

ANNUAL REPORT FOR FEDERAL FISCAL YEAR 2011

FARMER-LENDER MEDIATION PROGRAM
University of Minnesota Extension



UNIVERSITY OF MINNESOTA
EXTENSION

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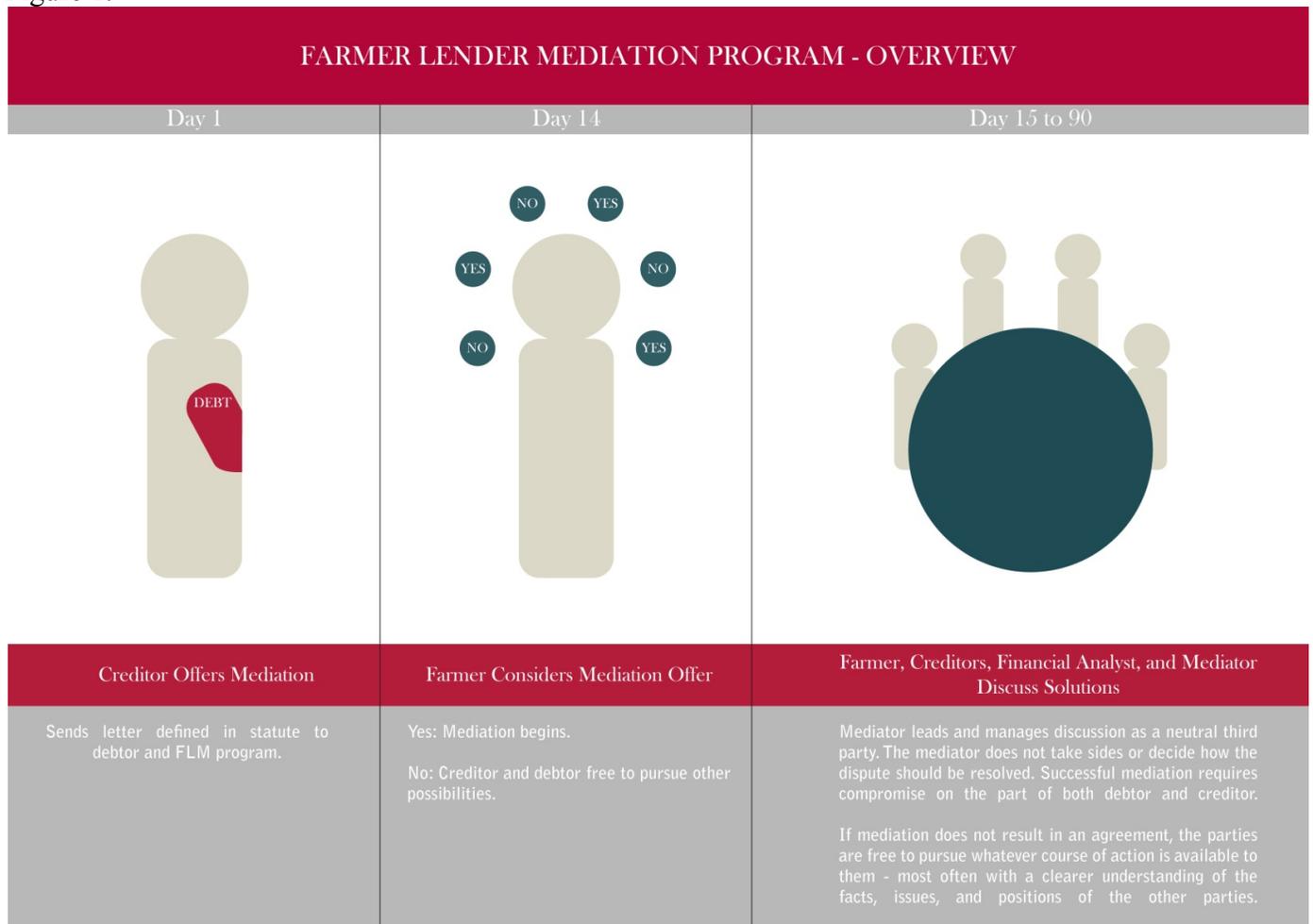
www.extension.umn.edu/mediation

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Process Overview

The Farmer-Lender Mediation Program exists to offer mediation, as required by state law, for situations where a creditor seeks to take action on an eligible agriculturally-related debt that has fallen past due. Under federal and state law, the debtor has the right to request mediation through our program and must decide in 14 days (see Figure 1). Practically, a creditor sends a notice of the right to pursue mediation to the farmer and copies the Farmer-Lender Mediation Program office. The farmer may choose to waive mediation or pursue it. If the farmer waives their right to mediation, the case is closed and no further information is obtained. If the farmer exercises their right to mediation, further information is gathered and mediation is begun.

Figure 1.



The loan or line-of-credit involved may have multiple entities and/or people obligated for repaying it (co-borrowers). For example, John and Mary may have a number of partnerships or other arrangements with their parents and their children as part of the business structure of their family farm. Credit may be issued to a variety of these business structures, leaving different combinations of family members responsible for the debt (e.g., father & son, father & daughter, etc.) related to different pieces of equipment, loans on the land, operating loans, or lines of credit for inputs (e.g., seed, fuel, etc.). These loans and lines-of-credit can be under the names of these individuals or the name of the business structure (e.g., J & M Farms). When a creditor wants to take action on a loan or line-of-credit, each co-borrower's obligation becomes a "notice" within the Farmer-Lender Mediation Program. If, for instance, four co-borrowers co-signed for a piece of equipment, this results in four notices. This greatly increases the number of notices that may be generated by a single operation that has become late in some credit payments.

Explanation of Terms

This explanation of terms provides more specific information regarding terms used in this report and is intended to assist the reader in understanding the context and meaning of the data provided.

Notice

A *notice* refers to the legal notice creditors are required, by Minnesota law, to provide farm debtors. This notice states that the creditor plans to pursue some collection action for a specific loan or a line-of-credit that is in arrears. The notice also advises the debtor they have a right to have mediation on a secured debt of more than \$5,000 against an agricultural property if the debtor owns or leases 60 acres or has \$20,000 in gross sales of agricultural products. Each loan or line-of-credit may have multiple entities and/or co-borrowers obligated for repaying it. For program reporting purposes, each of these is counted separately and we use the term “notice” for each of these obligations (think of co-borrowers) as well.

Mediation case

A *mediation case* refers to the complete set of debtors, creditors and loans that are mediated together. A *mediation case* may involve one or more farm operations, and therefore should not be used synonymously with the term “farm operation.” The number of mediation cases are equal to or less than the number of individual farm operations.

Mediation requests

Each person who receives a notice from a creditor has the option to renegotiate, restructure, or resolve farm debt through mandatory Farmer-Lender Mediation. The individual debtor has 14 days to decide whether to take the next step and enter mediation. In some cases, individuals listed as co-borrowers on the same credit obligation will reach different decisions about pursuing mediation. Individuals who pursue mediation provide the mediator a list of all outstanding loans and lines-of-credit related to their agricultural operation.

NOTE: In-depth information about individuals who decide not to pursue mediation is not available, because individuals who waive mediation do not provide information about their financial situation, their actions on the debt in question and/or their reasons for not pursuing mediation.

Settlements reached

Once the debtor elects to use mediation, the parties participate in good faith. They are not, however, required to reach a mediated agreement. If mediation does not result in an agreement, the parties are free to pursue whatever course of action is available to them. Typically, parties leave the process after they have benefitted from a clearer understanding of the facts, the issues, and the positions of the other parties. The parties involved retain control over the outcome of the negotiations in a joint decision-making process, regardless of the specific outcomes of the mediation.

Total debt addressed

One of the first steps in mediation is to get a complete picture of all the farm debt related to the agricultural operation. This includes debt held by all creditors, not just the one who sent the notice. For those who complete mediation, the total amount of debt that was involved in the mediation is tracked. This includes the debt that triggered the original mediation notice as well as all other debt related to the operation. Therefore, while a single debt of \$6,000 may have triggered the original mediation notice, the total debt discussed during mediation would likely be much higher.

Types of Creditors

Banks

Banks include local banks, regional banks, national banks and credit unions.

Farm Service Agency

The United States Department of Agriculture's Farm Service agency (FSA) makes both direct and guaranteed farm ownership loans and also operating loans to family-size farms and ranches that cannot obtain commercial credit from a bank, Farm Credit System institution, or other lender.

Main street suppliers and small businesses

These debts are for such things as repairs, feed, fuel, veterinary services, seed and supplies.

Farm Credit Agencies

AgCountry Farm Credit Services (FCS), United FCS and AgStar Financial Services are the best-known farm credit agencies in Minnesota. In addition to these sources, debt involved in this category includes such organizations as Agri-Bank and Farm Credit Services of America (Omaha), debt held by Farm Credit agencies in bordering states and debt that originated with another entity and later purchased by a Farm Credit Agency.

Implement companies

This includes local implement dealers as well as national companies that provide financing for large implement purchases.

Overdue taxes

The complete picture of a debtor entering mediation includes unpaid state, federal and local taxes owed.

Primary farm product

Debtors often have multiple farm enterprises. During the information gathering portion of mediation, debtors are asked to list their primary farm product.

Types of business structures

Sole proprietors

A business owned where there is no legal distinction between the owner and the business. This may include one person, a married couple or in some cases multiple family members.

Limited Liability Business Entities

A legal entity created by one or more persons. This may include a general partnership, a Limited Liability Company (LLC) and Limited Liability Partnership (LLP). Most Minnesota farms using such business entities are owned by members of the same family.

Corporations

A corporation is a specific legal business entity that may be organized as a C corporation or a Subchapter S corporation. Most Minnesota farms using corporate structures are owned by members of the same family.

Initiating debt



In 2009, the Minnesota Legislature renewed the Farmer-Lender Mediation program for another four years and updated the forms lenders use to request mediation. The updated forms provide policy makers additional information about the amount of debt that triggers the first mediation notice. Information about the amount of debt triggering the first mediation notice is included for the first time in the 2010 fiscal year report. This figure only includes the debt involved in the initial notice received and does not indicate the total debt held.

Possible under-reporting error - When reporting the initiating debt on the required forms, creditors will occasionally indicate an amount of debt of less than \$5,000. If the farmer elects mediation, the actual principal owed will be revealed during the mediation process. In all such cases where the initial amount reported was below \$5,000 and the case was mediated, it was later revealed the amount of the initiating debt was greater than \$5,000. In these cases creditors are likely reporting the amount of past-due payments, rather than the principal. Likewise, it is possible that lower values reported, which are above but close to, \$5,000, may reflect past-due amounts and not the total debt owed. No attempts to investigate these are made, however. If mediation is waived, there is no further information gathered. And so, further information about initiating debts reported below \$5,000 is unavailable.

Federal Fiscal Year 2011 Executive Summary by Mediation Notice

FARMER LENDER MEDIATION PROGRAM

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In Federal Fiscal Year (FFY) 2011, the number of notices processed by the program was 3,068, representing an decrease of 21% in the volume of notices over the prior federal fiscal year (see Table 1)¹. This includes notices that were originally received prior to FFY 2011. As shown in Table 1, the program received 2,345 *new* notices during federal fiscal year 2011, which is a 24% decrease over the number of new notices received during the prior federal fiscal year.

As Table 1 shows, debtors for 1,199 notices chose mediation (39%); 1,718 (56%) chose to waive mediation, and 151 (5%) notices remained open at the close of FFY 2011. The percentage of notice for which debtors chose mediation decreased in this federal fiscal by 5% from 44% in FFY 2010 (see Table 1). Program staff managed an estimated 22,500 individual contacts from participants and others connected to mediation cases, as well as others interested in the program during FFY 2011, as compared to 41,233 in FFY 2010.

Settlements were reached for 778 notices, or 65% of notices mediated, during FFY 2011. This represents a 9% decrease from 74% in FFY 2010 (see Table 1).

Table 1. Volume of notices processed in FFY 2011 and FFY 2010

Number of notices:	FFY 2011	FFY 2010
Processed	3,068	3,863
Mediation Waived	1,718	1,908
Mediation Started	1,199	1,692
Mediation Completed	778	1,273
Settlement reached	494	936
Received in FFY	2,345	3,064

The amount of debt addressed in FFY 2011 for notices mediated totaled over \$221 million (see Table 2). This was a dramatic drop of almost 65% in the dollar value of the debt addressed in mediation. In particular, debt associated with FSA and Main Street Supplies and Small Businesses saw decreases in dollar value of over 90%. Banks, Contract and Other Debt categories saw reductions of 19%, 21% and 32% respectively. As in prior years, however, banks ranked highest in terms of total debt addressed with Farm Credit Services and Main Street Suppliers and Small Businesses ranking second and third in FFY 2011.

¹ As in past years, this executive summary and report is based on the notices received and processed during Federal Fiscal Year (FFY) 2011. For information based on the number of mediation cases, please see Appendix C.

Table 2. Amount and source of debt addressed in mediation

Source	Amount FFY 2011	Amount FFY 2010	Percent Change
Banks	\$153.4M	\$189.7M	-19%
Farm Service Agency/USDA	\$6.6M	\$115.3M	-94%
Main Street Suppliers and Small Businesses	\$12.6 M	\$177.3M	-93%
Farm Credit Services	\$33.9M	\$124.6M	-73%
Contracts	\$5.8M	\$7.3M	-21%
Implement Companies	\$7.5M	\$7.5M	0%
Overdue taxes	\$.2M	\$.2M	0%
Other Debt	\$1.3M	\$1.9M	-32%
Total debt addressed	\$221,424,123	\$623,745,860	-64%

The total amount of debt reported on initiating notices processed in FFY 2011 (N=3,068) was \$308,934,901. This figure includes those notices where mediation was waived and, therefore, is not included in the final amount, \$221,424,123 (see Table 2).

In 2009, the Minnesota Legislature updated the forms lenders use to request mediation. The updated forms provide policy makers additional information about the amount of debt that triggers the first mediation notice. Information about the amount of debt triggering the first mediation notice is included for the first time in the 2010 fiscal year report. As shown in Table 3, the median amount of the initial debt for mediated notices, as reported on notices received and mediated in FFY 2011² (n=726), was \$193,244. One-fourth of completed mediation cases had an initiating debt of more than \$121,066, while the bottom fourth of completed meditation cases had an initiating debt between \$5,000 and \$20,949.

Table 3. Percentile limits of initiating debt for mediations completed

Percentile	Upper limit of percentile
25th percentile	\$20,949
50th percentile	\$53,846
75th percentile	\$121,066

² Only notices received in FFY 2011 and for which mediation was completed are included in the quartile breakdown because the accuracy of these data is confirmed during the mediation process. Initiating debt amounts on those notices subsequently waived or that remain open are more susceptible to an under-reporting error, which is partially corrected for completed mediations (see *Explanation of Terms*).

In FFY 2011, dairy and crop operations accounted for over 60% of the notices mediated, which is similar to FFY 2010 (see Table 4.)

Table 4. Type of enterprise in mediation (n=1,135 out of 1,199 mediations started)

Commodity	FFY 2011	FFY 2010	Percent Change
Dairy	19%	32%	-13%
Crop	43%	31%	8%
Cattle	18%	18%	0%
Hogs	6%	15%	-9%
Other	11%	4%	7%

As in FFY 2010, sole proprietorships accounted for over two-thirds of the ownerships structures reported, however, the number of corporation ownership was down (see Table 5).

Table 5. Type of ownership (n=1,156 out of 1,199 mediations started)

	FFY 2011	FFY 2010	Percent Change
Sole Proprietorships	73%	67%	6%
Corporations	16%	23%	-7%
Partnerships	6%	11%	-5%
Trusts and Other	5%	0%	5%

The Farmer-Lender Mediation Program is operated by the University of Minnesota Extension, with funds from USDA, the State of Minnesota and the University of Minnesota. The program continues to be operated with a lean and effective staff. The FFY 2011 cost per notice was \$219.44, of which \$151.00 was funded by a grant from USDA. We now have three mediators at 75% full-tie equivalent (FTE), which includes benefits. In FFY 2011, the program staff had an FTE of 6.5, including 12 part-time mediators, 4 part-time financial analysts, 2 full-time administrative assistants and a full-time program director. The increase in per notice cost is largely due to an increase cost in benefits, as we have reduced the total FTE from 7.2 in FFY 2010 to 6.5 in FFY 2011. Additional staff involved included the principal investigator for the USDA grant, and administrative, grant, financial and legal support from various University staff and offices.

Additional data tables can be found in the appendices.

Federal Fiscal Year 2011 Executive Summary by Mediation Case

FARMER LENDER MEDIATION PROGRAM

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A change in record-keeping procedures in Federal Fiscal Year (FFY) 2010 allows an analysis at the mediation case level. As noted in the *Explanation of Terms*, mediation notices are grouped together so that those related to the same operation(s) can be mediated together. Unlike data based on the number of mediation notices, no year-to-year comparison data are available.

In FFY 2011, the number of mediation cases processed by the program was 1,356. This includes mediation cases for notices that were received prior to FFY 2011.

As Table 15 shows, co-borrowers for 406 (30%) mediation cases chose mediation; 877 (65%) chose to waive mediation, and 73 (5%) remained open at the close of FFY 2011. Program staff managed an estimated 22,500 individual contacts from participants and others connected to mediation cases, as well as others interested in the program during FFY 2011, as compared to 41,233 in FFY 2010.

Table 15. Volume of cases and notices processed in FFY 2011

Mediation Status	Mediation Cases	Mediation Notices
Started or Continued	406	1,199
Waived	877	1,718
Open	73	151
Total	1,356	3,068

Of the 406 mediation cases started, 271 (20%) of cases completed mediation. Settlements were reached in 160, or 12% of cases, during FFY 2011. Settlements were reached in 65% of all notices mediated; however, this difference is due to the fact that each mediation case may have any number of notices.

The amount of debt addressed in FFY 2011 for cases mediated totaled over \$221 million (see Table 16). There was a dramatic drop of almost 65% in the dollar value of the debt addressed in mediation. In particular, debt associated with FSA and Main Street Supplies and Small Businesses saw decreases in dollar value of over 90%. Banks, Contract and Other Debt categories saw reductions of 19%, 21% and 32% respectively. As in prior years, however, banks ranked highest in terms of total debt addressed with Farm Credit Services and Main Street Suppliers and Small Businesses ranking second and third in FFY 2011.

Table 16. Amount and source of debt addressed in mediation

Source	Amount FFY 2011	Amount FFY 2010	Percent Change
Banks	\$153.4M	\$189.7M	-19%
Farm Service Agency/USDA	\$6.6M	\$115.3M	-94%
Main Street Suppliers and Small Businesses	\$12.6 M	\$177.3M	-93%
Farm Credit Services	\$33.9M	\$124.6M	-73%
Contracts	\$5.8M	\$7.3M	-21%
Implement Companies	\$7.5M	\$7.5M	0%
Overdue taxes	\$.2M	\$.2M	0%
Other Debt	\$1.3M	\$1.9M	-32%
Total debt addressed	\$221,424,123	\$623,745,860	-64%

Table 17.

Source of initiating debt	Mediation Cases
Bank	752
Farm credit services, United FCS, Agribank, AgCountry, AgStar	174
Implement dealers and manufactures	271
Farm service agency/USDA	85
Contract	23
Other farm debt	51
Total	1,356

In 2009, the Minnesota Legislature updated the forms lenders use to request mediation. The updated forms provide policy makers additional information about the amount of debt that triggers the first mediation notice. Information about the amount of debt triggering the first mediation notice was included for the first time in the FFY 2010 report.

The total amount of debt reported on the initiating notice for all mediation cases processed in FFY 2011 (N=1,356) was \$308,934,901 – includes waived amount. This figure includes only the debt listed on the initial notice received and does not indicate the total debt involved in mediation, which was \$221,424,123 (see Table 16). The variance in this amounts should be expected since a) debt listed on the initial notice rarely includes all debt, b) the mediated debt does not include those mediations which were waived or remain open and c) mediated debt is subject to greater scrutiny during the process.

As shown in Table 18, the median amount of the initial debt for cases mediated, as reported for mediation cases where the initiating notice was received and the case was mediated in FFY 2011 (n=226 cases), was \$198,112, up from \$156,032 in FFY 2010. One-fourth of such cases had an initiating debt of more than \$357,940, while the bottom fourth of mediated notices had an initiating debt between \$5,000 and \$63,683, up from \$49,722 in FFY 2010. The number of notices involved in each quartile differs with larger number of notices associated with higher amounts of initiating debt. Higher amounts of initiating debt are

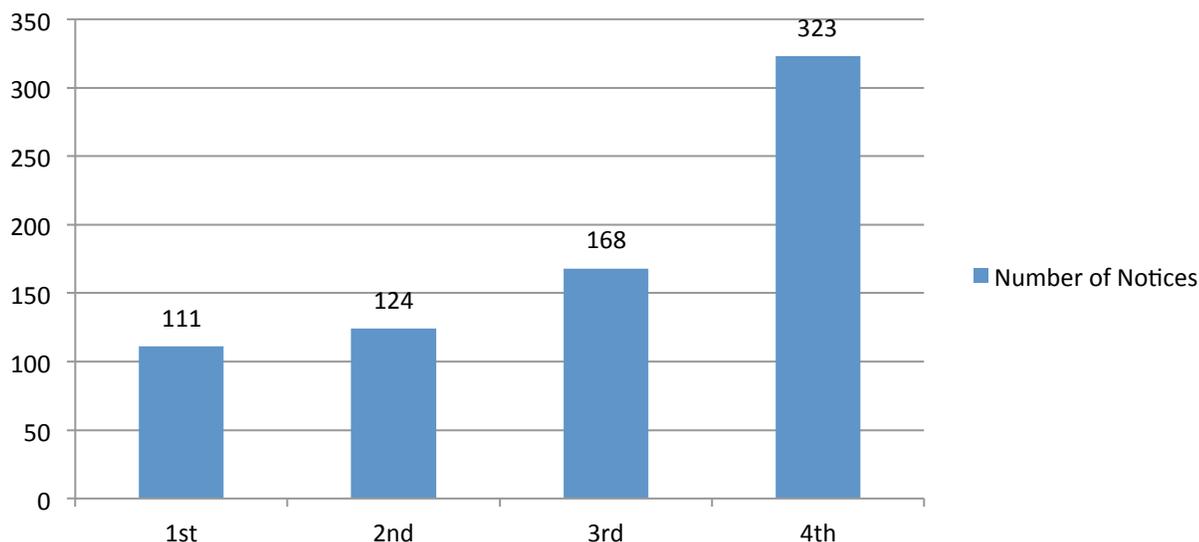
associated with the more complex business structures employed by larger operations, results in more notices.

Table 18. Percentile limits of initiating debt for mediations completed³

Quartile	Lower Limit	Upper Limit	Notices	Cases
1 st	\$5,000	\$63,683	111	56
2 nd	\$63,684	\$198,112	124	57
3 rd	\$198,113	\$357,939	168	58
4 th	\$357,940	\$7,175,384	323	55

Figure 6

Number of mediation notices by quartile of initiating debt (in \$1,000s) for notices received & mediated in FFY 2011



In FFY 2011, crop operations accounted for over 41% of the notices mediated with dairy accounting 15% of cases (see Table 19) or 56% of notices, while combined crop and dairy account for 62% of notices.

Table 19. Type of enterprise in mediation (n=376 out of 406 mediation cases started)

Commodity	FFY 2011
Dairy	15%
Hogs	5%
Cattle	16%
Crop	41%
Other	23%

³ Only notices received in FFY 2011 and for which mediation was completed are included in the quartile breakdown because the accuracy of these data is confirmed during the mediation process. Initiating debt amounts on those notices subsequently waived or that remain open are more susceptible to an under-reporting error, which is partially corrected for completed mediations (see *Explanation of Terms*).

As in prior years, sole proprietorships accounted for over the vast majority of the ownerships structures reported (see table 20). The lower percentage of corporations reported by mediation case (7%) as opposed to when reported by mediation notice (16%), indicates that corporate ownership structures account for a large number of the overall notices processed in FFY 2011.

Table 20. Type of ownership (n=406 out of 447 mediation cases started)

	FFY 2011
Sole Proprietorships	76%
Partnerships	3%
Corporations	7%
Trusts and Other	14%

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