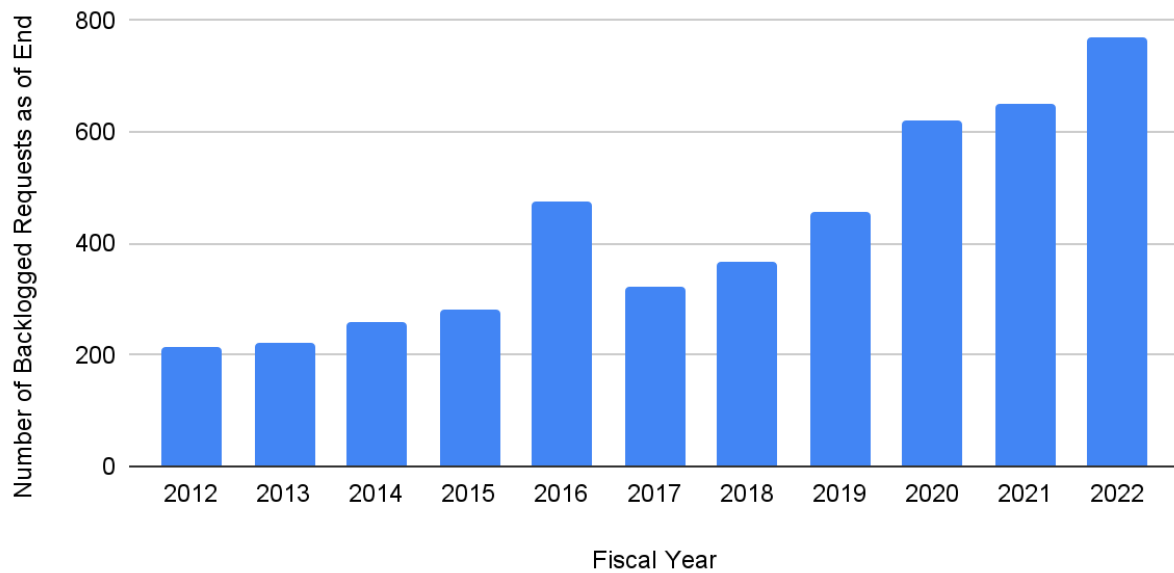
Department-wide, the number of FOIA requests at Interior has grown roughly five-fold since FY 2012. But both the backlog and response times, which both grew substantially during the Trump administration, have continued to increase in the Biden administration.

In 2018, citing a steep increase in FOIA requests, the Department of the Interior proposed revisions to its rules for handling them. They drew broad criticism from good government groups as well as from nearly 40 media organizations, including SEJ. SEJ WatchDog editor Joseph Davis [wrote at the time](#) that the [proposed rule change](#) “would not only impose limits on how much information a requester could ask for, but also authorizes Interior to refuse requests it found ‘burdensome’ or ‘unreasonable.’” When Interior finalized its rule change in 2019, it dropped some provisions allowing it to summarily reject FOIA requests. But it retained others that the [Reporters Committee for Freedom of the Press](#) still found “threaten to undermine the principal goal of FOIA.”

## **Forest Service**

The U.S. Forest Service, a sub-agency of the U.S. Department of Agriculture, also has a relatively small backlog compared to some other agencies. But the problem there has similarly worsened over the last decade.

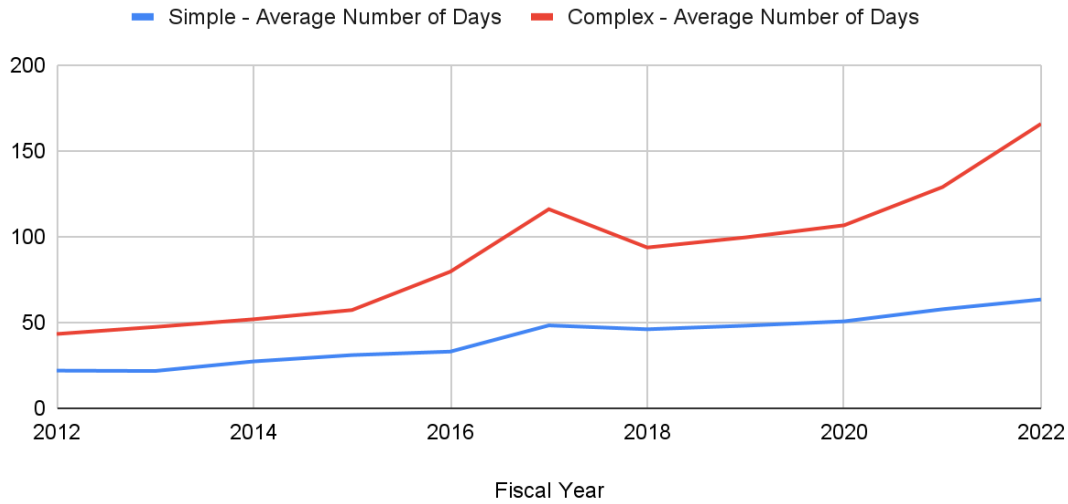
### USFS: Number of Backlogged Requests as of End of Fiscal Year



View the data [here](#).

Response times for simple and complex requests at the Forest Service have likewise followed an upward trend in the last ten years.

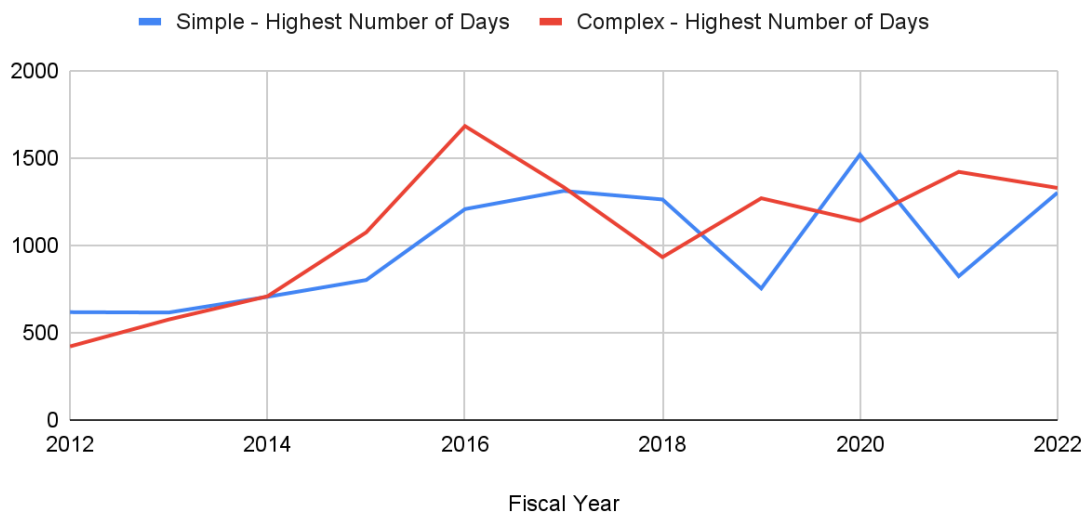
### USFS: Simple - Average Number of Days and Complex - Average Number of Days



View the data [here](#).

The maximum wait time for responses was not at its highest in 2022 as it was for some other agencies in this ten-year time period, but they still are significantly higher than in 2012.

### USFS: Simple - Highest Number of Days and Complex - Highest Number of Days



View the data [here](#).

## Causes of the backlog

It's clear that despite some progress at some agencies like EPA, the federal government is increasingly flooded with FOIA requests it seems unequipped to handle. There are a few likely reasons for this trend over the past decade.

Seth Stern, director of advocacy at [Freedom of the Press Foundation](#), said technological advancement is likely one of the biggest factors. "There was a time where you couldn't just click through a form online and file a FOIA in seconds or minutes," he said.

Easier filing means more requests, many of which end up adding to the FOIA backlog at federal agencies. He also said major historical events like the COVID-19 pandemic and the January 6 insurrection likely sparked more FOIA requests, along with changes in presidential administrations.

"Whatever curiosities about the current president and criticisms of the current president have sort of captured the public eye, that's going to have an effect on the number of FOIAs submitted, so that might contribute to the backlog," he said. "Changes in overall policy and sentiment when it comes to transparency will affect the extent to which FOIA departments are prioritized and given resources."

Stern said while upheavals like the pandemic and the 2021 insurrection may have caught federal officials off guard, the FOIA backlog has been growing long enough that they had plenty of time to address it.

"None of that happened overnight. They were all very predictable issues that agencies saw coming and knew they were going to have to deal with. And given the importance of open records and transparency, they should have been given the attention and prioritized so that we wouldn't find ourselves in this situation."

## How best to navigate the system

The FOIA backlog often means requesters need to be crafty if they want a quick response. That means knowing best practices for filing requests, or working with nonprofits and consultants experienced with the process.

Michael Morisy is the CEO of [MuckRock](#), a nonprofit that helps journalists submit public records requests. He said knowing the basics of how FOIA works is the first step towards getting records as quickly as possible.



“If you're asking for more information, it's going to take them longer to get it to you. That's very magnified at the federal level where most agencies have a simple and a complex queue. [They] have this kind of tiered system, and it's usually based on how many pages they estimate you're asking for. And unless you really have a lot of time, you want to do everything you can to get into the simple processing queue,” he said.

Morisy said specificity is key to getting timely and accurate responses from federal agencies.

“I think with most requesters, their first instinct is: ‘I want any and all documents about X.’ And when I talk with FOIA officers, that's the request that they hate the most. Because that's a very broad request, but also that request kind of asks them to make a judgment call,” he said.

“A lot of times, public records officers — I think for bureaucratic reasons — try to take things almost hyper literally. So I think keeping that in mind and figuring out, ‘Okay, what is a more concrete, clear, [and] directive way that I can describe the records that I'm interested in?’ So that they're not having to kind of guess or search everything.”

Morisy said while it's good for journalists and other requesters to submit effective FOIA requests, it's ultimately up to the federal government to reduce the backlog and improve their response times.

“Everywhere else in public life, things have gotten faster, more transparent, more accessible [and] more immediate. And in the FOIA world, everything has gotten slower, more costly and less accessible,” he said. “I think that FOIA staff have generally been doing a good job with the resources they have, but we haven't been investing as much into our FOIA teams and our FOIA technology as we have everywhere else, and across government.”

To review these and other agencies' annual FOIA performance [go here](#).