An engineering firm submitted a bid to a municipality for the construction of a new wastewater treatment plant. The firm's bid included a subcontractor's bid to complete the electrical work on the plant for $100,000.

The municipality awarded the construction contract to the firm. Later that day, before the firm told the subcontractor of the award, the subcontractor told the firm that it was withdrawing its bid because it had recently undertaken a new project that would absorb all its capacity for the next 18 months. The firm nevertheless accepted the subcontractor's bid and demanded that it perform the electrical work on the plant, but the subcontractor refused. The firm had to hire another subcontractor to perform the electrical work, at a cost of $115,000. The firm completed the construction of the plant at a profit.

Which of the following statements correctly describes the firm's legal rights, if any, against the first subcontractor?

A. The firm is entitled to recover nominal damages only, because it completed the construction at a profit. (2%)

B. The firm is entitled to recover reliance damages, because it detrimentally relied on the first subcontractor's bid when it submitted its own bid to the municipality. (58%)

C. The firm is entitled to recover expectation damages, because the first subcontractor's bid was irrevocable for a reasonable time and the firm timely accepted it. (23%)

D. The firm has no rights against the first subcontractor, because the first subcontractor was free to revoke its bid at any time before the firm accepted that bid. (15%)

Correct

23%Answered correctly

45 secsTime Spent

2023Version

Explanation:

Irrevocable offers

	Type	Description	Consideration	Duration
UCC	**Firm offer**	Merchant gives written & signed assurance that offer will remain open	Not required	Specified or reasonable time
Common law	**Option contract**	Offeror promises to keep offer open in exchange for consideration	Required	
	Partial performance (unilateral contracts)	Offeror invites acceptance only by performance & offeree begins to perform		Reasonable time for full performance
	Promissory estoppel*	Offeror could reasonably foresee reliance on offer & offeree reasonably relies to his/her detriment	Not required	Reasonable time

UCC = Uniform Commercial Code.

*Also referred to as "detrimental reliance."

Under the doctrine of **promissory estoppel** (ie, detrimental reliance), an **offer** is binding as an option contract and an **offer is irrevocable** for a reasonable period of time if:

the offeror **reasonably expected** to **induce reliance** on the offer **before acceptance**
the offeree **reasonably relied** on the offer *and*
that reliance caused the offeree to suffer **substantial detriment**.
An **attempted revocation** of such an irrevocable offer *before* a reasonable period of time has passed **is ineffective**, and the offeree can still accept the offer. Once the offeree does so, a valid, enforceable contract is formed. If the offeror then breaches the contract by refusing to perform, the offeree is entitled to recover expectation damages.

Here, the first subcontractor should have reasonably expected the engineering firm to rely on its bid in the firm's bid for the project, and the firm reasonably did so. This reliance then caused the firm to suffer substantial detriment when the first subcontractor attempted to revoke its bid after the firm was awarded the construction contract. As a result, the first subcontractor's bid was irrevocable for a reasonable time, and the firm timely accepted it **(Choice D)**. And since the first subcontractor refused to perform, the firm is entitled to recover expectation damages.

(Choice A) Although the firm completed the construction at a profit, it was expecting to make an even bigger profit because it would have paid the first subcontractor $100,000 but instead had to pay the second subcontractor $115,000. Therefore, the firm is entitled to recover expectation damages—not mere nominal damages.

(Choice B) Reliance damages are typically awarded under the doctrine of promissory estoppel when there is no valid contract. But since a valid contract was formed once the firm accepted the first subcontractor's bid, the firm can recover expectation damages.

Educational objective:

Under the doctrine of promissory estoppel, an offer is irrevocable for a reasonable period of time if (1) the offeror reasonably expected to induce reliance on the offer before acceptance, (2) the offeree reasonably relied on the offer, and (3) that reliance caused the offeree to suffer substantial detriment.

References

Restatement (Second) of Contracts § 87 (Am. Law Inst. 1981) (explaining how an option contract is formed by detrimental reliance).